

TWO IMPORTANT BOOKS ON THE SPANISH FEDERAL REFORM

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In the last few months two books have been published that analyze the current crisis of the Spanish system of the autonomies and promote a constitutional reform based on federalism as the logic culmination of the situation. We are referring to the book written by José TUDELA ARANDA “El fracasado éxito del Estado autonómico. Una historia española” (The failed success of the State of the autonomies. A Spanish story”), published by Marcial Pons in 2016, and to that of José Antonio MONTILLA MARTOS “Reforma federal y Estatutos de segunda generación” (Federal reform and second generation statutes of autonomy), published by Aranzadi in 2015. Montilla Martos is Tenured Professor of Constitutional Law at the Universidad de Granada. Tudela Aranda is also Professor of Constitutional Law although he is better known as the Director of the Fundación Giménez Abad. Both professors adopt their own approach: while, in order to examine the main problems (competences, relations and financial system) of and alternatives to the system, Tudela Aranda chooses a chronological approach, Montilla Martos takes the reforms of the statutes of autonomy as leitmotif.

These two different approaches lead both authors to the same conclusion to the extent that I dare to mention the following extract without specifying the author (guess who has written it!) as none of them will feel betrayed.

“There is a broad consensus in Spain about the crisis the territorial model set forth in Title VIII of the Constitution is going through [...]. The next pages will defend the federal reform of the Constitution as a legal and constitutional need arising from both the original deficiencies and the development of the State of the autonomies, but also as a proposal for a way out of the crisis.”

There are naturally some differences between the two books; Montilla focuses more on the Statute of Autonomy of Andalusia while Tudela concentrates on that of Aragon. However, these are minor differences and both authors make a thorough analysis of the whole of Spain, including the crisis in Catalonia, and of the reasons why a federal model that recognizes diversity is needed. A classic review of both books would require a different and longer study of each of them, but a combined analysis allows us to underline their main common contribution: realism in the process from a State of the autonomies to a federal system in Spain.

Both books offer one of the most essential ideas to build on the future: the federal system will need to repair the current defects based on the 35 years’ experience as a State of the autonomies. As both books show, solutions to these defects will need to be found in comparative constitutional law.

Although being theorists, Professors Montilla and Tudela approach this evolution towards an authentic federal system from the point of view of political realism. Both authors offer strong arguments for the idea that transformation through a constitutional reform is completely feasible as shown by other western federal states. The reform of the Constitution would also be very positive if it included the reform of the current defects: high level of conflicts regarding the distribution of competences and the financial system, lack of multi-level relations, and the

Senate. The reform would certainly entail a very important reorganization of the institutional structure. Nevertheless, it would only be a partial reform as the fundamental rights and institutions of both the State (except for the Senate) and the autonomous communities, amongst others, would barely be affected.

The authors denounce the old demonization of federalism as they believe it is the most appropriate system for the distribution of competences and the participation of the different territories in Spain. In addition, the problem in Catalonia (and maybe elsewhere in the future) will only be solved in the framework of a federal system. Since its origins, federalism in its different forms has been the ideal formula to integrate the different peoples in one state.