

Two measures to unblock the closure of the Spanish political system

Jordi Conde Castejón
Professor de Dret Constitucional de la Universitat de Barcelona

There is no doubt that Spain is undergoing dramatic changes. The election held on 20 December 2015 proved the failure of the two-party system, thus giving place to an ungovernable situation and making clear the crisis of political representation stimulated by a faulty electoral system that urges change. This crisis of representation is complemented by the question of the territorial structure of the national political power in a broad sense. All these circumstances pose serious problems to the formation, not only of social majorities able to back a political and social project that responds to the general interest, but also of a government majority ready to rise to the urgent challenges posed by the current legislative period, especially in the social and the labor fields.

Post-election evaluations made across the whole political and ideological spectrum seem to agree that it is necessary, urgent, to work on the social and constitutional reforms. However, the formation of the Spanish Parliament as a result of the election does not allow for a big advance, and to hold new elections, as might be needed in Catalonia, would not offer very different results under the current electoral system. Both the Spanish and the Catalan regional political and constitutional systems seem somehow to have collapsed or, put another way, to have reached the highest point of closure: they are not anymore in a position to process such a deluge of demands of different nature.

Before tackling the necessary structural reforms and in view of the current deadlock in the Spanish and the Catalan Parliaments, maybe a broad consensus based on a sufficient majority should be reached on two specific questions which would unblock the current situation of institutional and political closure. The first question is the agreement on a social and labor action plan in order to face the most urgent needs. Autonomous communities and municipal councils should also be involved in its implementation. The experience gained in previous plans proves that it is perfectly viable, as well as the only way to involve all institutions in a joint effort.

The second question is the urgent reform of some aspects of the Spanish Law on the General Electoral System (LOREG), without needing to reform the Constitution. It would suffice to reform the Law with respect to the number of members of the Congress (which would then be 400), the number of constituencies (there would be 17 provinces, the same as the number of autonomous communities, and the minimum number of members of the

Congress for each province would be limited to 1), and finally the voting system (where a more proportional method, like the largest remainder method, should be adopted instead of the currently used d'Hondt method). Obviously, the composition of the provincial Senate would drastically change, since there would be 17 provinces instead of 50 and the senators representing autonomous communities would be almost half of the total. The Senate would be very much reduced, which would somehow compensate for the increase in members of the Congress.

Needless to say that what is understood as making plurinationality more visible by some, and as federalization of the national legislative power by others, would then reach a higher level than now.

These reforms would at once progress towards the federalization of the Spanish State and, above all, the possibility to form new political majorities ready to start a formal process of wide-ranging constitutional reform. As for the technical aspects of such reform, which would be undertaken strictly within the framework of the Constitution (as said, no modification is needed at all), most of them were done a long time ago. On the website of the Consejo de Estado, the Government's highest advisory body, you will find two fantastic reports of this institution: the one of 2006 on the constitutional reform and the one of 2009 on the electoral reform. Regarding the modification of the provincial level, it should be underlined that it is not the Constitution that establishes the number of provinces but the LOREG inasmuch as it lays down the formation of provinces as constituencies. As for the configuration of provinces as local entities, their organization and functions are regulated by ordinary laws. There are currently seven single-province autonomous communities, for which reason making provinces coincide with autonomous communities is nothing but a generalization of something that already exists. Adapting the current provincial councils to the new scenario does not pose any unsolvable technical problem, as proved by the current situation and the historical experience of the Mancomunitat de Catalunya (institution that grouped together and represented the four Catalan provinces between 1914 and 1925).

The formation of a provisional government majority for the implementation of these measures could unblock the current closure of the political system and advance on the achievement of an institutional system ready to redesign the voting system, the party system and the territorial organization of the Spanish State in a way that does not preclude, but rather stimulate, the constitutional reform.