

# Abstracts

## THE FUTURE OF THE AUTONOMOUS REGIONS

Luis LÓPEZ GUERRA

The Spanish «Estado de las Autonomías» did not arise from an initial all-encompassing plan, but rather is the result of a process of trial and error, in which after almost thirty years, some tendencies can now be ascertained. The first is the progressive transfer of powers from the Central government to the Autonomous Communities, which have already assumed the majority of the State's functions. The second is surely the construction of a federal system in all but name, in which all of the Autonomous Communities have very similar powers, in spite of the initial asymmetry among them. The latest reforms of the Autonomy Statutes, and particularly of the Statute of Catalonia, represent a decisive step toward the federalization of the system. The remaining and decisive question to be resolved is how to coordinate the policies of the central government with the policies of Spain's seventeen Autonomous Communities.

## REPRESENTATION AND THE CHANGE OF THE POLITICAL PARTY

Javier GARCÍA ROCA

The study aims to define «political turncoatism», an ambiguous concept that includes very different circumstances. This article proposes a strict definition, which only applies to those who switch to an opposing party for spurious reasons. Then, «turncoatism» becomes pathological for democracy. The study analyzes the minutes of the supervision commission, that was created by the anti-turncoatism Agreements of 1998, with the intention to show the real dimension of the problem. Despite the impact of turncoat cases in the media, the number of desertions is very low. The article addresses the models of political

representation as a previous question. The rule of free mandate –the members of the Parliament are not bound by an imperative mandate– has full sense as a limit to partyarchy and as an instrument of division of power. Finally, the study reviews different measures to deter representatives from deserting. Alternatives to the revocation of the representative by the intention of the political party –that is not allowed in democratic Constitutions– must be considered.

## THE PRINCIPLE OF SOLIDARITY IN THE AUTONOMOUS STATE

Javier TAJADURA TEJADA

In those States organized territorially in a decentralized form, the principle of solidarity presents two dimensions, one of personal or individual character (solidarity between citizens), and another one of territorial or communitarian character (solidarity between States, Regions, Autonomous Regions). In the Spanish Constitution of 1978, the absence of constitutional references to the first dimension of solidarity contrasts with the express reception of this second dimension, interterritorial solidarity, in articles 2 and 138. In that context, the object of this study is to determine the meaning and reaches of the principle of solidarity in the Constitution of 1978. The scheme used is the following one. First of all, it is shown how, in spite of its express recognition, the constitutional regulation of interterritorial solidarity is clearly insufficient. Next, and that is the central nucleus of the work are analyzed the different dimensions (political, legal and economic) of the principle of solidarity. Finally, some conclusions on the existing relation between the principles of solidarity and autonomy are extracted, relation that not always has been well understood.

## A BRIEF REMARK RELATED TO THE ACQUISITION OF PERSONALITY BY THE PHYSICAL PEOPLE

Pedro CARBALLO ARMAS

This study tries to put under critical revision some problematic questions related to the legal-constitutionalist reach of the personality of the physical people; and more concretely, if from a constitutional perspective it is necessary to attribute personality to new born just from the birth. That is to say, if the one born alive can legally be considered person from the precise moment of its birth or if it is permissible, strictly legal-constitutionalist speaking, to attribute the personality after the overcoming of certain conditioners. In this sense, the Constitution does not explicit the definition of person, although its concretion appears regulated by the civil legislation. It forces to provide necessarily with legal-constitutionalist foundation the operation to make specific the Right that, beyond the possible variants, must be permissible from a suitable constitutional understanding.

THE AUTONOMOUS STATUTE OF CATALONIA AND THE ABUSES OF THE DIGNITY

José Luis PÉREZ TRIVIÑO

In this work I have tried to indicate some of the possible interpretations of the term «dignity» as it appears in the Autonomous Statute of Catalonia. If, first of all, it is interpreted that in most of its appearances «dignity» makes reference to an universal value and equally distributed, then, not only there is an excessive use in the articulated one, but it is clearly superfluous and in this sense there is a deficient use of the legislative technique. If it were decided on one second interpretation («relative dignity»), would be two results: on the one hand a degree of remarkable indetermination in the determination of «the worthy» standards of life would be added and, on the other hand, it would be given rise to interpretations that reduce the expectations of extension of the rights that it tries to complement.

HAS SENSE AN EDUCATIONAL PROJECT? (RELATED TO EDUCATION AND INVESTIGATION IN FINANCIAL AND TRIBUTARY RIGHT IN SPAIN AND ITS MALADJUSTMENT TO THE LEGAL-COMMUNITARIAN FRAME AND TO THE INTERNATIONAL TRIBUTARY RIGHT)

Violeta RUIZ ALMENDRAL

It is now more necessary than ever to enquire about the goals and aims of teaching Tax and Finance Law in Universities. Simply put, two reasons justify this need: the most obvious one is the need to adapt teaching methods to the Bologna agreements, which call for a thorough rethinking of all teaching curricula. A second reason is the dramatic transformation of Tax and Finance Law in Spain ever since it joined the European Union on Jan 1<sup>st</sup> 1986. This transformation, that some call tax revolution, has also been brought about by the growing internationalization of the Spanish economy, which has entailed the signing of more than eighty double taxation agreements. These two phenomena have profoundly shaken the basis of this subject, and call for rethinking how teaching and research should develop in this area.

THE NEW MODELO F INDIVIDUAL APEÁIS FOR PROTECTION ALTER THE REFORMO F THE ORGANIC ACTO F THE CONSTITUCIONAL COURT

María Lidia SUÁREZ ESPINO

The enormous quantity of Appeals of fundamental rights that annually the Constitutional Court must solve is seriously damaging the normal functio-

ning of this Institution, that has to dedicate the majority of its effort to analyse this kind of Appeals. In this article we try to make a critical valuation about the effectiveness of the recent modification of the Constitutional Court Act, that is supposed to improve the analysis of the A ntal rights.

THE ACTIVITY OF ORGANIZATION AND INTERNAL  
OPERATION OF THE PARLIAMENTARY CAMERAS  
IN THE JURISPRUDENCE OF THE CONSTITUTIONAL COURT

Esperanza GÓMEZ CORONA

The aim of this paper is to carry out a thorough analysis of constitutional case-law related to internal parliamentary proceedings.. Constitutional decisions on both national and regional parliaments will be considered, since it is not possible to distinguish the decisions referred to one or another. The two major approaches developed by our Constitutional Court will serve ad an introductory guide in order to establish the common background to the judicial review of this kind of parliamentary activity.

# Cuadernos de Derecho Público

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