

# **Spain and the United Kingdom: Between Unitary State Tradition and Federalization**

**Paul Anderson**

**Liverpool John Moores University**

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## **Abstract**

This chapter examines the evolution of Spain and the United Kingdom (UK) as federal political systems. Neither Spain nor the UK qualifies as a full-fledged federation, but an identifiable process of federalization has taken root in both cases. Unpacking the experience of political decentralization, the chapter examines the efficacy of current arrangements vis-à-vis the politics of accommodation, with specific reference to elements of symbolic recognition, self-rule and shared rule, and identifies ongoing challenges to the development of federalism in Spain and the UK. In discussing the origins, evolution and challenges of the territorial models in both cases, the analysis highlights the evolving practice of territorial reform in these political systems, notwithstanding the absence of a conscious federal teleology. The analysis shows that federalism—as an enhanced model of territorial accommodation—has much to offer both Spain and the UK, but hitherto remains a marginalized option for constitutional reform.

## **Introduction**

Spain and the United Kingdom (UK) are not federations. They have been variably viewed as unitary states, but in line with Rokkan and Urwin's (1982) typology of constitutional configurations, they are best described as union states, that is, states in which pre-union constitutional arrangements are preserved notwithstanding the incorporation of parts of the territory through treaty and agreement. This was certainly the case in the aftermath of the Treaty of Union between the Kingdoms of Scotland and England in 1707 and can also be traced in the Spanish case as relates to the fifteenth century dynastic union of the Crowns of Aragon and Castile. Union states do not entail a formal division of powers as is standard in a federation, but over recent decades, political standardization in Spain and the UK has given way to processes of political decentralization. In both cases the territorial question has mutated over time, marked by different degrees of salience in support for self-government on the one hand and independent statehood on the other. This territorial and constitutional contestation is manifested in the distinct conceptions of state, nation and national identity found in sub-state territories as well as competing constitutional visions and nationalist projects (Anderson & Keil, 2016). These conflicting constitutional doctrines and the autonomy models rolled out in both states are shaped by the historical trajectories of the constituent units and the conception of both Spain and the UK as plurinational states. As Keating (2015, p. 189) attests, '[I]n plurinational states, unlike in mono-national ones, whether federal or unitary, there is no single constitutional story, or principle to which all others can be reduced.'

Spain and the UK have much in common. Both are economically developed European liberal

democracies with constitutional monarchies. Both states are plurinational and have developed complex systems of asymmetric territorial autonomy to manage the self-determination demands of their territorially concentrated national minorities, namely in the Basque Country and Catalonia in Spain and Northern Ireland and Scotland in the UK. Further, both states have active secessionist movements, albeit neither state has a constitutional provision permitting independence. Tellingly, both states have responded to secessionist challenges in different ways. In the UK a referendum on Scottish independence took place in 2014, and while votes have taken place in Catalonia in 2014 and 2017 respectively, the Spanish government and Constitutional Court have gone to great lengths to emphasize the illegality of voting on Catalan independence. This, as will be discussed in the first section of this chapter, is rooted in the overarching conceptions of the Spanish and British states; the latter's configuration as a plurinational union is an accepted reality, while the definition of the Spanish state varies between a majority position of an indissoluble mononational nation-state and a minority vision of a nation of nations in which the sub-state units have a right to internal (and for some, external) self-determination (Brown Swan & Cetra, 2020). Taking the cases of Spain and the UK, this chapter examines the territorial evolution of these federal political systems, paying particular attention to the existence (or lack thereof) of elements of federalism and federation. As will be discussed, neither Spain nor the UK functions as a proper federation, but there is an identifiable trend of federalization in both cases. They are, in Watt's (2008, p. 8) parlance, 'federal political systems', states which have developed their own institutional arrangements and political processes vis-à-vis political decentralization to manage their state-specific circumstances. The evolutionary nature of decentralization in Spain and the UK resonates with Friedrich's (1968) conception of federalism as a dynamic process, an institutional approach which develops over time, able to evolve and adapt to shifting circumstances within the state.

This chapter is divided into four sections. The first section charts the historical evolution of the territorial question in Spain and the UK, including the overarching philosophies guiding the constitutional interpretations of the state and the rationale developed to move power away from the center in the late 1970s in Spain and 1990s in the UK. The second section examines the main characteristics of these federal political systems, with specific focus on notions of recognition, self-rule and shared rule. The third section tackles some of the ongoing limitations and challenges to the complex autonomy systems. This section not only examines challenges from sub-state governments in the shape of secession, but also examines the pernicious implications of the unitary thrust and centralizing tendencies of state elites in both cases. The final section concludes.

## **The Territorial Question in Historical Context**

Spain and the UK may share numerous similarities, but their historical trajectories as relates to questions of territorial accommodation and contestation have varied. The evolution of unionism in the UK has witnessed the development of an approach comfortable with the idea of a plurinational union, notwithstanding traditional inimicality toward self-government (Kidd, 2008). The variegated historical processes which led to the different unions between the four countries (England, Northern Ireland, Scotland and Wales) have proven relatively hospitable to the plurinational makeup of the state, albeit tensions remain and have occasionally flared up over time, particularly regarding (Northern) Ireland and more recently Scotland. In contradistinction, Spain's historical trajectory has been punctuated by prolonged periods of dictatorship marked by significant opposition to the plurinational idea. Tensions over the territorial organization of the Spanish state have existed since its creation

and subsequent state and nation-building processes have proved weak in the face of pre-existing and vociferous nationalisms in places such as Catalonia and the Basque Country (Balfour & Quiroga, 2007). Centuries later, in Spain as much as in the UK, territorial politics remains a moving target, suspended in a state of flux (Anderson, 2018).

## Spain

The Spanish state emerged from the dynastic union between the Kingdoms of Aragon and Castile in the late fifteenth century and subsequent merging of the crowns in 1516. The Crown of Aragon included three separate kingdoms—Aragon, Catalonia and Valencia—that were united in a confederation in which a sense of national distinctiveness in each territory was preserved (Balcells, 1996). In the aftermath of the dynastic union, the territories retained their own institutions, culture and language, but a creeping process of political centralization and cultural homogenization engineered by Castile between the seventeenth and eighteenth centuries precipitated violent rebellion and ultimately the dominance of Castile over the existing territories after the surrender of Barcelona in 1714. From here on a centralized model of governance that sought to replicate the French Jacobin model was imposed upon the territories. This process of Castilianization continued through the eighteenth, nineteenth and twentieth centuries, but failed in its aim to build a unitary nation with a culturally homogenous population. Instead, such centralist processes emboldened rather than weakened minority nationalist movements.

The processes of Spanish state and nation-building saw pre-existing autonomy regimes abolished and a centralized model of governance imposed on the regions of the newly formed Spain. This process of identity construction was enshrined in Spain's first constitution in 1812, which sought to create 'a centralized bureaucracy, an internal market, common taxation and judicial and cultural homogenization' (Moreno, 2001, p. 45). Centralization processes continued until the establishment of the Second Spanish Republic in 1931, albeit the preceding period was punctuated by short-lived endeavors such as the federalized structures of the First Spanish Republic (1873-74). The Second Spanish Republic was inaugurated in 1931 and resulted in a policy of territorial accommodation, including autonomy statutes for the Basque Country, Catalonia and Galicia. The Second Republic was neither a unitary nor federal state but an 'integral state', one which was unitary in nature, but willing to recognize and accommodate its ethnoterritorial diversity (Balfour & Quiroga, 2007, p. 35). The victory of the Francoist forces in 1939, however, precipitated a 40-year period of dictatorial rule, and the Second Republic's policy of accommodation and recognition was replaced by political repression and cultural genocide. Minority nationalism was a *bête noir* of the Franco regime, but the persecution of nationalist projects in the Basque Country and Catalonia served to galvanize a sense of distinctiveness among the Basques and Catalans; a re-emergence of nationalism and support for self-government ensued (Guibernau, 2004).

General Franco sought to completely eradicate any form of minority nationalism, including political parties, regional institutions, languages and cultures that did not conform to his mononational vision of Spain. In these regional territories, however, clandestine movements opposed to the Franco regime emerged, committed to engineering a democratic alternative to the dictatorial regime and restoration of the right to self-government for Spain's historical regions (McRoberts, 2001). In the subsequent transition to democracy after Franco's death in 1975, a right to autonomy for the Basque Country, Catalonia and Galicia was considered a crucial element of a successful transition. The transition, unsurprisingly, was fraught with complications, including the challenge of satisfying pro-democratic forces, namely in the

historic territories, without offending the autonomy-cautious Spanish nationalists who (had) supported the Franco regime. Numerous proposals were mooted as to what sort of territorial organization the Spanish state should take, from a centralized state to a symmetrical federation, as well as some confederal ideas advocated by nationalists in Catalonia and the Basque Country (Moreno et al., 2019, p. 246). The vehement opposition of the historic territories to a centralized and unitary structure meant that democracy and decentralization became mutually reinforcing bedfellows. As Roller (2002, pp. 71-72) notes, ‘it was widely accepted that a refusal or reluctance to address the issue of regional autonomy and cultural, linguistic and historical differentiations would endanger the consolidation and establishment of the post-Franco democratic regime’. The newly drafted Constitution detailed an open model of autonomy with differentiated processes for the historic territories and aspiring regions. In the event, what emerged was the State of Autonomies, an asymmetrical arrangement with 17 autonomous communities.

The 1978 Constitution was a creature of its time, reflected in the ambiguity of some of its articles, including the tacit recognition of Spain’s internal diversity, the fuzzy boundaries to delineate competences and the lack of self-definition as to what sort of state Spain is. Consequently, there remains ongoing debate as to whether the state is unitary or federal. Arzoz (2012, p. 179) succinctly encapsulates this lack of clarity in his description of Spain as a ‘multinational quasi federal unitary state’. The initial territorial model that evolved took an asymmetric turn, including in the division of competences as well as constitutional recognition of fiscal autonomy for the Basque Country and Navarre based on historic privileges (Bossacoma Busquets & Sanjaume-Calvet, 2019). Article Two of the Constitution recognized the right to autonomy of nationalities and regions, although these are not enumerated in the Constitution. The same article, however, underlined the ‘indissoluble unity of the Spanish Nation’, thus enshrining a mononational conception of the state and prohibition of a right to secede. The Spanish experience of autonomy from the state’s inception to the present day has oscillated between periods of centralization and decentralization. Decentralization was an integral component in the Spanish transition to democracy and indisputably attributed to the peaceful nature of the transition, but the anticipated evolution of the system to a full-fledged federation has yet to come to fruition. The incumbent territorial model has evolved since its initial inception in the late 1970s, but the model falls short of the requisites of federation and has become increasingly contested by the state’s national minorities.

## UK

The United Kingdom of Great Britain and Northern Ireland—to give the state its formal title—is a relatively young state composed of four distinct nations: England, Northern Ireland, Scotland and Wales. Each of the peripheral Celtic nations has a distinct relationship with the English center: Wales was annexed by England in the early sixteenth century, Scotland voluntarily joined union with England in 1707, and Ireland was brought into the British parliamentary state in 1801. Assimilationist policies were pursued in Scotland vis-à-vis the Highlands, but the union between England and Scotland is oft-described as an ‘incorporating union’, a political partnership that allowed Scotland to maintain its cultural distinctiveness (Mitchell, 2014). In a similar vein some form of institutional independence was afforded to Ireland in the aftermath of union, but this was limited and largely overshadowed by the explicit discriminatory policies of the British government toward the dominant Irish Catholic population. Strategies of assimilation were also rather forceful in the case of Wales whereby Wales’ administrative, economic, legal and political systems were assimilated into the English entity and the Welsh language was largely extirpated from public

life. Over centuries, a distinct sense of national identity and national distinctiveness has developed in Scotland, Northern Ireland and Wales in tandem with the development of an overarching British state identity (Colley, 1992).

The British Unionist project is not rooted in a single culture or identity and instead is construed as a political arrangement in which the constituent nations of the UK, despite being culturally distinct, are politically and legally linked with the center (Kidd, 2008). Keating (2015, p. 179) has described Unionism as ‘genius’ and predicated on ‘an intellectual sleight of hand that can present the state as unitary at the center, but differentiated at the periphery’. In this sense the UK has never strictly conformed to the textbook definition of a unitary state. This is evidenced in the retention of pre-union institutions, but also in the administrative devolution arrangements developed throughout the twentieth century which saw the creation of territorial offices of state for Scotland, Wales and Northern Ireland with varying responsibilities over limited policy areas. The existence of such arrangements, however, did not alter the predominantly unitary vision of the union espoused by British politicians, which also entailed vehement opposition to the notion of self-government.

The idea of self-government in the UK has a long pedigree within the British state, including an identifiable tradition of British federal thought (Burgess, 1995). Federalism, or as it was framed in the UK ‘home rule all round’, was mooted and ultimately failed as a territorial solution to eschew Irish secession at the end of the nineteenth century, but support for home rule grew in Scotland and Wales. The rationale behind the Liberal Party’s home rule plans was rooted in the ‘holding together’ notion of federalism, a tool which could satisfy regional demands for autonomy while simultaneously maintaining and even strengthening the union. In line with the unionist position outlined above, however, support for home rule among the political elite was tempered by claims that devolving powers would erode parliamentary sovereignty and undermine the legislative supremacy of the Westminster Parliament, encourage further autonomy claims and lead to state disintegration. The outbreak of World War I, armed rebellion in Ireland and the consequent establishment of the Irish Free State, overtook debate in the UK on the merits of decentralizing power, but discussions on the creation of regional legislatures in Scotland and Wales continued for much of the twentieth century (Mitchell, 1996). Electoral gains made by the Scottish and Welsh nationalist parties—Scottish National Party (SNP) and Plaid Cymru—forced the issue onto the agenda throughout the 1960s-70s and culminated in referenda in 1979 on the establishment of devolved legislatures. The proposal was overwhelmingly rejected in Wales, while in Scotland a narrow majority voted in favor, but this fell short of procedural requirements that 40% of the eligible electorate vote yes.

The experience of almost two decades of Conservative rule, however, accompanied by the anti-devolutionist and unitary approaches of Prime Ministers Margaret Thatcher and John Major precipitated growing concern in the Celtic nations that Westminster had become insensitive to Scottish and Welsh distinctiveness and thus increased attention to the merits of self-government. Under Thatcher a less accommodating strategy of inflexible unionism and a ‘hyper-unionist verging on unitarist’ conception of the union opposed to self-government emerged (Kidd & Petrie, 2016, p. 39). During this period, constitutional restlessness in Scotland translated into fervent civil society movement in favor of a Scottish Parliament and a gradual shift in the thinking of the Labour Party. In the aftermath of Tony Blair’s New Labour victory in 1997, referenda were held in Scotland, Wales and Northern Ireland, and devolution rolled out to all three nations. In a similar vein to Spain, devolution was linked with discussion on democracy, couched in the language of ‘modernization’ and

‘democratic renewal’. The rolling out of power to Scotland, Wales and Northern Ireland took the form of a highly asymmetrical model, with-focus on building out rather than building in; little thought was given to processes of shared rule (Anderson, 2022). Further, the supremacy of the Westminster Parliament remained unaffected by devolution and it retained its right to legislate for the whole of the UK, even in devolved matters.<sup>1</sup> As former Prime Minister Gordon Brown (2014, p. 259) avows, ‘[t]he 1998 settlement held to the orthodoxy that Westminster is sovereign and that power devolved is power retained’.

Decentralization processes in both Spain and the UK put the states on a federalizing trajectory, but neither state has become, or indeed is likely to become in the near future, a full-fledged federation. In the case of Spain, decentralization became intimately linked with the country’s democratization process, promoted as a tool to accommodate sub-state diversity within the parameters of the existing Spanish state as well as ‘a tool of reconciliation, state-building [and] economic efficiency’ (Anderson, 2020, p. 344). Similarly, devolution in the UK had several rationales including democratic renewal, administrative and economic efficiency, and accommodating the self-determination demands of the constituent nations (Morgan & Mungham, 2000, p. 24). In the event, what emerged in both Spain and the UK, are two distinct models of autonomy with federalizing tendencies; there is an identifiable trend of federalism notwithstanding the absence of federation

### **Examining the Accommodation Framework: Recognition, Self-rule and Shared Rule**

The development of ‘diversity-cognizant institutional frameworks’ (Gagnon & Tremblay, 2019, p. 137) has grown in recent decades as states seek to accommodate their minority national communities within the confines of the existing state. To do so, states, particularly plurinational ones, have put in place various strategies of diversity management (including both territorial and non-territorial autonomy) to enable national minorities to manage their own affairs and preserve their national identities while the extant borders of the larger state remain unaltered (Keil & Anderson, 2018). Drawing upon three crucial elements used in federal frameworks for minority accommodation—symbolic recognition, self-rule and shared rule (Swenden, 2013)—this section examines how these have been used in the British and Spanish cases as strategies of accommodation within the framework of the states’ territorial models.

#### **Symbolic Recognition**

Symbolic recognition is a key aspect of ‘crafting successful territorial strategies for a plurinational state’ that demonstrates ‘that national political elites are willing to identify the state as plurinational and recognize that it encompasses multiple, but possibly complementary identities’ (Swenden, 2013, p. 71). Such recognition may take the shape of official recognition of statehood for minority nations, the acknowledgement of the plurinational character of the state in its constitution as well as in other state symbols such as flags and anthems. Symbolic recognition has been the principal component in the UK’s accommodation strategy. The relative ease with which the UK has recognized its plurinational character facilitated the maintenance of autarchic institutions in the pre-existing states, namely Scotland, and has been further embodied in the name and symbols of the state. As Keating (2001, p. 104) attests, the UK’s name reflects ‘its plurinational composition, while the union flag is no more than the superimposition of the flags of the component nations’. The articulation of the UK’s plurinational makeup has allowed for the development of multi-layered conceptions of identity as well as differentiation between the concepts ‘nation’ and ‘state’. Further, provisions were inserted in the Scotland and Wales Acts in 2016 and 2017 respectively to recognize

the permanency of the Scottish and Welsh Parliaments. Qualifications as to what permanency means render the legal enforceability of the provisions rather meaningless, but their inclusion are nonetheless constitutionally significant, not least given their symbolic importance in recognizing the guaranteed existence of the sub-state legislatures.

Contrary to the UK, Spain has been historically uncomfortable with recognition of its plurinationality. The Constitution, promulgated in the aftermath of the transition to democracy, recognized the existence of ‘Spaniards and peoples of Spain’. Yet, while there is a commitment to internal self-determination and the protection of multiculturalism, including other languages spoken in the state, the Constitution falls short of recognizing its plurinationality. Instead, it propagates a mononational view of the state in which Spain is conceived as a traditional nation-state with one official language and one *demos*, the Spanish *demos*, to whom ‘national sovereignty belongs’. The term ‘nationalities’ was not defined in the Constitution and thus entailed only implicit recognition of the historical territories of the Basque Country, Catalonia and Galicia. Subsequent attempts by both Basque and Catalan governments to have the national status of their communities recognized have been successively rebuffed by the Spanish government, including the Declaration of Barcelona in 1998,<sup>2</sup> the Basque government’s ‘Plan Ibarretxe’ in 2005 and statute reform in Catalonia in 2006. The latter, for example, advocated recognition of Catalonia as a nation, while the former was a more radical strategy of sovereignty-association (Elias & Mees, 2017). The predominant mononational narrative of Spain enshrined in the Constitution and endorsed by successive governments over the last four decades has inhibited any extension of symbolic recognition to Spain’s national minorities and, as will be discussed below, has even engendered a harmonization strategy to dilute claims of national distinctiveness.

### **Self-rule**

Self-rule is broadly defined as the decision-making powers within the jurisdiction of sub-state national or regional parliaments. In Spain self-rule was very much framed as a necessary concession to secure the support of minority nationalists during the transition. This has also been the case as the autonomy system has evolved whereby further powers have been granted to the historic nationalities in return for the support of Basque and Catalan parties in the Spanish Parliament during periods of minority government (Field, 2016). The Constitution recognized the right of self-government of the nationalities and regions, and the open-ended model on the division of powers ‘provided a menu for decentralization a la carte’, enabling the historic territories to become powerful autonomous communities (Moreno et al., 2019, p. 248). Few powers, however, are under the exclusive purview of the autonomous communities and are instead ‘shared’ or ‘concurrent’, thus limiting the autonomous capacity of the communities. What is more, the Constitution imbues the central government with authority to intervene in community jurisdiction through Basic Laws. The use of Basic Laws has been a repeated feature since the transition to democracy and has been largely interpreted by the historic nationalities as unfair encroachment by the central government in community jurisdiction and part of a wider competence-harmonization agenda to dilute their initial asymmetric guarantees (Máiz et al., 2010). As Requejo (2017) notes, the fact that the central government can freely encroach upon the competences of the autonomous communities undermines any claim that Spain is a federation.

The various legislative acts devolving power in the UK entailed different approaches to devolution, including a reserved powers model in Scotland and Northern Ireland and a corporate body model in Wales. In the latter no law-making powers were initially devolved,

while The Scotland Act devolved to the Scottish Parliament all powers except those specifically reserved to the UK Parliament. The resulting model of autonomy in the UK has thus been described as ‘one of the most complex examples of asymmetric autonomy’ (McGarry, [2012](#), p. 129). In a similar vein to the autonomous communities in Spain, the powers and responsibilities of the Scottish, Welsh and Northern Irish governments and legislatures have increased over the years. In Scotland the devolution of further powers has been in reaction to the electoral success of the SNP and thus an attempt on the part of the British government to stifle support for independence. This was most clearly seen during the independence referendum campaign in 2014 in which all three main parties in Westminster agreed to devolve further powers to Scotland in the event of a vote against independence (Keating & McEwen, [2017](#)). In Wales and Northern Ireland, devolution has also been enhanced, particularly in the former which now has law-making powers. The fiscal responsibilities of all three nations have also increased, yet this also takes an asymmetric route. Northern Ireland, for instance, controls corporation tax given its unique location in sharing a land border with an independent state (Ireland), while the fiscal powers of the Scottish and Welsh legislatures have been enhanced since 2012 and 2014 respectively. In contrast with the Spanish model, central government encroachment on devolved policy jurisdictions is limited by the Sewel Convention, which dictates that the UK government would not normally legislate on devolved matters without the permission of the devolved legislatures. The convention has largely operated without much controversy since the inception of devolution in the late 1990s, but as confirmed by the Supreme Court in January 2017, and the subsequent passing of legislation pertaining to Brexit notwithstanding the refused consent of some and at times all the devolved legislatures, the convention is a political not legal convention; whether the devolved legislatures grant consent or not, legislation can proceed through Parliament regardless (McHarg, [2018](#)). There is little doubt that the devolved nations possess significant self-rule, but the continued legislative supremacy of the Westminster Parliament—which remains the only source of legal sovereignty—undermines self-government provisions and inhibits the development of the UK in a conscious federal direction.

### **Shared Rule**

Shared rule, which refers to the participation of sub-state entities in the decision-making processes of the central government, has been a neglected dimension of power in both the UK and Spain. In both cases few mechanisms for collaboration and cooperation between the central governments and their devolved counterparts have developed, not least the absence of territorially representative second chambers and effective intergovernmental infrastructure.

Devolution in the UK was solely concerned with self-rule. There were discussions prior to the establishment of the devolved legislatures regarding shared rule mechanisms, but emphasis was on self-governing structures rather than increasing the voices of the devolved nations at the center. As a result, opportunities for influence at the center on the parts of the devolved administrations have been significantly limited. An infrastructure of intergovernmental relations has developed in the UK, but it is under-institutionalized and in recent years has become a source of significant tension (Anderson, 2022). The principal mechanism is the Joint Ministerial Committee (JMC), which brings together all four governments, but the JMC has been subject to much complaint since its inception, particularly its hierarchical structures and lack of co-decision-making process. The lack of intergovernmental influence is further impeded by the absence of a territorially representative second chamber. Debate on reforming the House of Lords is almost as old as the institution



itself, but only recently has discussion shifted in the direction of creating a federal-like upper chamber. The Labour Party, for instance, advocated the creation of a ‘Senate of the Nations and Regions’ in its 2015 election manifesto, but evidence of serious proposals to create a territorial chamber are scarce.

Akin to the UK, shared rule in Spain is a limited affair. The Senate is described in the Constitution as ‘the House of territorial representation’, but its capacity to act as such is circumscribed by its functions (or lack thereof) and composition, which is largely based on provinces rather than autonomous communities. What is more, the politicized nature of the chamber—a result of its unofficial organization along party lines—further inhibits opportunity to facilitate intergovernmental interaction. As in the UK, intergovernmental infrastructure has developed in Spain, particularly the Conference of the Presidents and Sectoral Conferences, albeit these vertical forums have had varying levels of success. Sectoral conferences have engendered fruitful collaboration between the Spanish and autonomous governments, though they remain forums of debate and information-sharing as opposed to institutions of joint decision-making (García Morales, 2009). In a similar vein to the UK, the absence of solid shared rule in Spain negates its federal development.

The discussion above details the experience of the Spanish and UK systems with the most important repertoires used to classify federal systems in plurinational contexts. Symbolic recognition, self-rule and shared rule all form part of the accommodative strategies employed in the UK and Spain to manage sub-national movements, although the arrangements differ in each case and have varying degrees of success. As one would expect, self-rule, through its vertical distribution of power, has been most successful in alleviating the grievances of national minorities in both cases, albeit the thirst for further powers and independent statehood has not been completely quenched. Self-rule arrangements, however, have enabled the autonomous regions to develop their own legislative agendas and promote and protect their distinct national identities and cultural heritage. Self-rule, however, is a fragile arrangement; asymmetry can be diluted, powers taken away and central government dominance imposed. The absence of shared rule in both Spain and the UK is a likely causal effect for the ongoing push in Scotland and Catalonia for independence. It is a truism that in both cases increasing attention has been paid to shared rule mechanisms, but the territorial models in their current configurations remain weak in facilitating sub-national influence and intergovernmental interaction at the center. The general understanding of the UK as a plurinational state has engendered a high degree of symbolic recognition, including acceptance that the four component parts of the UK constitute separate nations. This, as discussed supra, is not the case in Spain, whereby interpretations of the Spanish state are divided between mononational and plurinational understandings. Aspirations for further symbolic recognition on the part of Catalonia, for instance, have successively fallen on deaf ears. It is no coincidence, therefore, that the rejection of demands for further self-rule, enhanced shared rule and explicit recognition has developed alongside increasing support for independence.

### **Ongoing Challenges: Between Centralization and Disintegration**

Having evaluated the principal institutional arrangements used in Spain and the UK to reconcile territorial integrity and cultural heterogeneity, this section discerns three of the main challenges facing Spain and the UK, particularly as relates to any future federalization process: Secessionism, the unitary approach of state governments and the absence of a federal and plurinational spirit.

#### **Secessionism**

Analysis of the impact of federal structures on secessionism has identified ‘a paradox’: ‘the very same institutions that appear to be able to calm Secession the opposite intended direction’ (Anderson, 2010, p. 131). Scholars on both sides of the debate are able to draw upon empirical evidence to substantiate the various secession-inducing and secession-preventing hypotheses. As McGarry and O’Leary (2015, p. 15) note, ‘for every Switzerland, Canada, Belgium and India, there is at least one Austro-Hungary, Soviet Union, Yugoslavia and Pakistan’.

The existence of secessionist movements in Spain and the UK, specifically in Catalonia and Scotland, have illuminated the challenges faced by states when seeking to use federal tools as mechanisms for diversity management. Indeed, a quick glance at the success of pro-secession parties in both Scotland and Catalonia in recent years lends credence to the secessionist-inducing argument; autonomy in both cases appears to have fueled rather than diluted demands for external self-determination.

The decentralized models utilized in Spain and the UK are designed to contain rather than empower the state’s national minorities. This lack of empowerment, evident, for example, in the absence of a guaranteed role for sub-state administrations in central government decision-making, reinforces the hierarchical and subordinated notion of decentralization in both states. In the UK the British government conceded the holding of a referendum on Scottish independence in the aftermath of the majority SNP government elected in 2011, but despite the rhetoric employed during this campaign regarding an equal partnership between Scotland and the rest of the UK, the recent Brexit debate has reinforced the hierarchical design of devolution, affirming that devolution ‘at root [is] little more than the delegation of powers which can be revoked unilaterally at any time’ (Keating, 2018, p. 48). In Spain increasing dissatisfaction with the Spanish territorial model and little prospect of serious reform has precipitated unprecedented civil society activity and growing support in favor of holding a referendum on independence as well as independence itself (Anderson, 2019). On the part of Spain’s main political elites, outright hostility to asymmetry, opposition to constitutional recognition and, akin to Scotland, the absence of mechanisms to guarantee voice at the center, betray what Kymlicka (2001, p. 105) describes as the ‘latent ethnocentrism’ of the majority community. This, in turn, has intensified mounting tensions between Spain and Catalonia and increased support for secession to the extent that the pursuit of independent statehood is considered an easier feat than reform of extant Spanish structures. Federalism would ultimately address some if not many of the grievances of the Catalan and Scottish independence movements, but the success of secessionist parties and their territorial preferences for independence evidently present a challenge to evolving federal processes.

### **The Unitary Mindset**

Notwithstanding several decades of decentralization in Spain and the UK, a unitary conception of the state prevails, manifested in limited conceptions of political authority and sovereignty. Unlike a federal understanding of sovereignty as divided between the federal government and federalized units, no such notion of shared sovereignty exists in either the UK or Spain. In plurinational contexts sovereignty is very much a contested term (Keating, 2001). This unitary understanding of political authority is thus translated into the normative thinking and institutional structures of the states, which perpetuate a hierarchical, majoritarian and monist vision of the states in spite of their plurinational reality. In the UK this is most clearly reinforced by the doctrine of parliamentary sovereignty based on the notion that the Westminster Parliament is supreme and thus the devolved institutions set up in the late 1990s

are legally subordinate to the center. The Spanish Constitution enshrines a similarly monist interpretation of sovereignty and declares that national sovereignty belongs to the Spanish people as a whole, an argument oft-cited by pro-union politicians to defend their opposition to a referendum in Catalonia on independence.

The unitary conception of the state in Spain and the UK is also evidenced in the identifiable centralization approaches of the central governments. This is clearest in the Spanish case vis-à-vis encroachment in competence jurisdiction through Basic Laws, Organic Laws, central government spending power and the pursuit of competence symmetrization. The latter has not only seen an attempt to forge a symmetric federation in line with the American federal model, but involved standardization processes, such as the Partido Popular (PP) government's Organic Law for the Improvement of Educational Quality (2013), which sought to standardize educational curricula and limit the teaching of school subjects in languages other than Spanish. The UK government's approach to EU withdrawal between 2016 and 2020, specifically the repatriation of powers from Brussels and protection of the UK's internal market, also betrayed a centralizing agenda. Notwithstanding extant devolved arrangements, including the reserved model of devolution, the British government sought to take control of all repatriated powers, invoking the national interest of protecting its internal market as the main rationale. This aggressively unitary approach illuminated a rather conservative and antedated interpretation of the UK Constitution that denied the decentralizing trajectory of the UK since the late 1990s. The default position of centralization spotlights the unitary conception of power in the upper echelons of British politics.

A push for the centralization of authority is not unique to Spain and the UK, but it illuminates the hierarchical and statist thinking of the states' political elites. As discussed above, this unitary conception has given way to the imposition of hierarchical structures and thus the institutional domination of national minorities and jars with the proper functioning of federalism in a plurinational state. Left unchecked, this majoritarian and unitary thrust poses a significant threat to any strategy of federalization in both cases.

### **The Precarious Plurinational and Federal Spirit**

Modelled on the German constitutional principle of *Bundestreue*, Burgess (2012, p. vi) defines the federal spirit 'as a shorthand expression of a set of values and principles that guide action and behavior among political elites'. Undergirding this spirit are a range of federal values and principles, *inter alia*, autonomy, equality, loyalty, partnership, recognition and respect. In plurinational states the entrenchment of these values and principles is considered crucial, not least if the objective of the state is to remain together composed of both the majority and minority groups. In this vein Taylor's (1994) 'politics of recognition' and Gagnon's (2014) 'politics of dignity and hospitality' illustrate the approach to constitutional and institutional accommodation. In Spain and the UK, there is a somewhat identifiable plurinational and federal spirit, but this remains precarious and undermined by the actions and thinking of the central governments and, in some cases, sub-state nationalist movements.

On the parts of the central governments and majority political elites in Spain and the UK, the absence of a strong plurinational and federal spirit is reinforced by the dominance of unitary and majoritarian thinking. In Spain this is much more prominent given processes of competence symmetrization, but also in the absence of symbolic recognition and the contestation of the plurinational nature of the state, which sees opposition and outright hostility from some political elites—particularly those on the right of the ideological axis—to any

plurinational recognition of the state. Further, the intransigent approach of the central government in managing the Catalan secessionist challenge, in which the default position of the Rajoy government was to forego dialogue in favor of recourse to the Courts, further illuminates the lack of plurinational and federal thinking (Anderson, 2021). The recent debates in the UK vis-à-vis EU withdrawal illuminated a lack of federal thinking too, reinforced by the unilateral actions of the central government and the litigation of the Supreme Court. On the latter, the Supreme Court's ruling on the status of the Sewel Convention in January 2017 betrayed a conservative understanding of the UK Constitution inasmuch as 'after twenty years of a federalizing tendency...it was insisting on the fundamentally unitary nature of the UK constitution' (Keating, 2018, p. 46). As discussed in the previous section, the UK government's repatriation plans also illustrated the limp plurinational and federal spirit in the UK, further exacerbating the already tenuous bonds of trust between the UK and devolved governments.

Majority nations have an integral role to play in the development of a more plurinationally sensitive and federal political spirit in both the UK and Spain, but so too do the minority nations. The existence of secessionist governments in Catalonia and Scotland present an evident challenge, and while these movements often berate the central governments for the absence of inclusive and collaborative mechanisms to facilitate their participation in the organs of the central state, the ratcheting up of competing and contesting nationalist claims have significantly colored relations between the central and sub-state governments and further eroded trust between the administrations. This breakdown in trust, evident in both cases, requires a certain degree of self-discipline, self-restraint and sensitivity on all sides, but has been lacking in recent years. Notions of loyalty, partnership, recognition and respect remain abstract terms not translated into practical operation.

### **Conclusion—Toward a Federal Moment?**

This chapter has explored the emergence of the federal trajectories of Spain and the UK and detailed the principal components of the territorial models and ongoing challenges the states face. Neither Spain nor the UK functions as a full-fledged federation, but their models of territorial accommodation have an identifiable federal tinge, notwithstanding the absence of important components such as shared rule. In the UK symbolic recognition and institutional apparatus have been used to accommodate the state's internal pluralism, while the evolution of the Spanish territorial model underlines the success of democratization projects in plurinational contexts. The frameworks of accommodation institutionalized in both states illuminate the attractiveness of decentralization as a tool of minority accommodation, but at the same time demonstrate the limits of such piecemeal reform, particularly the focus on self-rule at the expense of shared rule.

In both Spain and the UK, federalism continues to be mooted as an appropriate institutional response to the self-determination demands of the states' national minorities. In the UK concern for the constitutional implications of EU withdrawal has seen increased interest in the conflict-ameliorating, democracy-enhancing and holding-together characteristics of federalism, including senior figures in the Labour Party, not least its leader Keir Starmer. Yet, while federalism offers Labour a territorial strategy that sets it apart from its main political rivals, it remains peripheral to the territorial strategies of other political elites; pro-union Conservatives remain hesitant to see the devolved nations become further detached from the center, while Scottish nationalists have little interest in UK-wide constitutional reform. In Spain the formation of the Partido Socialista Obrero Español-Unidas Podemos coalition after the November 2019 election increased the opportunity for further federalization of the Spanish

state, including commitments to clarify competence jurisdiction and enhance shared rule. Akin to the UK, however, the prospects of full-fledged federalism remain weak; those on the right of the ideological spectrum consider federalism a recipe for state disintegration, while Catalan nationalists—despite traditional support for federalism—are likely to view such plans with deep suspicion. It is perfectly possible, as argued by King (1982, p. 76), to have federalism without federation. Spain and the UK are cases in point. Yet, while federalism has influenced and continues to permeate the territorial frameworks in both cases, its evolution remains limited by the absence of shared rule and a genuine commitment to a federal way of thinking. At times of prolonged constitutional turbulence in both cases, federalism has much to offer as an enhanced model of territorial accommodation, but it remains a marginalized option.

The experience of territorial politics in Spain and the UK illuminates the predilection of political elites for muddling through various territorial challenges and crises. Recent events in both cases, however, underline that muddling through is no longer good enough; reform is required, not least if the states wish to maintain their current territorial configurations. The origins, evolution and challenges of the territorial models in Spain and the UK mark a distinct juncture in the study of new federal models, particularly in plurinational settings, and further illuminate that models of accommodation have yet to reach a stable equilibrium between the competing territorial demands of majority and minority communities. As the third decade of the twenty-first century unfolds, so too will the territorial configurations of the British and Spanish states. In true Friedrichian fashion, and notwithstanding the absence of a conscious federal teleology, federalization will remain an evolving process.

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<sup>1</sup> This was, however, limited by the Sewel Convention—a political convention that dictated Westminster ‘would not normally legislate’ on devolved matters without the respective legislatures’ consent.



<sup>2</sup> The 1998 Declaration of Barcelona was an initiative between Basque, Catalan and Galician nationalist parties demanding formal recognition of Spain's internal plurality, including nationhood for the aforementioned territories.