



EUROPEAN STUDIES CENTRE

St Antony's College • University of Oxford

ST ANTONY'S COLLEGE • OXFORD • OX2 6JF

TELEPHONE +44 (0)1865 274470 • FAX +44 (0)1865 274478

EMAIL european.studies@sant.ox.ac.uk



SANTANDER FELLOWSHIP WORKSHOP

'The Politics of Accommodation in Multinational Democracies'

Organised by:

Dr. Jaime Lluch - Santander Fellow in Iberian and European Studies

Co-Sponsored by:



Centre International Studies

Thursday 16th June

17.00 Keynote Lecture

Power-Sharing: Meanings, Varieties & Evidence

Brendan O'Leary, Political Science, University of Pennsylvania

Chair: Jaime Lluch,

Friday 17th June

9.30 – 11.30 Panel: Accommodation and Spain's State of Autonomies in 2011
Spain-Session 1

Catalonia: From Devolution to Secession

Montserrat Guibernau, professor, Politics Dept., Queen Mary, University of London,

The Spanish Constitutional Framework and its Limits

Xavier Arbós, professor of constitutional law at Univ. of Barcelona

Discussant: Elisenda Casanas, Law School, Universitat Autònoma de Barcelona, and
Visiting Fellow, School of Law, University of Edinburgh

Chair: Tom Buchanan, History, Oxford

11.00 – 11.15 Coffee break

11.15 – 12.45
Spain-Session 2

The Failure of the 'Plural Spain' Project: the Landscape After the Battle
José María Sauca, professor, Law Department, Universidad Carlos III- Madrid

Managing Cultural and Identitarian Pluralism in Spain
Enric Martínez, Politics Dept., Univ. Pompeu Fabra

Discussant: Elisenda Casanas, Law School, Universitat Autònoma de Barcelona, and Visiting Fellow, School of Law, University of Edinburgh
Chair: Tom Buchanan, History, Oxford

14.15 – 15.30
Panel: Accommodation, Substate National Movements, and the Central State

Why does Accommodation Matter? Evidence from the Field
Jaime Lluch, St. Antony's, Oxford

Canada's Construction in Historical Perspective: Accommodation and the Role of Trust
François Rocher, professor of Politics at University of Ottawa, Canada

Discussant: Enric Martínez, Politics, Univ. Pompeu Fabra
Chair: Gwendolyn Sasse, Nuffield College, Oxford

15.30 – 15.45 Coffee break

15.45 – 17.15
Panel: Accommodation and the Practice of Devolution, Autonomy, and Federalism

Flexible Accommodation: Another Case of British Exceptionalism?
Stephen Tierney, professor, School of Law, University of Edinburgh, Scotland

Italy: Autonomism, Decentralization, Federalism, or What Else?
Francesco Palermo, EURAC (Bolzano) and professor of Law, University of Verona, Italy

Discussant: Enric Martínez, Politics, Univ. Pompeu Fabra
Chair: Tom Buchanan, History, Oxford

17.15 – 17.30 Coffee break

17.30 – 18.45

Panel: Accommodation and Actually-Existing Autonomies in the Contemporary World

Defining the Politics of Accommodation: the Case of Corsica

André Fazi, professor of Politics, Université de Corte, Corsica, France

Autonomism in Puerto Rico: Past Paradoxes, Present Dilemmas, and Future Prospects

Héctor Luis Acevedo, Politics Dept. and Law School, Inter American University, San Juan, P.R., USA

Discussant: Jaime Lluch, St. Antony's, Oxford

Chair: Tom Buchanan, History, Oxford

19.15 Post-conference conviviality

@ the Eagle and Child Pub (founded 1684), St. Giles.

Core Questions to be addressed during the conference

The aim of this conference is presented fully in the conference statement below, but in general we seek to go beyond debates in normative political theory about what accommodation is or ought to be in plurinational states, and to examine several concrete cases of accommodation, and thus to analytically disaggregate the notion of accommodation, in order to better understand conditions that facilitate mutual recognition and accommodation. To this end, we would like you to pay particular attention to some of the following questions:

1. How can we build a fruitful and genuine interdisciplinary dialogue between comparative politics and comparative constitutional law to address the politics of accommodation?
2. How can we unpack the notion of “accommodation”? What are its component parts? Can we measure it, or develop clear criteria for assessing when “accommodation” has been successful?
3. What is the role of constitutionalism in facilitating “accommodation”?
4. If constitutions can constitute the very *demos* by projecting a vision of the nature of the political community that governs itself under the constitutional regime, how can we devise a constitutional regime that is plural, tolerant, and inclusive?
5. What is the role of political culture in facilitating “accommodation”? Can the traditions and ideologies that have influenced a country’s political culture- with respect to the tolerance for cultural, ethnic, racial, national, and cultural diversity – influence the degree to which it may be able to accommodate substate national societies?
6. Related to the issue of political culture, how can we “federalize society”? How can we make citizens, political parties, civic associations, and political institutions in a plurinational state more open to the values of a plural, inclusive, and open federalism?
7. In the case of formerly unitary states that are in a process of federalizing their model of state (e.g., Spain or Italy), how can their societies be correspondingly “federalized”?
8. Does our common understanding regarding the unitary and unidimensional nature of citizenship, which has been uniform in state-building processes, represent a form of constitutional self-understanding that needs to be re-formulated, in order to devise novel institutional forms of accommodation?
9. How does accommodation as a constitutional strategy vary in states that practice territorial pluralism (Canada, Spain, etc.) and states that use a hybrid strategy of liberal integrationism and multicultural accommodation (the USA), and those states that practice republican integrationism (France, Turkey, etc.)?
10. How can a culture of dialogue and mutual accommodation be constructed between state (majority nation) nationalism and substate (minority nation) nationalism?
11. Can the central state accommodate new proposals for more autonomism or greater self-government as a constituent unit of a federation?
12. How can we encourage forms of substate nationalism that are open to working with the central state and finding formulas for accommodation?
13. What are the varieties of independentist parties in substate national movements

and what do they really seek? Similarly, what are the varieties of autonomist and federalist parties?

14. Do substate national movements respond in a mechanistic and deterministic way to economic and material conditions, or do they also follow a "political logic" that does not always exhibit instrumental rationality?

The Politics of Accommodation in Multinational Democracies

During the last two decades, normative political theorists have introduced the notion of "accommodation" of substate national societies within multinational federations or federal political systems. The scholarly discussion on "accommodation" has been largely developed within the context of normative reflection on the relation between substate national societies and majority national societies within the same state. There have been relatively few efforts by comparativists, constitutionalists, and students of comparative federalism to disaggregate the concept of "accommodation." What are the social and political factors that facilitate or impede accommodation? Under what circumstances will a state be more willing to accommodate a minority nation? This conference seeks to analyse and disaggregate the notion of "accommodation" of substate national societies within multinational federal systems, especially from the perspective of comparative politics, comparative federalism, and comparative constitutionalism.

In contemporary multinational federal systems (such as Spain, Canada, Belgium, India, Switzerland, and the United Kingdom) the political aspirations of substate national societies for accommodation by the state, for greater autonomy, and for a more satisfactory representational scheme in the administrative organs of the central state have been usually formulated as demands for constitutional reform of their federal political systems.

In plurinational democracies, moreover, the challenge posed by substate national societies to the central state has been formulated in three varieties of substate nationalism: independentist, autonomist, and pro-federation nationalism (Lluch 2010; Lluch 2011). National movements tend to bifurcate or, at times, trifurcate, into two or three basic political orientations: independence¹, autonomy², and, oftentimes, pro-

¹Independence is the realization of full political sovereignty for a nation. For stateless nations, it is the attainment of separate statehood, independent from the majority nation with which they have coexisted within the same state for some time. Also, proposals for Sovereignty-Association and Associated Statehood are variants of the independence option.

²Those substate nationalists who favor autonomism put forward proposals that generally renounce independence -- at least for the medium- to short-term -- but which seek to promote the self- government, self administration, and cultural identity of a territorial unit populated by a polity with national characteristics. The cases of autonomy vary widely and no single description will be applicable to all such situations. Contemporary instances of actually-existing autonomy relationships include: Åland Islands/Finland, Alto Adige/Italy, Faroe Islands/Denmark, Puerto Rico/USA. Most cases of actually-existing autonomy arrangements can be clearly distinguished from classic *federations*. Classic federations, where all the constituent units have substantially equal powers, may not be sufficiently sensitive to the particular cultural, economic, institutional, and linguistic needs of a sub-state national society, which require a greater degree of self-government. Yash Ghai, ed., *Autonomy and Ethnicity: Negotiating Competing Claims in Multiethnic States* (Cambridge: Cambridge University Press, 2000), p. 8. Generally speaking, moreover, "autonomy is always a fragmented order, whereas a constituent...[unit of a federation] is always part of a whole...The ties in a...[federation] are always stronger than those in an autonomy"; Markku Suksi, ed., 1998. *Autonomy: Applications and Implications* (The Hague: Kluwer Law International, 1998), p. 25.

federation.³ While independentist nationalism remains a vital force in societies such as Quebec and Scotland, at the same time nationalist movements have been increasingly oriented towards seeking an autonomous special status or towards gaining greater power as a constituent unit of a fully formed federation. Non-secessionist alternatives are gaining increased prominence.

The trend towards accommodation within the state has led to the rethinking and reformulation of increasingly complex constitutional models of accommodation within existing states. The search for these sophisticated institutional designs of mutual accommodation may as a matter of fact pose a more radical challenge to the state and its constitutional self-understanding than secession itself. "Such demands, if taken seriously by the state, can call into question many of the constitution's most profound self-understandings including even the conception of unitary citizenship which has been an article of faith for state-building processes" (Tierney 2004: 96). Autonomist and pro-federation substate nationalisms may question central tenets of the constitutional ideology of the central state, and may lead to the development of a "metaconstitutional" discourse -- using Neal Walker's term -- that challenges the state's traditional constitutional discourse. All of this leads to a rethinking of the possibilities for evolution and development of new models of accommodation in federal political systems.

There are two senses in which *constitutionalism* is a critical dimension of the politics of accommodation. First, constitutions tend to constitute the very *demos* that governs itself under and through the constitutional regime. Constitutions can constitute a *demos* by projecting a given vision of political community with the aim of altering the very self-understanding of citizens, often encapsulated in "constitutional moments." A constitutional moment is a higher order constitutional event, which impacts the relationship between the central state -- largely controlled by the majority nation -- and the minority nation embedded within the same state.⁴ It is of a higher order than ordinary legislative activity. Such "constitutional moments" are relatively rare, and they represent a critical event that crystallizes the nature of the relationship between the central state and the embedded minority nations. These critical constitutional transformative events include: the adoption of a new constitution, the adoption or proposal of significant constitutional amendments, the adoption or proposal of a new organic statute for the government of the embedded minority nation, etc. Second, constitutions "enable decision making by creating the institutions of government [such as the kind of federal system it creates], by allocating powers to them, by setting out rules of procedure to enable these institutions to make decisions, and by defining how these institutions interact" (Choudhry 2008: 5).

Constitutionalism has traditionally been the primary mechanism for facilitating the mutual accommodation of substate and state national societies in multinational federal systems. However, as recently noted, in multinational democracies, if we are

³Pro-federation nationalists seek to have their nation remain (or become) a constituent unit of classic *federations*, which constitute a particular species within the genus of "federal political systems," wherein neither the federal nor the constituent units' governments (cantons, provinces, länder, etc.) are constitutionally subordinate to the other, i.e., each has sovereign powers derived directly from the constitution rather than any other level of government, each is given the power to relate directly with its citizens in the exercise of its legislative, executive and taxing competences, and each is elected directly by its citizens.

⁴ Bruce Ackerman, *We the People* (Cambridge: Harvard University Press, 1991).

to address the complexities of mutual accommodation, "*comparative constitutional law* must expand its intellectual agenda to encompass issues that have hitherto been the exclusive domain of *comparative politics* in order to be of relevance..." (Choudhry 2008: 13). In addressing the politics of accommodation, therefore, "there is a need to bridge comparative politics and comparative constitutional law through a genuinely interdisciplinary conversation" (Choudhry 2008). We need to go beyond the usual singular focus on constitutionalism, and incorporate additional perspectives.

Thus, this conference seeks to unpack the concept of accommodation, and this conference will do so by disaggregating the notion of accommodation into three critical components: constitutionalism, political culture, and state nationalism.

From the perspective of comparative federalism, it is clear that the political structures created by constitutions and by constitutional moments shape the goals political actors pursue and the way they structure power relations among them, and the possibilities for the evolution of political systems (Thelen and Steinmo 1992: 2). In examining the political effects of constitutionalism, the constitutional history and the structures of federalism of states such as Canada, Spain, the U.K., Belgium, etc., may facilitate or impede the evolution of their political systems in order to accommodate new models of autonomism or federation.

From the perspective of comparative politics, this conference will examine how culture "constitutes the social order and is a tool for domination and conflict over the nature and make-up of the political community and authority within it..." (Ross 1997: 47). Therefore, the civic traditions, ideologies, and beliefs (in sum, the "political culture") of a state with respect to the tolerance of cultural, ethnic, national, racial, and linguistic diversity will have an impact on the degree to which it may be able to accommodate substate national societies. Moreover, the *political mobilization* efforts that *nationalism* and *nationalist ideologies* produce are a third important dimension of the politics of accommodation that must be analyzed. No account of the factors that enable or impede the evolution of political systems in order to accommodate new models of autonomism or federation would be complete without a study of the impact of state nationalist mobilization efforts.

If we are to rethink possibilities for *evolution and development* of new models of autonomism or federalism or other non-secessionist alternatives for institutional design, the question becomes whether the central state can accommodate the new proposals being put forward.

In Canada, although the *Action Démocratique du Québec* (ADQ) is currently weakened, disorganized, and rudderless, it has been putting forward autonomist proposals since the late 1990's. Meanwhile, the *Parti Libéral du Québec* (PLQ) continues proposing a model of federation that gives greater power to Québec. Since 1995, the independentist alternative seems to have lost some momentum, and support for secession has stabilized in the province at around 40%. It would seem that Canadian federalism has (for now at least) succeeded in taming the secessionist movement.

On the other hand, in Spain, the limits of autonomism under the 1978 Constitution are currently being tested by the Spanish Constitutional Court's recent decision (July 2010) regarding the constitutionality of the Statute of Autonomy of 2006 in Catalonia. Since the decision, support for independence in Catalonia has reached unprecedented levels, reaching 25% during the summer of 2010. Moreover, one way of reading the results of the Catalan elections of November 28, 2010 is that there are now 76 pro-sovereignty seats in the Catalan Parliament (out of 135).

In the U.K., devolution since 1997 has reformulated U.K. constitutionalism. The current government of Scotland (led by the secessionist SNP in a minority government) has sought to maximize self-government within the limits of U.K. constitutionalism.

Can multinational federal systems accommodate the demands of sub-state national societies, which include proposals for autonomism, or greater self-government as a constituent unit of a federation? Can states such as Spain or Canada or the U.K. accommodate these proposals for autonomism, devolution, or greater self-government as a constituent unit of a federation? To answer these questions, we need to disaggregate the notion of "accommodation" and look at constitutionalism, political culture, and nationalist ideologies in these states.