

The *Estatut* of Catalonia and the Commonwealth of Puerto Rico

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The institutions of self-government for the Basque Country and Catalonia are of singular importance to Spain. The PNV, the governing party in the Basque country, has hailed the relationship which Puerto Rico has with the U.S. as the type of relationship they would like to establish with Spain. Last year, the Generalitat—the Government of Catalonia—proposed a new *Estatut* to the Spanish Congress. The *Estatut* is the Catalan word for the constitution of the Generalitat and the terms and conditions under which it functions within the Spanish government. The *Estatut*, which the Parliament of Catalonia proposed on the 30th of Sept. 2005 to the Spanish government, stirred quite a controversy because it was predicated on the characterization of the people of Catalonia as a “nation.”

In our governmental structure, the *Estatut* would include both the Commonwealth constitution and the Federal Relations Act. A comparison of Catalonia’s and Puerto Rico’s constitutional history and the *Estatut* of Catalonia and our Constitution reveals there are important lessons to be learned.

The people of Puerto Rico and the people of Catalonia have maintained for centuries a vocation of self-government—autonomy. In Puerto Rico, this vocation came to be during the 19th century when the people of Puerto Rico became conscious of their particular identity, which set them apart from the other provinces of Spain. We achieved a broad autonomy from Spain in 1897. Our Charter of Autonomy—or *Estatut*—was modeled after the British Dominions: Canada, India, and Australia. We lost this autonomy when the U.S. invaded the island. For 52 years under U.S. rule we struggled to recuperate this autonomy, which was finally regained in 1952 when the Commonwealth of Puerto Rico was established.

The autonomist vocation of the people of Catalonia goes back to the “Cortes de Cervera” in the 14th century. As with Puerto Rico, it has had its ups and downs throughout the centuries. To make a long story short, it was recuperated under the Spanish Republic in 1932 and lost again under Franco in 1939. It was again recuperated after Franco’s death in 1977. The Spanish Constitution was approved in 1978 and the first *Estatut* for Catalonia under the Constitution was approved in 1979. The second *Estatut* was approved this year on June 18.¹

The Spanish Constitution recognizes the principle of autonomy as a guiding principle for the government of the *Comunidades Autónomas*. Bearing in mind that Spain is not a federal nation, the *Comunidades Autónomas* would be the functional equivalent of the states in the U.S. federal system. The Spanish Constitution establishes the process by which the people within certain territories may become autonomous communities. This requires the mutual consent of the people of the territory and of the government of Spain. An *Estatut* can only be revised after five years have elapsed since it went into effect

and through bilateral negotiations between the Comunidad Autónoma and the Spanish government. The procedure for revision of the *Estatut* is provided in the *Estatut* itself.

The five-year limitation as to the revision of the *Estatut* provides a period of stability during which the rules of the game will be known with certainty. However, *Estatuts* are maintained for long periods of time without revision. The previous “*Estatut*” of Catalonia lasted from 1979 to 2006.

The procedure incorporated in the *Estatut* for revision ensures the principle of bilaterality. The revision that may be proposed by either the people of Catalonia or by the Spanish government must be approved by the Parliament of Catalonia, by a law of the Congress in Madrid and ratified by the people of Catalonia in a referendum.

The Parliament of Catalonia must approve the revisions by a two-thirds majority. This provision assures a broad consensus among the people of Catalonia as to the amendments. It works to forestall revisions seeking partisan advantage because in order to garner a two-thirds majority, two or more parties must support the revision.

When we compare the procedure followed to establish the Commonwealth of Puerto Rico, we realize it was similar, but not the same, as the one followed to establish the *Estatut* of Catalonia. Congress invited Puerto Rico to enter by referendum into a compact to provide government by consent for the island. Under this compact we would create our own constitution for local government and we would accept the terms and conditions of the relationship to the U.S. provided for in the Federal Relations Act.

Having ordained our constitution, we had to negotiate its approval with Congress for the compact to come into being through Law of Congress No. 447 of 1952 and another referendum in Puerto Rico. Through this procedure, the Congress and the people of Puerto Rico created the Commonwealth of Puerto Rico 54 years ago.

A procedure was provided for revisions or amendments to our constitution. This procedure is totally under the jurisdiction of the Commonwealth and has been used on three occasions. No procedure was provided, however, for revisions of the Federal Relations Act. This procedure is what is lacking and it is essential to attend to the status question.

The Spanish Constitution recognizes autonomy must be adapted to the times and to maintain their legitimacy, the *Estatuts* of areas such as the Basque Country or Catalonia must have the support of the people and to govern effectively power must be allocated to the levels of government most capable of attending to the well being of the governed. But it also recognizes that national unity is essential to the well-being of all Spaniards. So, when the nationalist sentiment in these areas reaches levels threatening separation it is time for a revision of the *Estatut* through bilateral democratic processes in order to provide a new charter of government suitable to the times.

Such a procedure was not provided for in the Federal Relations Act when the Commonwealth was established. The numerous frustrated attempts to revise our *Estatut* toward greater autonomy or toward statehood or independence are the result of this lack of an adequate procedure by which to channel our aspirations. The Spanish model would have served us well: It provides a special procedure in the Spanish Congress for the prompt consideration for a revision of the *Estatut*. The U.S. Congress should provide Puerto Rico with such a procedure. Status revisions should be initiated by the government of Puerto Rico, not by political parties. The government's initiative, however, must be sustained by a two-thirds majority in the Legislature. This is important in order to develop as a prerequisite a broad consensus before initiating a revision. Our frustrated experiences with status initiatives presented in Congress without such a consensus are ample evidence of the wisdom of this two-thirds requirement.

