

# Privatizing Basque Federalism

## Abstract

In an era of global privatization, it is critical to know why and how certain territories disappear and others are transformed and why and how certain territorial assemblages and specific territorialities are more consequential than others with regard to collective welfare and democratization. Democratization is determined, among other things, by particular and local institutional and political workings that concretize the meaning of those key categories such as “nation”, “federation”, “redistribution”, “equality”, “autonomy”, which articulate not only nationalist, but also democratic practices and discourses. Thus, both the demand for self-determination or for higher self-government in the Basque Autonomous Community (BAC) arises once and again not because BAC is a distinct nationality or ethnicity in the non-political sense of a pre-given cultural unit, but because it is a federal political territory which, due to its political and institutional structures, functioning and contestation, has shaped and most effectively met the needs of its population, managing to uphold the claim to the monopoly of authoritative law-making more successfully than the Spanish state itself.

## Introduction

In an era of global privatization, it is critical to know why and how certain territories disappear and others are transformed and why and how certain territorial assemblages and specific territorialities are more consequential than others with regard to collective welfare and democratization. State territory is de-nationalized, but there are also state territories which are being re-nationalized while some nations are de-territorialized and then divergently re-territorialized. So, even if we have new geographies created by global networks, regulations and systems of governance embedded in diverse scales, from the village to the city-region and within the same state territoriality, the question is: why are the inhabitants of Easterhouse, Calabria, Andalusia or Torrevieja worse off than the inhabitants of The Grange, Lombardy, Catalonia or Getxo, despite belonging, respectively, to the same state-territory, nation, union or region? This is what democratic theory needs to answer in the twenty-first century.

Democratization is determined, among other things, by particular and local institutional and political workings that concretize the meaning of those key categories such as “nation”, “federation”, “re-distribution”, “representation”, “equality”, “autonomy”, etc. which articulate not only nationalist, but also democratic practices and discourses, including government practice and political demands. Thus, both the demand for self-determination or for higher self-government in the Basque Autonomous Community (BAC) arises once and again not because the BAC is a distinct nationality or ethnicity in the non-political sense of a pre-given cultural unit, but because it is a federal political territory which, due to its political and institutional structures, functioning and contestation, has shaped and most effectively met the needs of its population, managing to uphold the claim to the monopoly of authoritative law-making more successfully than the Spanish state itself.

The BAC political structure has, through a parity representation of each territory and the territorial finance systems, increased territorial plurality, autonomy, authority and capacity. This federal structure leads to the spreading out of production and hence wealth, knowledge and well-being across the country and thereby to greater socio-economic equality and political capacity, widening the process of democratization, always within the sphere of comparative politics.

We will analyze one of the causes behind the loss of legitimacy by the Spanish state in the BAC: the process of privatization through re-centralization. To that end, we will firstly discuss the BAC political structure, since it is one of the basic elements to understand how (not why) the multi-level process of global and European de-democratization, which implies divergent processes of privatization, affects the Basque population.

## Basque Federalism

The Basque Country (BC) is divided into two states, three administrative- juridical areas and seven territories (four in Spain, three in France). The southern Basque territories are divided into two: the Basque Autonomous Community (BAC) and the Foral Community of Navarre (FCN). Democratization in these territories is uneven, among other things because of the lack of institutionalization of the northern Basque Country and the divergent usage the BAC and the FCN have made of their institutions and political capacities. Thus, the Basque territories do not have a one-to-one relationship with any state-territory; they are multi-dimensional assemblages which produce the geography of the Basque nation, overlapping in the south with the Spanish nation and in the north, the French nation. All these diverse and in certain dimensions, divergent territorialities are in turn linked to the European assemblages of rights, authorities and capacities made of regional, local, national, state and global geographies.

Proposals to solve both global and the European democratic deficits are based on the premise that democracy can work without sovereignty. We will see that the set of public structures we call the state, along with the theory and practices of popular and state-sovereignty are fundamental for democratization, amongst other things, because the less institutional and constitutional power a political community has, the less sovereignty that community will be able to acquire and hence the

less reproductive power it will have for maintaining itself across time and space as a democracy.

#### The BAC Federal Constitution

It is said that the Law of the Historic Territories (LHT) is like the BAC's internal constitution because it distributes the functions and competences of the public sector among different levels of government. Its main characteristics are the equality and parity which it establishes among the constituent territories by means of the parliamentary representation system and the territorial finance system.

#### The Federal Parliamentary System

The political equality and parity of the Basque territories is ensured by the parliamentary representation system which the LHT establishes. The system is articulated in a way that territorial representation is given greater importance than individual representation. Thus, each territory sends the same number of members to the Basque Parliament: Araba, with around 300,000 inhabitants, sends twenty-five representatives; Bizkaia, with over a million, sends twenty-five; and Gipuzkoa, with 700,000, a further twenty-five. In Araba a candidate needs around 5,000 votes to become a representative, while a Bizkaian candidate needs 20,000. In line with this electoral system, prominence is also given to territory in the territorial parliamentary system. Each territorial parliament has fifty-one Foral deputies, or members of parliament.

#### The Federal Finance System

The economic equality of the territories is established by the so-called Economic Agreement (1981/2002) that develops and brings up to date what the Basque Statute of Autonomy and the LHT established in 1979 and 1983 respectively. This financing agreement endows the three historic territories of Araba, Bizkaia and Gipuzkoa with powers to formulate, regulate and collect 92 per cent of all taxes - which means all taxes except for customs duties levied on goods imported from outside the EU. This Economic Agreement has two main characteristics. The first is tax autonomy, which means that the Basque territories have the power to establish the tax regulations applicable to the BAC and to manage, settle and inspect all taxes levied. After liquidation, each territorial government must deliver a part of the revenues collected to the Basque government (BG), which does not have its own fiscal capacity. The second defining feature of the Economic Agreement is related to the obligation to pay a certain amount to the Spanish Treasury, which is referred to as the Basque Tax Contribution or "cupo". The taxation coefficient currently in use is 6.24 per cent, that is, the BG pays 6.24 per cent of the general expenses of the Spanish state in areas for which it has not assumed responsibility (the army, foreign diplomacy, etc.).

## The Link between BAC Political Structures, Democracy and Federalism

The more balanced state of the BAC as regards to social and territorial cohesion (democracy), compared with other Autonomous Communities (ACs) within Spain, is substantially determined by the economic-territorial autonomy (based on the quasi-confederal finance system), by the political-territorial parity (based on the federal representation system) of its territories and by the federal culture they involve. To begin with, it may be suggested that this more balanced outcome would have been otherwise had Bilbao (the most populous city and the economic capital) been the administrative capital of the BAC (which is Gasteiz, situated in Araba, in the least populous territory). Had Bilbao been the capital, the mechanism of urban concentration/centralization would have meant that within the space of a few years, several hundred thousand people would have migrated from the other two territories (Araba and Gipuzkoa), leading to what has happened elsewhere in Spain; Madrid's population has increased by around 40 per cent and Barcelona's by around 20 per cent since liberal democracy was established in 1979, while twenty-three provinces have lost most of their population or have seen it dramatically reduced. Thus, almost half of the Spanish population live in the seven most populous provinces.

While the consequences of territorial policies of centralization in terms of diminishing territorial cohesion have been widely

analysed, less has been written on how they affect social cohesion. From an analysis both of European varieties of capitalism and of the distribution of population and GDP across European regions, one may draw the conclusion that policies of urban concentration/centralization are usually accompanied by a particular economic policy whereby most of the GVA comes from the traditional services sector, rather than from industry. In the case of Spain, the main income within the traditional services sector comes from tourism, while industry represents only 17 per cent. In the BAC, however, industry represents a much larger percentage and it contributes 1.86 per cent of the Spanish GDP with just 270,000 workers (40,000 less in 2016), while Spanish tourism accounts for 10 per cent of the Spanish GDP but employs around 3 million people. This disparity means that tourism (along with construction) has a very low added value leading to Spain having an economic structure of low productivity. At present, the industrial sector has been reduced in every Autonomous Community, following the logic of financial capitalism which, unlike industrial capitalism, increases the services sector and reduces industrial weight. This is one of the keys to understand why the Spanish economic and political elite lobbies to re-centralize not only powers and competences as regards industrial and scientific policy but also fiscal, financial, market and labor policy as we will see next.

## Privatizing Basque Federal Democracy through Spanish Re-centralization

COVID-19 has just sped up and made more visible the long process of centralization and privatization the Spanish state has carried out, guided by its own diverse political and economic elites (which include certain Basque and Catalan economic elites). We will put forward the scope of the most recent laws passed by the Spanish legislature, mainly since 2010, focusing on how they affect the current exercise of powers, political capacities and level of self-government in the BAC. To that end, we will mainly follow the research carried out by Nikolas and Urrutia in 2016.

On 10 February 2012, the Council of Ministers approved Royal Decree- Law 3/2012, for *labour market reform*, known as the labour reform of the Popular Party. The reform stands alongside other measures adopted under the Stability and Growth Pact agreed by the European Union in the spring of 2011, which recommended deep reforms of the labour market, with a view to reducing its rigidity and facilitating and reducing the cost of dismissals; in other words, hollowing out the labour law and articulating it in a way that does not interfere with the interests of capital, management and employers.

As a result of this reform, there has been an increase in corporate power and a weakening of collective bargaining and trade union intervention, with significant wage devaluations and massive destruction of employment, so that trade unions, academia and social actors in general describe the reform as serving the interests of big businesses and financial elites and hence as part of the privatization process of democracy (Goikoetxea, 2017).

As regards financial autonomy and budget stability, the second amendment to the Spanish Constitution was announced on 27 September 2011, only thirty days after the socialist and popular party parliamentary groups presented their initiative (hard-pressed by the European Union) to reform Article 135 of the Constitution. Article 135 lays down the principle of budget stability, prohibiting both the state and ACs from incurring a structural deficit and limiting by private hands (executives and capital) not elected by the population the volume of public debt of all public administrations in relation to the gross domestic product and giving priority to the payment of interests (to private banks) of public debt, which was, ironically, private debt (private banks' debt) before being turned by the executives into the population's debt.

New rules on saving banks have also been passed by the central government. They have transformed the legal configuration of financial institutions. Previously, savings banks were controlled in the BAC by the autonomous public institutions, recognized by the Statute of Autonomy, but the new rules drained the powers of the BAC on savings banks. The new legal regime required saving banks to transfer all their financial business to a private bank.

In the economic sphere, the influence of the Spanish executive over the ACs' powers has boosted the spending capacity of

the central executive. Especially in the first phase of the economic crisis, the Spanish executive articulated subsidies on areas of exclusive competence of the ACs. Despite being clear interferences in the field of regional powers, the situation has become extremely complicated, in so far as the ACs have had to bring legal actions against state subsidies whose beneficiaries were the inhabitants of the ACs (Nikolas and Urrutia, 2016: 200). Closely linked to that, we have the *standardizing rules of the financial aid regime* which has reduced the legal capacity of the ACs in the field of regulation of subsidies and aids. The 2013 ruling transfers the power to regulate “common financial aid procedures” to the state. All these phenomena follow the trend of what has been called *New market configurations* which is characterized by both financial and jurisdictional limitations on self-government. Reconfiguration of the domestic market has been carried out through a series of legislative measures, culminating (so far) in the Law of Market Unity, stating that the main aim of the regulation is to ensure the unity of the Spanish market “avoiding or minimizing all distortions arising from our territorial administrative organization”. Furthermore, the capacity for self-government of the ACs is further weakened by measures such as the ban on hiring new personnel in regional and local administrations, the uniform regulation for remuneration and working hours and the prohibition of contributions to pension plans.

The same has happened in every area, including education and healthcare. As regards healthcare, in April 2012, new rules on health care were introduced that, in effect, prevent the BAC from exercising its competencies on health. In this case, regional power was limited by broadening the central state’s competencies, as the new rules limit the universal access to public health care instituted and managed by the BAC. One of its most obvious effects has been the loss of health rights by some groups of immigrants (so-called undocumented migrants).

Lastly, the legislation on the rationalization and sustainability of local governance has changed the face of self-government through strictly economic means. The explicit objective of the legal reform on local administrations is, firstly, to streamline the organizational structure of local government in accordance with the principles of efficiency, financial stability and sustainability; secondly, to ensure more rigorous financial and budgetary control; and thirdly, to encourage private economic initiative to avoid disproportionate administrative interventions in the economy (Nikolas and Urrutia, 2016: 207).

This is the way to privatize local communities and territories, what I have called the privatization of local democracy.

## Conclusion

Democratization is a process that consists of including as many people as possible in the governance of their political and socio-economic system by empowering them through public disciplinary and biopolitical techniques and institutions, which subjugate but also capacitate them so that they can gain as equal as possible access to resources and opportunities in order to govern themselves (Goikoetxea, 2017).

We have seen that there is a recentralizing trend running through all the reforms of the last decade. The objective is the privatization of every mechanism the population has to govern itself: this is why the issue of self-government has been reduced to a purely economic matter, disregarding the role of the ACs and local authorities as channels of political participation. This is what we call a dramatic de-democratization process.

There is a close link, on the one hand, between the Basque federal political structure and the way in which BAC understands self-government, and on the other hand, between federal self-government and democratization (social and territorial cohesion). The case of the BAC allows us to trace some interesting associations between how certain state structures, political capacities and federal political culture lead to particular territorializations of welfare which in turn cause specific democratization processes. The Spanish case is another good example of how the lack of federal political culture in a multinational state and the neoliberal understanding of politics may lead to de-democratization.

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