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# The Survival of Spanish Provincial Governments in a quasi-Federal Polity: Reframing the Debate

## Authors

Jean-Baptiste Harguindéguy (corresponding author)

Área de Ciencia Política

Universidad Pablo de Olavide

Ed. 14, pl. 4, desp. 22

41013 Seville (Spain)

Email: [jbhar@upo.es](mailto:jbhar@upo.es)

Tel. +34.954.977.401

Jean-Baptiste Harguindéguy obtained his PhD in 2005 from the European University Institute, Florence. He has worked as a professor of political science in different universities in France and Spain (e.g. Institute for Political Studies of Bordeaux, University of Valencia, Autonomous University of Madrid). He currently teaches public administration and policy analysis at the Pablo de Olavide University in Seville. His main research interests deal with policy analysis, regional studies and European comparative politics. He has been led research projects at the Centre for Political and Constitutional Studies in Madrid, the CEPTEL in Montpellier or the Centre for European Studies of Barcelona. He has authored several papers focusing on cross-border cooperation, regional language policies, the effects of the 2008 crisis on decentralization and, more recently, the drivers of intergovernmental relations in Spain.

Alistair Cole

TRIANGLE

Sciences Po Lyon

14 avenue Berthelot

69365 Lyon Cedex 07 (France)

Email: [alistair.cole@sciencespo-lyon.fr](mailto:alistair.cole@sciencespo-lyon.fr)

Tel. +33(0) 43.728.38.63

Alistair Cole obtained his D.Phil from Balliol College, Oxford (1986, funded by a BA grant). He held positions in Oxford, Caen, Aston, Keele and Bradford before being named as Professor of European Politics at Cardiff University in 1999. He has published 15 books (5 monographs, 4 co-written monographs, 6 edited books), 60 journal articles and 55 chapters in edited books. He has a proven record in obtaining research funding, with 8 grants in last ten years (from the ESRC, AHRC, British Academy, and, most recently, from the Leverhulme Trust (£74,330 for an International Network on Territorial Governance, 2012-2015, IN-2012-109). Alistair Cole is regularly invited to prestigious institutions in Europe and the US. Since January 1st, 2015, Alistair Cole has been Professor of Comparative Politics at the Institute of Political Studies, Lyon, France, as well as Professor of Politics at Cardiff University, UK.

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# The Survival of Spanish Provincial Governments in a Federal Polity: Reframing the Debate

**Short title:** The Survival of Spanish Provincial Governments

## Abstract

Despite harsh criticisms, Spanish provincial governments (*diputaciones*) have survived for 200 years and have remained practically unchanged since the Transition. The survival of *diputaciones* in a proto-regional state is clearly a paradox that requires consideration of a range of potential explanations. Drawing upon extensive empirical investigation within and around three provincial governments in 2013-2014 (Seville, Barcelona and Valencia), the survival of the *diputaciones* is illuminated by the path dependency and functional arguments, but it is most convincingly explained in terms of cartel (party) politics. The impact of the 2008 economic crisis has stretched these ‘party bargains’ to breaking point.

## Keywords

Spain, local government, regional politics, governance, crisis, devolution

## Introduction

On 16 June 2011, former Spanish Prime minister Felipe González reopened the debate about *diputaciones* (provincial governments) by advocating ‘the suppression of provincial governments once for all’ (Efe, 2011). As that provocative affirmation demonstrated, this territorial scale continually faces harsh criticisms in Spain. Notwithstanding the different reforms of local governance implemented since 1985, it has been virtually impossible to undertake a consensual reorganization of provincial governments. Consequently, as in other European countries, the question of the suppression or reform of *diputaciones* frequently appears in the media.

As the French *départements*, the Italian *provinces*, the German *kreise* or the Greek *nomi*, Spanish provinces are an intermediate scale between the regions and the municipalities. The reform of these second tiers of local governance currently lies at the core of structural reforms under discussion in other European countries (in particular in France and Italy) since the beginning of the 2008 crisis (Le Lidec, 2012, 249-267; Council of municipalities and Regions, 2013; Bolgherini, 2014, 194-214). However, when the scientific literature has focused on Spanish local power, it has generally been understood as the municipal level (Batley and Stoker, 1991; John, 2001; Denters and Rose, 2005; Page and Goldsmith, 2010; Panara and Varney, 2013; Jiménez, García Quesada and Villoria, 2014, 67-82). Therefore, the *diputaciones* remain largely unknown outside of Spain and have been tackled specifically by only a few Spanish experts (Alba and Vanaclocha, 1987; Márquez Cruz, 2007; Velasco Caballero, 2009; Bertrana, Espinosa and Magre, 2011, 224-242; Zafra, 2012, 152-172) – especially from a public law perspective (Rodríguez González, 2006; Burgueño, 2011; Jiménez Asensio, 2012; Moreno, 2012, 573-612; Fernández-Figueroa, 2014, 157-169). This is a

major gap since the reorganization of provincial governments is a big political issue for the Spanish public administration.

The aim of this article is to fill this gap. The Spanish provincial governments currently face harsh criticisms focusing on their policy performance and the mechanisms of appointment of their deputies. Despite these dysfunctions, Spanish *diputaciones* have survived for 200 years and have remained practically unchanged since the Transition. How do we explain such stability? What drivers impede reform of the *diputaciones*? The article addresses an enduring puzzle. The survival of these pre-democratic institutions in a proto-regional state is clearly a paradox that requires consideration of a range of potential explanations (of change, but especially of the absence of change).

This investigation was based, first, on a broad review of the scientific and grey literature on devolution and local governance in Spain and Europe. Fieldwork research was then undertaken in three different provinces in a series of 35 in-depth interviews realized between October 2013 and December 2014. The provinces of Seville, Valencia and Barcelona were chosen for their geographic similarity (based on a big city and a network of metropolitan towns and small rural hamlets) and because they were respectively governed by the Socialist Party (PSOE), the conservative People's Party (PP), and the Catalan center-right party Convergence and Union (CiU). The purposive sample created in the three provinces included three distinct groups: elected politicians (mainly PP, PSOE, *Izquierda Unida* and *Unión, Progreso y Democracia*), officials (working for the provinces, municipalities, autonomous communities or their professional associations and the state field agencies) and experts (university professors and journalists from Seville, Granada and Barcelona). Most of our interviewees either occupied or had previously occupied important positions at the state level. The questions were divided into different sections focusing on comparative governance, the problems and advantages of *diputaciones*, the potential solutions for improving that tier of government and the obstacles to reforming the territorial system.

This article includes four parts. The first one presents the competing frameworks for explaining the stability of *diputaciones* in Spain. The second section accompanies the evolution of Spanish provincial governments from the long-term perspective, addressing the main historical institutionalist hypothesis. The third chapter examines the central role performed by political parties in the maintenance of the *diputaciones*. The fourth section investigates the positions of stakeholders and social groups in relation to the services delivered by the *diputaciones*. The article concludes by offering a preferred set of explanations based on acknowledging the strategic position occupied by Spain's leading parties, while identifying new challenges to the pattern of institutional stasis.

## **How to Interpret the Stability of *diputaciones*? Three Competing Frameworks**

### *The Institutional Grid*

Is the persistence of *diputaciones* best explained by institutional arguments? Two sorts of institutional argument appear potentially persuasive *a priori*. System-level, 'old' institutional arguments identify the role of heavy constitutional variables as obstacles to thoroughgoing territorial reform. The constitutional guarantee provided for the *diputaciones* virtually ensures their survival. Territorial reform would require a two-thirds majority in the national parliament for modifying the *status quo*. The barriers are formidable, though not insuperable; the constitution was reformed in 2011 in

anticipation of the European fiscal compact and the quasi-constitutional obligation placed upon signatories to commit to reducing debt and deficits. While Europeanization can produce clear policy change, domestic politics are locked in the Spanish equivalent of a ‘joint-decision trap’, that is a situation in which key policy-makers can veto the proposals of the rest of the actors (Scharpf, 1988, 239-278). This configuration delays the decision-making process and encourages party-based veto-players to resist changes that threaten their key interests. In the final instance, the decisions adopted by the participants are taken at the level of the lowest common denominator (or not taken at all). If reform is highly improbable, however, this owes more to the determination of the main political parties not to lose their control over the resources of the provincial governments than it does to the impossibility of undertaking constitutional reform *per se*.

At a rather different level of analysis, historical institutionalist arguments are well suited to explain the absence of organizational change from a variety of different temporal perspectives. From a *longue durée* perspective, the *diputaciones* survived because they have always existed; however sub-optimal in some respects, these intermediate organizations form part of the rules of the territorial politics game. They have progressively been institutionalized, and, 200 years after their creation, they have become embedded within different social and political environments where they sustain a series of interests and client groups (Mahoney 2000, 507-548). With a rather different timescape, premier Adolfo Suárez’s 1977 decision, taken during the Transition, to maintain the *diputaciones* in order to counterbalance the power of the autonomous communities, has profoundly marked the shape of Spanish territorial governance. This decision ‘locked in’ the structure of Spanish territorial public administration and made future reform much more difficult. According to Pierson (2000, 475-499), as time goes by, the more complex becomes a modification of the rules of the game, since the initial arrangement has produced a set of customs and routines. The opportunity costs of reform are so high because existing arrangements regulate key relationships, especially between the *diputaciones* and small rural hamlets that depend on provincial patronage for basic public services.

### *The Partisan Interpretation*

Is the absence of territorial change best understood in terms of resource-based, instrumental arguments about partisan politics? The party organization hypothesis understands parties, in a rational choice sense, as rent seekers, determined to preserve their resources within the provincial governments. From this perspective the survival of *diputaciones* is best understood in terms of party politics and (institutional and actor) rational choice (Miller 2000, 535-547). As Lecours (2005, 13) stressed: ‘institutions do not necessarily crumble when they lose efficiency [and they] can survive even if they engender sub-optimal outcomes’. Despite the superficial criticisms against the *diputaciones*, the two leading Spanish parties have perfectly integrated the existence of those institutions into their organizational strategy. At the end of the day, *diputaciones* are electoral targets that need to be won through a specific strategy of conquest in order to obtain legitimacy, money, public jobs and parliamentary seats for the party members. The traditionally dominant political forces (the Socialist Party and the People’s Party) know that any territorial reorganization could generate losses in terms of resources for their own organizations and this risk aversion explains their preference for the *status quo*. More than party politics, *stricto sensu*, this hypothesis emphasizes cartel party politics; only those parties that benefit materially from office support the survival of the

provincial institution. Other parties are full of sound and fury in their opposition to the *diputaciones*, but their voice carries less weight (Katz and Mair, 1995, 5-28).

### *The Functional Vision*

Is organizational persistence best explained by the services delivered by these institutions: *prima facie*, this would appear to be the weakest argument, as the article demonstrates their lack of obligatory service delivery functions? The long-term survival of the *diputaciones*, and their arrangements with municipalities and autonomous communities, might suggest that the *diputaciones* perform valid functions after all. The functional hypothesis purports to explain organizational survival in terms of service delivery; these organizations deliver functions (political and policy) that no other level is capable of, or would prefer not to. This organizational niche was well articulated in an interview with a former member of the National Commission for the Reform of Local Government (interviewed in Seville, 2014): ‘As the only institution able to bring together small hamlets in common projects, the *diputaciones* ensured the legitimacy of the new regime under the transition. It is not a question of name: it is a question of function.’ The *diputaciones* survived because they represent general-purpose authorities embodying democratic legitimacy, and because they provide financial and infrastructure support for small local councils that would otherwise be unable to fulfil their service delivery responsibilities. They occupy a necessary organizational niche.

Though the article is not explicitly cross-cultural, it is drawn from a major cross-national funded comparative project in relation to the impact of economic crisis on territorial institutional configurations. Territorial configurations have sometimes been interpreted through the prism of overarching system-wide policy styles (Page and Goldsmith, 2010), or state traditions (Loughlin, Hendriks and Lidstrom (2010)). The ‘state tradition’ approach provides a heuristically insightful typology that helps to organize states into groupings. Page and Goldsmith (1987) provided the classic distinction of northern and southern families of European sub-national experience. They contrasted countries with Napoleonic traditions like France, Spain and Italy, with their strong states and weak local government from the functionally stronger local governments in states like Sweden and England. In their extensive comparative study, Loughlin, Hendriks and Lidstrom (2010) identify five clusters of states: the British Isles, the Rhinelandic states, the Nordic states, the Southern European states and the new democracies. The Spanish case is particularly interesting because it cuts across two major traditions; the Napoleonic model, characteristic of pre-democratic Spain and embodied in the survival of the *diputaciones*; and the proto-regional state, of the type described by Keating (1998) in terms of a new regionalism. Rather than place-specific influences, however, we insist above all on the level of analysis that this type of article can realistically aspire to. Much of the structural literature is phrased at the macro- or system-wide level, whereas our analysis is based on a theoretically informed, empirically based comparison drawing on meso - and micro-level dynamics.

Considering in turn the three hypotheses elucidated above, the ensuing article is best read as a case study of institutional and partisan resilience in Spain, a counterweight to the prevailing interpretation of the instability of the State of the autonomies. The survival of the *diputaciones* is illuminated by the path dependency and functional arguments, but it is most convincingly explained in terms of cartel (party) politics,

whereby the two leading parties have each had organizational incentives to ensure their survival. The central conclusion reached in this article – that parties perform an integrative role between structure and agency - is supported in other multi-level systems with dispersed authority such as Belgium and, at times, Italy. The impact of the economic crisis since 2008 has stretched these ‘party bargains’ to breaking point.

## **The *Longue Durée* Argument**

### *200 Years of Provincial Power*

Spanish provinces officially appeared for the first time in the liberal Constitution of Cadiz in 1812. Nevertheless, the provincial districts and their respective councils were only established in 1833. This territorial division followed the model of the French Revolution’s *départements*. Each province was initially ruled by a representative of central state called ‘civil governor’ (*gobernador civil*). Rather as in the French case, the Spanish territorial model admitted local claims through the integration of local *notables* in provincial councils (López Rodó, 1959, 153-164). In short, deconcentrating and decentralizing logics overlapped for two centuries until the contemporary period when the *gobierno civil* and the *diputaciones* were institutionalized as two separate organizations.

As in other neighboring countries like France or Italy, Spanish *diputaciones* have endured over time despite the recurrent debates about their elimination to the benefit of a more regionalized system. From the perspective of one interviewee, the *diputaciones* have survived because they best represent local democracy, an ‘essential element of politics after 40 years of Francoism when municipal and provincial leaders were directly selected by the central state’ (Interview with a former adviser from the Barcelona’s *Diputación*, 2014). After the first democratic elections of 15 June 1977, the Spanish Parliament (*Cortes Generales*) was conferred responsibility for writing the new constitution. Despite the support of the Catalan and Basque nationalists as well as the Communists in favor of a federal polity, the centrist Union for the Democratic Centre of Adolfo Suárez – partly backed by the Socialist Party of Felipe González – imposed the *diputaciones* in the new administrative system (Bonime-Blanc, 1987).

The constitutional compromise brought together the Napoleonic centralizing tradition with some features of German federalism (Page and Goldsmith 1987). On the one hand, the 1978 Constitution guaranteed the sovereignty of Spain as a unitary state divided into provinces ruled by a provincial council. In parallel, the Constitution preserved the position of civil governors (officially the Sub-delegates of Government – *Sub-delegados del Gobierno* – since 1997) as representatives of the central state’s services. On the other hand, the Constitution created 17 autonomous communities, led by their respective regional parliaments and governments. The senate was also re-established but this upper chamber never constituted a forum of representation of decentralized regional governments. In sum, the Transition arrangements created an ambiguous regime that allowed the survival of *diputaciones* as intermediate institutions between municipalities and autonomous governments. The first local elections held on 3 April 1979 were welcomed by the majority of political forces and considered as a decisive step towards the consolidation of the Spanish democracy. Despite a limited institutional performance, local administration was crucial for structuring social services in post-Francoist Spain (Zafra, 2012, 66-83).



Almost forty years later, the tension between the autonomous communities and the provinces is an embedded feature of Spain's territorial system. A number of key staging posts have illustrated the power of non-decision-making. In 1981, a commission led by Professor García de Enterría (1981) was asked (by the center-right Union for the Democratic Centre and the Socialist Party) to write a report about the future of the territorial system. The report advocated a rationalization of regional government competencies in order to avoid overlapping with provincial administrations. Section 16 proposed dividing political powers clearly between central state delegations, the emerging autonomous communities' deconcentrated administrations and the *diputaciones*. Complex from the beginning, the bureaucratic growth of the 'State of autonomies' produced an ever more complex map of local governance after the rejection of these measures by the Constitutional Court in 1983 and the subsequent constitutional protection of *diputaciones* (García López, 1984, 107-142). This historical decision produced a flexible territorial system oscillating between centralization and decentralization that has been successively described as a 'non-institutional federalism' (Colomer, 1998, 40-52) or as an 'incomplete federalism' (Grau i Creus, 2000, 58-77).

### *The Incomplete Reforms of Provincial Government*

A total of 38 provinces are ruled by a *diputación*, viz. an institution governed by a president and his/her vice-presidents, his/her cabinet (*junta*) and the council (*pleno*). Nevertheless, there are several exceptions to this rule. Firstly, not all of the Spanish autonomous communities are divided into provinces; in some regions, the autonomous community simply absorbed the provincial government. This is the case in Madrid, Asturias, Cantabria, Murcia, La Rioja and Navarre where there is a regional government but no provincial government. Secondly, the Balearic and Canary Islands are ruled by insular councils (*consejos y cabildos insulares*) and not by *diputaciones*. Lastly, in the Basque Country, the three provinces (Alava, Vizcaya and Guipúzcoa) are led by *diputaciones forales*. In contrast with other Spanish provincial governments, the Basque *diputaciones forales* have important service delivery functions such as tax collection (figure 1).

### *Figure 1 (about here)*

Several proposals have been formulated for reshaping this complex territorial scheme. However, not one has modified the *modus operandi* of *diputaciones* until now. As a consequence, the Spanish *diputaciones* are one of the few institutions of the state that have remained practically unchanged since 1978. The *diputaciones* are administered according to article 141 of the 1978 Constitution, along with the 7/1985 Law on Local Government and the Royal Decree of 1986 (Garrido López, 2000, 115-138). The 7/1985 Law was slightly modified in 1999, introducing the concept of subsidiarity under the pressure of European integration. In 2003, a new category of cities was approved (the so-called 'big cities'), along with some modifications of mechanisms of inter-municipal cooperation. Three years later, the Socialist Executive led by Prime Minister Zapatero attempted to modify the equilibrium between municipalities and *diputaciones* by converting the latter into councils of local mayors. Nevertheless, that reform was abandoned mainly because of the internal opposition of

some local sections of the Socialist Party and it had no impact on the governance of provinces (Zafra, 2011, 91-99).

More recently, the Spanish government of the conservative People's Party (*Partido Popular*, PP) passed the 27/2013 Law for the Rationalization and Sustainability of Local Government, designed to strengthen the control of the provinces (*diputaciones*) over cities and towns of fewer than 20,000 inhabitants, as well as promoting the merger of small municipalities. This new proposal potentially affects 95% of all Spanish municipalities. Its main objective consists in transferring progressively the competences of municipal administrations to the provincial level without the need to merger small hamlets in an authoritarian fashion. This reorganization was approved by the absolute majority of the PP in Parliament, supported by the Basque Nationalist Party and Union of the Navarrese People. Nevertheless, it provoked the disagreement of the remaining political parties, for whom the PP's law did not address the real problems generated by the *diputaciones*, that is their mode of election and their policy-making system (Campus Acuña and Lago Peñas, 2013, 9-11). The PP's proposal has not come into force yet, partly because of the opposition of some autonomous governments, and partly because of the internal hostility of conservative local mayors (Fernández, 2014).

### *Diputaciones as Multi-task Organizations*

In fieldwork, many interviewees pointed to the problem of complexity and the overlapping of competencies between *diputaciones* and the other decentralized institutions. The different reforms enacted over 35 years basically consisted in adding successive layers to the previous strata rather than modifying the system in a radical way according to a criterion of rationality. In such a territorial scheme, the role of *diputaciones* depends partially on the balance of power among local and regional institutions. Broadly speaking, the scientific literature has demonstrated that the presence of sub-municipal organizations (the so-called EATIM: *entidades de ámbito territorial inferior al municipio* like *pedanías* or *anteiglesias*) and small municipalities tended to boost the role of *diputaciones* by converting their members into gatekeepers between local actors and public resources (Lapuente Giné, 2013, 12-16). The relationship of *diputaciones* with the remaining tiers of government follows a different pattern. Big city councils, inter-municipal grouping (e.g. *comarcas*, *mancomunidades*, *consorcios* and metropolitan areas) and the decentralized bureaus of regional governments (the so-called *delegaciones del gobierno autonómico*) can usually ignore the *diputaciones*. But, in times of financial scarcity, this situation produces competition and tensions between the various authorities as a result of overlapping competences in policy areas like water supply, transportation and sanitation (Toscano Gil, 2010) (figure 2).

### *Figure 2 (about here)*

As in other European countries like the United Kingdom, this institutional version of the debate about the future of *diputaciones* opposes the supporters of policy-oriented organizations to those who defend the *diputaciones* as a traditional tier of local representation. As shown by Hooghe and Marks (2003, 233-243), multi-level polities can work in very different ways: 'One type conceives of dispersion of authority to general-purpose, nonintersecting, and durable jurisdictions. A second type of

governance conceives of task-specific, intersecting, and flexible jurisdictions'. Following that analytical grid, a civil servant working for the *Diputación* of Seville asserted: 'All the competencies presently exerted by the *Diputación* could be managed by a reduced set of quangos. This could save lots of money and human capital. Single-task institutions are already used in Spain in the field of water supply through *mancomunidades*: we could extend this kind of public management to other fields currently ruled by *diputaciones*'.

This statement was repeated frequently during the interviews of officials with a technical profile (e.g. accountants, project managers or auditors). In the words of one civil servant from Valencia's *Diputación*: '*Diputaciones* should be 'project administrations' [policy-oriented administrative units], since these 'executive agencies can perform very well'. For this interviewee, indirectly elected councilors could be replaced by technical managers, if necessary controlled by an elected board based on the model of the council-city manager (Saffel and Basehart, 2009). But such technocratic perspectives have run against three main obstacles; the association of broad-based provincial authorities with general purpose, democratic local government organizations; the political and policy functions performed by the *diputaciones* and, above all, the pivotal role performed by the main parties in provincial governments, the object of the next section.

## **The Party Service Bargain Argument**

### *The Predominance of Party Patronage*

In the introductory section we formulated the question: is the absence of territorial change best understood in terms of resource-based, instrumental arguments about partisan politics and the role of parties as rent-seekers, determined to preserve their resources within the provincial governments? In interviews, there was a critical consensus in relation to the shortcomings of the 38 'common regime' provincial governments (that is those not ruled by exceptional dispensations like in the Basque Country or the islands) specifically in relation to the democratic procedures of selection of provincial elected officials that favor the established parties and their organizations. Unlike the municipalities and regional parliaments, the provincial deputies of the *diputaciones* are not directly elected by citizens. According to the terms of the Organic Law 5/1985 (modified in 1987), these deputies are indirectly elected by the town councilors returned during the municipal polls and previously selected by the regional branches of political parties. These provincial representatives (25, 27, 31 or 51 according to the population of the province) are designated through a mechanism of party-list proportional representation based on the D'Hondt method.

The electoral system used strengthens the control of the two leading parties, especially in terms of candidate selection. As an academic specialist of Spanish local government stressed in an interview realized in 2013: 'the main problem lies in the control exercised by the political parties over the *diputaciones*'. Provincial deputies are elected in the framework of *partidos judiciales* – a sub-division of provinces used for organizing the judicial administration – that divide provinces into smaller electoral constituencies. The *partidos* are only used to determine the number of representatives in each *diputación*. These seats are not attributed to individual candidates on a territorial basis, but to their political formations (viz. the parties who participated in the municipal elections). Consequently, the sharing of provincial council seats is a matter of internal

party bargaining (Garrido López, 2000, 191-199). As confirmed by a former deputy from Seville's *Diputación*, provincial elected officials have very little room for maneuver since the selection of candidates is organized by the regional party leaders, along with local *notables*. Furthermore, the provincial deputies' activities are controlled through strong parliamentary discipline.

One of the major criticisms of *diputaciones* relates to the misuse of budgets in pursuit of party patronage. As previous studies have demonstrated, the spending policy of *diputaciones* in the small municipalities has been largely shaped by factors such as the electoral cycle, the proportion of undecided voters and, above all, political affinity (Solé Ollé, 2006, 32-53; Lago Peñas, 2008, 219-242). In other words: 'the probability for the mayor of a municipality of less than 20,000 inhabitants of getting funds from the *diputación* is higher if he/she belongs to the political party ruling the province' (interview with a member of the city council of a small town near Seville, 2013). The logic of patronage between the provincial 'patron' and its municipal 'clients' is encouraged by the budget structure of small towns. Spanish city councils only manage 13.6% of total public resources (while regional governments control 35.7% of incomes) but they assume a broad range of competencies (Ruíz Almendral, 2013, 189-204). Their budgets rely on different taxes (basically relating to the economic activity of local companies and on the real-estate transactions) but at least 40% of their resources directly depend on financial transfers from the autonomous and the provincial governments. While big cities can balance their budgets thanks to their own incomes, small towns desperately need extra funds for assuming their basic competencies (Federación Española de Municipios y Provincias, 2006; Tribunal de Cuentas, 2013).

The emergence of the *diputaciones* as an item on the political agenda might be interpreted in two ways: first, as a by-product of party political competition and the instrumental calculations of the leading parties, and second as a consequence of enhanced European Union-level steering over Spanish public finances. The party political dimension became apparent on 7 November 2011 during the televised electoral debate for the Spanish general elections. On the one hand, the center-left candidate Alfredo Pérez Rubalcaba (Socialist Party) accused *diputaciones* of being 'preconstitutional' tiers that 'duplicated' the public services now provided by the autonomous communities. On the other hand, the center-right aspirant Mariano Rajoy (People's Party) – as a former President of the *Diputación* of Pontevedra (Galicia) – preferred to stress the importance of *diputaciones* in rural hamlets and minimized the financial cost of those organizations (Casqueiro, 2011). As demonstrated by Bernardí i Gil and Galán Galán (2010), these ideological positions were deeply shaped by electoral interests. Previously, the PSOE had not complained so much about *diputaciones* and its criticisms started with the loss of 14 provincial governments (from 21 to seven) between 2007 and 2011.<sup>1</sup> By contrast, from 2011 to 2015 the PP governed 27 common regime *diputaciones* (plus four controlled by the Catalan nationalists of Convergence and Union) and its *status quo* proposal was then consistent with its majoritarian position. Pursuing its partisan interest, the new regulation imposed by the PP through the Law for the Rationalization and Sustainability of Local Administration increases the powers of *diputaciones vis-à-vis* small towns.

### *Big Political Parties as Veto-players*

The complex process of constitutional change – whereby territorial reform would require a two-thirds majority in the national parliament for modifying the *status quo* – confirms that the main parties in parliament control any modification of the statute of

*diputaciones*. In 2012, the PP and the PSOE respectively controlled 170 and 96 seats in the Congress of Deputies, that is, 75% of the lower chamber. This constitutes an important institutional deadlock likely to prevent any serious reform. The core of the problem lies in the strategic value of *diputaciones* for the big parties. A simple overview of the amount of money and political positions – not to speak of the related public jobs – managed by the *diputaciones* gives an idea of the importance of those institutions for the political party organisations able to control them (table 1).

*Table 1 (about here)*

Such rent-seeking behaviour extends to place-specific parties such as *Convergència i Unió* in Catalonia. As the biggest province of Spain, the *Diputació* of Barcelona is frequently presented as the paradigmatic example of an institution serving the needs of political parties. As a specialist of local politics interviewed in Barcelona affirmed:

‘The *Diputació*’s resources feed the internal apparatus of the ruling party [...]. It’s not only about the 129,000 euros of salary of the president, or the budget of 661 million euros, or the 467 consultants of deputies... the main interest is the control of about 5,000 public positions of civil servants through the different agencies and public companies depending on the *diputació*. The nickname of the *Diputació* of Barcelona symbolises that wicked game. In the political *milieu* it is known as the ‘feeder’ [*el comedero* in Spanish or *la menjadora* in Catalan]... and this is for a good reason’.

As shown by Hopkin (2003): ‘In many respects, parties in post-war Italy (and to an extent France), and post-transition Greece, Spain and Portugal, were cartel parties long before the term was invented’. In the 1970s, the PSOE and the PP quickly evolved from being clandestine organizations to powerful public-funded political parties (Katz and Mair, 1995, 5-28) aiming to catch the resources within their reach. But the controversies around reforming provincial power are not confined to the large political parties.

A third set of opinions belonging to minority parties was identified during our research. While statewide majority parties – and to a lesser-extent the Catalan nationalists of Convergence and Union – discuss the benefits of the *status quo* or minor modifications of *diputaciones*, minority parties are undoubtedly in favor of the suppression of that tier of government. Thus, *Izquierda Unida* (United Left) – a coalition created in 1986 and made of former-communists, feminists, pacifists and ecologists – and UPyD (*Unión, Progreso y Democracia*, Union, Progress and Democracy) – a centrist party led by former Basque Socialist Rosa Díez – include the elimination of *diputaciones* and the transfer of provincial competences to municipalities and autonomous communities in their electoral manifestos and in various initiatives proposed to the Congress of Deputies. The declarations of their members put to the fore an interesting vision of provincial politics perceived as a ‘tricky game’ between insiders and outsiders in which ‘the big parties deliberately exclude the small ones for their own purpose’ (interview with an *Izquierda Unida* affiliate, Seville, 2013). The electoral results seem to confirm this declaration since the main national parties (PP and PSOE) hold the presidency of all common regime’s *diputaciones* (with the exception of the three Catalan provinces) while electoral rules create a very high barrier that limits the rise of small parties at the provincial level.

*Two-level Elections and Democratic Deficit*

Party control is the core dynamic, but it is not the only criticism made of the *diputaciones*. Once again, the ‘democratic deficit generated by the indirect electoral system’ (interview with a former deputy of the *Diputación* of Valencia, 2013) is a second objection. At present – in breach of the European Charter of Local Self-government (Council of Europe 1985) – Spanish provincial deputies are not elected by citizens, but by the members of city councils. Therefore, competitors for a seat in a *diputación* do not participate in any provincial electoral campaign based on a binding party manifesto. Without electoral debate, ‘responsiveness’ – understood as the capability of politicians to respond to the needs of citizens – and ‘accountability’ – defined as the capacity of citizens to monitor and sanction officials – are greatly diminished. A serving civil servant of the *Diputación* of Barcelona (in an interview realized in 2014) adds: ‘in a context where citizens ignore who their provincial representatives are, the low level of public trust in *diputaciones* is not surprising’. This statement is confirmed by a recent Transparency International survey (2012) that shows that citizens consider *diputaciones* as the least transparent entities among territorial representative institutions. In 2012 the transparency index of *diputaciones* barely reached 48.6 points, with a great distance between the first rank of Vizcaya (95 points) and the last one occupied by Toledo (23.8 points). In comparison, autonomous communities and municipal authorities scored an average of 79.9 points and 70.9 points, respectively.

## **The *diputaciones*’ Policy Performance Argument**

### *A Set of Ill-defined Competencies*

Is the organizational persistence of the *diputaciones* best explained by the services delivered by these institutions? Does their longevity say more about the latent functions they perform than anything else? Are they capable of exercising flexible specialization because of the under-specification of their formal role? The Spanish Constitution only explicitly defines the competencies of central and regional administrations. Articles 31 and 36 of the 1985 Law on Local Government simply affirmed that Spanish provincial authorities exert functions of ‘coordination and assistance of municipalities’. This is why ‘[...] the roster of competencies of *diputaciones* is still remarkably fuzzy’ in the expression of an expert in constitutional law interviewed in 2013. Unlike the municipalities, the Spanish *diputaciones* can adjust their list of activities to their incomes (transferred by the central state on the basis of the Value Added Tax and the Personal Income Tax). Indeed, in 2012, the common regime *diputaciones* managed about 5.936 million euros.

On the one hand, with such financial flexibility, it is not surprising that the debt of *diputaciones* remained so low in recent times (only 0.6% of the whole public debt in Spain in 2012) in comparison with municipalities (3.1% of the whole public debt) (Banco de España, 2014). On the other hand, one interviewee lamented the presence in the *diputaciones* of ‘extractive elites following a rent-seeking policy based on public jobs, public grants or access to superior tiers of government’ and pointed to the ‘ghost’ airports of Castellón (150 million euros), Ciudad Real (500 million euros) and Huesca (40 million euros) that demonstrated the wasteful spending policy led by provincial authorities’ (interview with a civil servant from the Seville’s *Diputación*, 2013). Despite these striking cases of budgetary largesse, there is no scientific evidence that the

majority of Spanish *diputaciones* overspend their resources. Indeed, while French *départements* and German *kreise*'s spending represent 23% of total local spending, that amount only reaches 12% in the case of Spanish *diputaciones* (Bosch and Espasa, 2008; Standard and Poors, 2011).

### *The Rural-urban Divide*

As shown in other similar countries (Bertrana, Espinosa and Magre 2011, 224-242), the debate about *diputaciones* is intimately linked to their social environment. For reasons of territorial dispersion and demographic density, the daily work of *diputaciones* is not the same in the countryside as in the big cities. In Spain, the municipal level includes 8,117 units (and 3,725 local EATIM). 5,700 municipalities have fewer than 2,000 inhabitants, 4,867 of them have less than 1,000 inhabitants and four out of five Spaniards live in one of the 500 biggest municipalities (e.g. Madrid, Barcelona, Valencia, Seville or Bilbao) (PriceWaterHouseCoopers, 2013). As a result, most Spanish municipalities are far too small to provide the basic public services imposed by the law (like waste treatment, water supply or road maintenance for instance) and this situation is especially critical in rural areas. Given these circumstances, the support of a superior tier of governance is generally necessary. Different inter-municipal mechanisms can be applied since the article 26 of the Basic Law on Local Regime imposes specific competencies on municipalities but allows these to be provided in collaboration with other subsidiary tiers of government.

Hence, the arrangements between municipalities and *diputaciones* are highly variable. As shown by the survey led by PriceWaterHouseCoopers (2013) *diputaciones* usually play an important role in the management of basic infrastructures in rural areas. They are also relevant actors as back-officers helping the representatives of small hamlets in raising taxes or managing the cadastral plan. The interview with a city councilor from a small hamlet of the Seville province in 2014 confirms that idea: 'Some hamlets sold their land during the real estate bubble in order to fund basic services for their inhabitants, but the end of the building cycle made them poorer than before. The dependence *vis-à-vis* the *diputación* and the regional governments has increased: they have money, we don't! (laughs)'.

According to the group of interviewees made up of rural mayors and councilors, *diputaciones* are well adapted to rural territories, in part because they were created when the peasantry was the dominant social model in Spain. The main territorial tension lies in the fact that since the 1960s, Spain has had one of the highest rates of urbanization in Western Europe (about 77.4% of Spaniards are currently living in urban areas) with a consistent network of cities of around 1 million inhabitants (United Nations 2014). This data casts doubt on the role played by the *diputaciones* in an urban society, and it is not a coincidence if the critical movement against *diputaciones* started among the mayors of big cities:

'[...] when the effects of the global 2008 crisis dried up Spanish public finances; it was then accentuated by the loss of many provincial governments by the PSOE in 2011. Socialist mayors of median and big cities [...] launched the crusade against *diputaciones*. According to them, it was unfair to oblige city councils to cut their budgets in order to comply with the deficit objectives, while provincial leaders didn't suffer any kind of fiscal corresponsibility' (interview with a civil servant, *Diputación* of Valencia, 2013).

Initially limited to big city mayors, the reaction against the *diputaciones* soon spread to conservative local politicians, who shared this vision of *diputaciones* as unfair

(Prieto 2012). There is clear evidence that the political backing of rural mayors for the *diputaciones* has diminished since the adoption of the 2013 law on local governance pushed by the PP. This law sets out the principle that municipalities with fewer than 20,000 inhabitants that are unable to provide their obligatory services without deficit, will have to transfer these competencies to the provincial level. Obviously, this reform affects primarily rural hamlets (Suárez Pandiello, 2013, 17-20).

### *The Local-rural Veto*

In the same way, the new law attempts to incentivize the merger of municipalities through: ‘a higher funding *per capita*, a temporary waiver of the obligation to deliver new services [...] and a preferred status for being considered in local co-operation plans or grants’ (OECD, 2014). Beyond the issue of the Spanish government’s capacity for merging small towns, this reform raises the question of the rise of *diputaciones* to the detriment of rural city councils. The attempted rationalization of Spanish local government has been justified in terms of complying with the European Union recommendations for containing the public deficit. One People’s Party’s deputy interviewed in 2014 protested that ‘the (merger) law only reflects the need to contain the deficit according to the instructions of the European Union’. In other words, despite the evident coincidence with the party’s interests, the increase of provincial powers is presented as a question of financial rationality and conformity with European legislation and the requirements of the Fiscal Compact Treaty. The arguments forwarded by the PP in 2014 were fundamentally similar to those forwarded in 2011 by the Socialist premier Zapatero to justify the constitutional reform. In both cases, the European constraint was employed as a useful driver of domestic change, a facilitator of a (very real) financial retrenchment. Given the fundamental similarity in relation to the macro-arguments employed by the two leading parties, the principal variable explaining differentiation was the instrumental one of partisan interest.

Anyway, the traditionally close interpenetration of the PP and certain elements of conservative rural Spain has been disrupted by the indirect impact of the economic crisis. New tensions have arisen between small hamlets and their traditional party political guardians, as the PP-led central government has sought to exercise much tighter budgetary and political control over local government. The reform favoring the *diputaciones* over smaller rural hamlets has led the latter to accuse the former of being an ‘institutional predator’ (interview with a former civil servant from the *Diputación* of Valencia, 2014). Economic crisis has weakened the politico-institutional *nexus* formed around defending the interests of rural and small town Spain. The 2013 mobilization of Galician rural mayors against the reform provided evidence of cross-party mobilization against the PP-led government reform (Hermida, 2013).

And yet, party remains central in terms of mediating intergovernmental relationships and regulating conflicts. The capacity of Spanish local authorities to mobilize is limited by party control over the main representative organizations of local authorities. All Spanish municipalities (urban and rural) are represented by the same institution: the FEMP at the national level and its regional counterparts like the FAMP (*Federación Andaluza de Municipios y Provincias*, Andalusian Federation of Municipalities and Provinces). In contrast with neighboring countries like France and Italy, where specific interest groups defend the rights of small hamlets (like the *Association des maires ruraux* or the *Associazione Nazionale dei Picoli Comuni d’Italia*), Spanish rural municipalities have never achieved such a level of institutionalization. As stressed by Jordi Capo Giol (1991, 143-164) Spanish local



government – including the FEMP – is highly dependent on national and regional parties, and the FEMP is currently led by the principal promoter of the rationalization law: the PP. In the words of one specialist: ‘The FEMP is extremely politicized and this weakens the horizontal representation of local mayors’.

In sum: there has been some weakening of the traditional role of the *diputaciones* as benefactors of small rural hamlets in a patron-client relationship. In contrast, there has been a strengthening of their functioning as meso-level intermediate local authorities. Objections over party control and democratic deficit are counteracted by arguments about the appropriate level for the delivery of public services, the requirements of European integration and the modernization of the Spanish version of the *millefeuille territorial* that has echoes with developments in several other European countries. In a rather paradoxical manner, the weak levels of public debt, and the flexible specialization that the absence of statutory service delivery responsibilities allows, ensure the survival and institutional adaptation of the *diputaciones*.

## Conclusion

Despite the multiple reforms proposed since 1985, the Spanish *diputaciones* have remained largely unmodified. How to explain this apparent enigma? The institutional, partisan and functional arguments all support the maintenance of the *status quo*. The survival of the *diputaciones* is illuminated by the path dependency and functional arguments, but it is most convincingly explained in terms of cartel (party) politics, whereby the two leading parties have each have organizational incentives to ensure their survival. The impact of the economic crisis since 2008 has stretched these ‘party service bargains’ to breaking point.

Returning to the hypotheses presented in the introductory section, is there a hierarchy of explanations? Are *diputaciones* tied into a pattern of path dependency inherited from the Transition? Did the *diputaciones* survive because they articulate the needs of rural Spain? Or is the survival of these institutions best explained by narrow party political reasons? The three perspectives each connect with rather different dimensions of institutional persistence. First, for all of their democratic deficiencies, the *diputaciones* represent a form of general-purpose local government that was validated at a key moment in the development of post-Transition Spanish politics. As in several other European countries, multi-level governance does not imply a choice between Marks and Hooghe’s type 1 and type 2 authorities, but provides evidence of the co-existence of both. Second, the *diputaciones* survived because they fulfil several political and policy functions (technical assistance to small hamlets, political articulation of the interests of rural and small town communities) more effectively than any other level. Such roles of mediation, championing and expertise are comparable with those performed by intermediate governments in other European countries (France, Italy and Germany). Third, the *diputaciones* provide valuable organizational and financial resources for the main political parties, whose attitude to the survival of these institutions correlates somewhat with the number of provincial executives they control. This multi-dimensional perspective cautions against simple causalities.

Considering in turn our three hypotheses, the ensuing article is best read as a case study of institutional and partisan resilience in Spain, a counterweight to the prevailing interpretation of the instability of the State of the autonomies. From the perspective of intergovernmental relations, this study highlighted that the reform of *diputaciones* is a question of local governance as a whole. It also demonstrated the endurance of local

power in Spain despite the rise of a regionalized polity. Though the contemporary sharing of political and financial power has converted Spanish politics mainly into a two-level game between central state and autonomous governments, local elected officials of small hamlets still have influence within intergovernmental networks. As investigated in this article, Spain is a quasi-federal country wherein around 5,000 small municipalities continue to represent the interests of local elites. Spanish local governments are not clearly visible in the daily policy-making process, but they have maintained an important veto-power when their interests are directly threatened (Agranoff, 2010). The 2014 revolt of local mayors against the proposed reform of the *diputaciones* has been taken into account by intra-party networks.

The evidence offered in this article - of institutional resistance in spite of powerful exogenous reform pressures, of party resilience, of functional adaptation to institutional uncertainty - has a more generic interest that supports the conclusions of major studies of territorial institutions in cognate countries such as France (Le Lidec, 2012); Germany (Benz, 2007), Italy (Bolgherini, 2014) and, in some respects, England (John, 2001). The Spanish case underlines a more general finding from other European countries: that informal institutions and practices can provide cohesion in an uncertain, relatively uncodified institutional configuration. The basic argument that institutions survive beyond their initial functions fits with several possible theoretical positions that are evoked in the article: institutional rational choice, for example (Miller, 2000; Lecours, 2005) as well as historical institutionalism (Pierson, 2000). The main analytical contribution of the article, however, is to embed institutional analysis in an original understanding of actor strategies, understood by interrogating comparable panels in a weighted sample across Spain. The article thus has a more generic interest in terms of methodological innovation (moving beyond macro-level analysis without falling into the trap of pure methodological individualism), theoretical development (especially with its contribution to understandings of structure and agency) and the comparative insights (into formal and informal institutionalism, processes of party linkage and satisficing policy outcomes) drawn from a most similar comparison with a particular national context.

The article has not described a state of happy incremental layering, however. As stressed by different scholars (Bernecker and Maihold, 2007), Spanish democracy has progressively shifted from a democracy of consensus to a regime of polarization. In other words, the series of political pacts that characterized the Transition opened a new era of tension between the political forces with very little room for compromise. In these conditions, polarization limits the capacity of provincial actors to find a compromise. In view of those sources of blockage, a complete and consensual reform of *diputaciones* seems difficult in the short-term.

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