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Marc Sanjaume-Calvet & Andreu Paneque

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Shared or Self-rule? Regional Legislative Initiatives in Multi-level Spain, 1979-2021

Marc Sanjaume-Calvet  and Andreu Paneque 

Department of Political and Social Sciences, Pompeu Fabra University, Barcelona, Spain

ABSTRACT


This paper examines regional legislative initiatives in Spain, a mechanism of shared-rule regulated in article 87.2 of the Spanish Constitution. Through description and analysis of an original dataset covering all legislative terms from 1978 to 2021, it is shown how this specific mechanism has not accomplished its shared-rule objective. Moreover, the article identifies patterns that determine the strategic use, intensity and failure or success of the legislative initiatives. We find diverging trends across regions exemplified by Catalonia, the most active territory but with a very low approval rate. Overall, the analysis underlines how the state-wide scope initiatives seem to have a strategic rather than a legislative purpose while, on the other hand, regional scope initiatives are explained by minor self-rule objectives.

KEYWORDS

Federalism; parliaments; legislation; governance; institutions; self-determination; legislative process; Catalonia

Shared-rule is a crucial feature of federal systems which has not received the attention it deserves (Mueller 2014; Mueller & Mazzoleni 2016). In this paper we focus on a very specific mechanism of shared-rule in Spain, the regional legislative initiative regulated in article 87.2 of the Constitution. This is a salient topic for three reasons. First, this mechanism is unusual, but not unique, in comparative terms. Normally constituent units do not have a right of legislative initiative at federal/central parliament or, in cases where they do, these initiatives are channelled through the Senate (Upper Chamber), not the Lower Chamber as in the case of the Spanish *Congreso de los Diputados*). Second, despite the existence of several legal studies on this topic (Parra 2016; Aragón 1986; Virgala 2013), there has been no systematic empirical analysis of how regional legislative initiatives actually work in Spain and of the dynamics that shape them. Finally, an empirical analysis of this kind of legislative initiatives provides valuable information on the nature of the Spanish territorial model and the balance between shared-rule and self-rule within the institutional scheme.

CONTACT Marc Sanjaume-Calvet  marc.sanjaume@upf.edu  Pompeu Fabra University, C/Ramon Trias Fargas, 25-27, Barcelona 08005, Spain

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Territorial politics are a salient dimension of Spanish politics. During the constitutional bargaining phase in the late 1970s, the plural and politically heterogeneous nature of the country was an important feature that shaped the resulting territorial model. The 1978 Constitution established a dynamic model of decentralisation that temporarily gave priority (fast-track) to the 'historical territories' (Basque Country, Catalonia and Galicia), but ended up generalising access to executive and legislative autonomy to the 17 regions (Autonomous Communities, AC). These regions were not initially listed in the constitutional text; they were formed on the basis of the existing provincial divisions.

The Spanish territorial model currently consists of 17 ACs¹ with mostly symmetrical powers,² except for the Basque and Navarrese fiscal regime, that emanate from their Statutes of Autonomy. The current territorial model has both federal and unitary characteristics.³ On the one hand, there are two levels of government, a territorial upper chamber (*Senado*), several territories with an additional official language, and relevant activity at the level intergovernmental relations (IGR). On the other hand, the territorial chamber does not accomplish its 'territorial' function, regional powers are not considered constituent powers and judicial and taxation powers are not decentralised. Recent debates on the demands for Catalan self-determination (López & Sanjaume-Calvet 2020), economic imbalances between regions and the diversity of taxation regimes bear witness that territorial politics remain a vibrant topic in Spain. In this institutional and political context, a novel study of regional legislative initiatives through an original dataset is a valuable endeavour to better understand territorial politics in Spain.

The contribution of this article to the literature is threefold. First, we contextualise regional legislative initiatives in the institutional setting of the Spanish territorial model. In doing so, we observe the underlying rationality of these initiatives in a context of weak shared-rule mechanisms. Second, we present an original dataset on 283 regional initiatives covering all legislative terms from 1978 to 2021. This dataset can also be useful to other researchers for future investigations of the Spanish territorial model. Third, we offer a quantitative analysis built on our own dataset. We identify patterns related to political context and party politics that determine the existence and failure or success of such initiatives.

To develop our analysis, we proceed as follows. In the following section we present the contextualisation of regional legislative initiatives (art. 87.2) in the Spanish territorial model framework. Then we discuss the theory of regional involvement in shared-rule and we present our dataset and main hypotheses related to the use of this legislative mechanism. Next we present an empirical analysis based on our dataset, divided into sections covering its descriptive and explanatory results. Subsequently, we

analyse the role of regional legislative initiatives as a shared-rule mechanism within the Spanish institutional setting and discuss our main findings. The article closes with the conclusions.

Territorial model, shared-rule and self-rule in Spain

The Spanish *Estado de las Autonomías*, designed during the transition period, has usually been described as a 'de facto' federal system (Hueglin & Fenna 2006), but formally 'incomplete' (Grau Creus 2000). The *sui generis* nature of the 1978 constitutional provisions make it very difficult to classify the Spanish territorial model when compared to full-fledged federations such as Germany or the US. For instance, Watts called Spain a federation 'in all but name with the 17 autonomous communities possessing constitutional authority for a considerable degree of self-rule' (Watts 1999, p. 28). However, writing on the Spanish case, Elazar wisely noted that, despite constitutional provisions on decentralisation which appear on paper to be generous with regard to self-rule, '[the Constitution] denies the autonomous territories a major role as territories in the national government' (Elazar 1987, p. 165). Moreover, he pointed to the multinational nature of the Spanish state not being reflected in the constitutional agreement as a major problem.

Indeed, the Spanish constitution deliberately rejects the constitutional principle that territories have ancient rights other than those provided in the constitution itself, which is a matter of some contention in Spain's constitutional history. (Elazar 1987, p. 165)

The first democratic decades after 1978 saw the implementation of a decentralisation process in Spain. The ACs developed their own self-government in a dynamic process of power transfers designed by the constitutional text. This process lasted until the late 1990s and was characterised by at least three elements. First, access to autonomy was granted through a 'fast-track' process described in article 151 SC (Catalonia, Basque Country, Galicia) and a slow-track process described in article 143 SC (rest of the ACs). Second, power transfers were negotiated politically between state-wide parties and regionalist forces (especially, but not only, the Catalan regionalist parties) and generated a significant amount of constitutional conflict at the Constitutional Court. Third, since the Constitution established a list of 'potential' powers to be transferred to the regions (art. 148.1 and 149 SC), the process was very long, lasting until the end of the 1990s and early 2000s when a new generation of Statutes of Autonomy appeared. Finally, the decentralisation process was gradually harmonised towards a symmetrisation of the model by the state-wide parties (and the Constitutional Court) through the *Pactos Autonómicos* (1981, 1992),⁴ although regional demands and negotiations on fiscal redistribution and

new power transfers are always an important element of Spanish politics. By the 2000s, a wave of Statute of Autonomy reforms reopened the debate on the limits of the dynamic process of decentralisation (Orte & Wilson 2009), paving the way for the gradual intensification of self-determination demands in the Basque Country and, especially, in Catalonia.

Due to the past unitary and authoritarian structure of Spain, the result of the Spanish decentralisation process was a clear imbalance between self-rule and shared-rule (Elazar 1987) in favour of the former. By shared-rule we understand the capacity of the regions to take part in decisions affecting the whole state, not just the region (Hooghe et al. 2016). In contrast, self-rule normally refers to the degree of autonomy of the regions to define their own policies. In the Spanish case, the Senado (Senate), despite being named as the 'territorial chamber' in the Constitution, is mainly elected in the provinces which are smaller administrative units (51 in total). Of the Senators, only 20 per cent (56 out of 264) are elected to represent Autonomous Communities (56 out of 264) and these are designated by the regional legislatures and not by the regional executives as in Germany (Börzel 2000). Therefore, the territorial chamber, contrary to the German *Bundesrat*, reflects party lines rather than sub state interests.

In addition, this chamber does not have relevant powers in terms of legislative process and only plays a major role in the case of a constitutional reform (Bossacoma & Sanjaume-Calvet 2019). Consequently, Autonomous Communities qua 'constituent units' of the Spanish territorial model, while formally with a high degree of self-rule (including health, education, infrastructure, etc.), are left with few mechanisms to influence central decision-making.

Four avenues (*de jure* and *de facto*) have been taken to tame this Spanish institutional problem. First, to solve the weak territorial composition of the Senate, a General Commission of the Autonomous Communities was created. However, this Commission has been 'listless and weak', providing a few non-binding reports on legislation (Virgala 2013).

Second, the development of bilateral and multilateral mechanisms for inter-governmental relations has included spaces of co-decision in certain areas, such as the EU (Börzel 2000; Colino 2013). Beyond the usual and dynamic sectorial IGR meetings (Health, Agriculture, etc.), since 2004 there have been 26 meetings of the *Conferencia de Presidentes*⁵ as a cooperation mechanism between regional and central executives. These conferences were particularly important during the COVID-19 pandemic (Sanjaume-Calvet & Grau Creus 2021). Regarding the EU, since 1994 there has been an agreement on regional participation in the Council of Ministers of the EU.⁶ Moreover, the new generation of Statutes of Autonomy since 2006 has introduced some controversial mechanisms, such as regional proposals for members of the Constitutional Court (later included in

2007 in the Constitutional Court law but subject to state-wide Senate majorities) or for members of some central government institutions such as the Central Bank (Vírgala 2011, p. 147).

Third, party politics have provided the main resource of influence by those ACs with strong regionalist or pro-sovereignty parties such as Catalonia and the Basque Country (Hombrado 2011). A classic example of this 'de facto' shared-rule are the agreements with regional parties reached by minority governments both of PSOE (Partido Socialista Obrero Español – Spanish Socialist Worker's Party) and PP (Partido Popular – People's Party) when they lacked absolute majorities in central Parliament (Verge 2013). These kinds of agreements, usually involving Catalan and Basque minorities, generally ended up with powers or financial concessions which were generalised to the rest of the ACs.

Finally, legal and political disputes between central state and regions have been solved through the judicial arena (Constitutional Court) creating an extremely high degree of judicialisation of this kind of debate since the 1980s. Beyond this, the Constitution included a mechanism, in article 87.2, to provide the regions with the capacity to submit a legislative initiative directly to the lower chamber (*Congreso*).

The peculiar Spanish regional legislative initiative mechanism

The regional legislative initiative in Spain has at least three relevant aspects: its position vis-à-vis the role of ACs in shared-rule; its *sui generis*, and relatively surprising, nature; and its specific formal procedure. These characteristics will shape our expectations regarding the use of this legislative mechanism by the Spanish Autonomous Communities and of its success.

First, the regional legislative initiative is a constitutional provision of legislative shared-rule. As we mentioned, despite naming the Senate as a 'territorial chamber', it cannot be considered as a shared-rule chamber including constituent units, since it is mainly elected by provinces, operates along party lines and is a powerless chamber. Besides the Senate, we do not find constitutional provisions including ACs in the decision-making procedures of central government institutions. In fact, even the constitutional amendment procedure does not require any specific role of regional parliaments, executives or the electorate like those found in other federal constitutions. In this context, the existence of article 87.2 is at least surprising, since it formally establishes a direct channel for the regions to propose to the lower chamber (and the central government) pieces of legislation affecting their territory or the entire state. The fact that these legislative proposals are introduced in the lower chamber makes them more salient.

In historical and comparative terms, this constitutional provision can be found in other countries but not in Spanish constitutional history. In fact, no similar provision can be found in the federal Constitution of 1873 or the

Constitution of the Second Republic (1931) or the rest of Spanish constitutional history. The direct influences on the Spanish framers of the Constitution in 1978 on this issue were the Italian and Portuguese cases that still have regional legislative initiatives. Italian regionalism was in turn inspired by the Constitution of the Second Spanish Republic and in article 121 includes regional initiatives by regional councils directed to both chambers. Moreover, all special regions in Italy except Aosta Valley also include these initiatives in their Statutes of Autonomy. However, in the Italian case, these initiatives are sent by regional councils to the central government and must be focused on a regional matter (Parra 2016, p. 163).

Meanwhile, Article 167 of the Portuguese Constitution regulates legislative initiatives and includes the 'Autonomous Regions' as subjects entitled to introduce initiatives to the Parliament. The Autonomous Regions in Portugal are Azores and Madeira which also reflect this capacity in their own Statutes of Autonomy. Other cases of regional legislative initiative in federal systems include Switzerland (Mueller & Mazzoleni 2016) and Mexico (Parra 2016).

In Spain, article 87.2 of the Constitution regulates two different procedures for the regions to initiate central legislation. First, an AC can demand the central government introduce a particular piece of legislation. This would count as an initiative, since the initiative would belong to the government and a region does not need this constitutional provision to demand that central government legislate on a certain matter. Second, an AC Assembly can propose a legislative initiative to the national parliament (*Congreso de los Diputados*). Such a regional initiative will follow the same procedure that current legislative initiatives have to accomplish when starting in the *Congreso*. That is, prior to its discussion, amendment and vote, the lower chamber will have to decide whether to adopt the legislative initiative or not. For this reason, some authors refer to these initiatives as proposals or pre-initiatives (Aragón 1986).

In any case, Article 108 of the rules of the chamber refers to these kinds of initiatives as being 'regional initiatives' and not mere proposals. Moreover, there is an important difference between common legislative initiatives presented by parliamentary political groups. In this case, there will be a delegation of three members of the regional chamber in charge of defending the project in front of the lower chamber. In this article, we focus on this kind of regional initiatives from 1978 until 2021.

Theory & hypotheses

In Spain all regions have the same legal capacity to use the constitutionally recognised legislative mechanism described in the last section. Moreover, this constitutional provision has not suffered changes over time, the Constitution has not been reformed during this period, and it has not suffered any interpretative restriction from the Constitutional Court.⁷ All autonomous

communities, except Navarre,⁸ refer to this mechanism in their Statutes of Autonomy. We also know that the constitutional framers designed the article 87.2 mechanism as a shared-rule legislative procedure involving regions in the legislative process. Since in this article, our objective is to analyse its use and success, we aim to focus on the explanations of variability in regional behaviour when using this mechanism. That is, how the regions use it and to what extent it has been successful in achieving its objectives.

The centre-periphery cleavage and regional variance

The theoretical approach to shared-rule mechanisms and their use fits into the initial works of Lipset and Rokkan on how cleavages structure political conflict (Lipset & Rokkan 1967). The territorial dimension, understood as a centre-periphery cleavage, is a crucial aspect of the political landscape in all democratic systems. Characteristics such as distance, distinctiveness and dependence might explain different behaviours of regional actors vis-à-vis share-rule mechanisms (Rokkan & Urwin 1982). From a political science perspective, we aim to understand the strategic dimension involving political actors and institutions.

According to Mueller and Mazzoleni (2016), regional actors' behaviour regarding shared-rule can take at least two forms. On the one hand, regional parties can seek to politicise regional preferences, campaigning on identities as regional demands building an 'us against them rhetoric' (Mueller & Mazzoleni 2016, p. 48). On the other hand, they can get involved in shared rule when in power to compensate for regional isolation and/or dependence; this might involve a competitive logic among regions. Therefore, the use of regional legislative initiatives might have a strategic dimension which is part of the dynamics of territorial politics.

Following these ideas, Amat and Falcó-Gimeno (2014) provide an interesting theoretical approach on endogenous decentralisation processes. According to these authors, the crucial aspect to understand decentralisation patterns and actors' behaviour is the distribution of bargaining power in the legislative arena. This bargaining power can be shaped by *structural determinants* such as land area, relative wealth or ethnic fractionalisation among others. However, it can also be the result of *political coalitions*. For example, the degree of decentralisation of party systems can be an important element to explain decentralisation and vice versa. In fact, there is evidence that changes from a parliamentary majoritarian dominance to coalition politics alter the distribution of wealth across regions (Dragu & Rodden 2011).

All of these dynamics, especially those referring to political coalitions, are extremely relevant in the Spanish context. Verge (2013) has shown that state-wide parties (PP and PSOE) adapt their use and understanding of shared-rule depending on their position. When they are in a minority government, dependent on the support of regionalist parties, or in opposition they tend to use shared-rule and even transform the existing mechanisms. For example, in 2004

the PSOE won the general election but its dependence on regionalist parties to achieve a parliamentary majority forced the party to deliver more shared-rule mechanisms introducing new roles for the Senate (control of the prime minister once a month) and the Conference of Presidents, as well as direct representation in the Council of Ministers of the European Union (EU) and Spain's Permanent Representation to the EU (Verge 2013, p. 327).

In a nutshell, our theoretical approach to the use and success of regional legislative initiatives aims to understand variability through structural and other potential factors such as political coalitions. At least from a theoretical perspective, there is the possibility of a variety of strategic behaviours regarding these initiatives, not only aligned with a shared-rule legislative process but also with self-rule objectives, recognition or party coalitions among other reasons.

Hypotheses

Since 1981, when the first regional legislative was introduced, the Spanish Lower Chamber has registered 283 regional legislative initiatives, but only 23 (8 per cent) have been approved (See Figure 1). The rest of the regional initiatives were either directly refused or moved to the next parliamentary

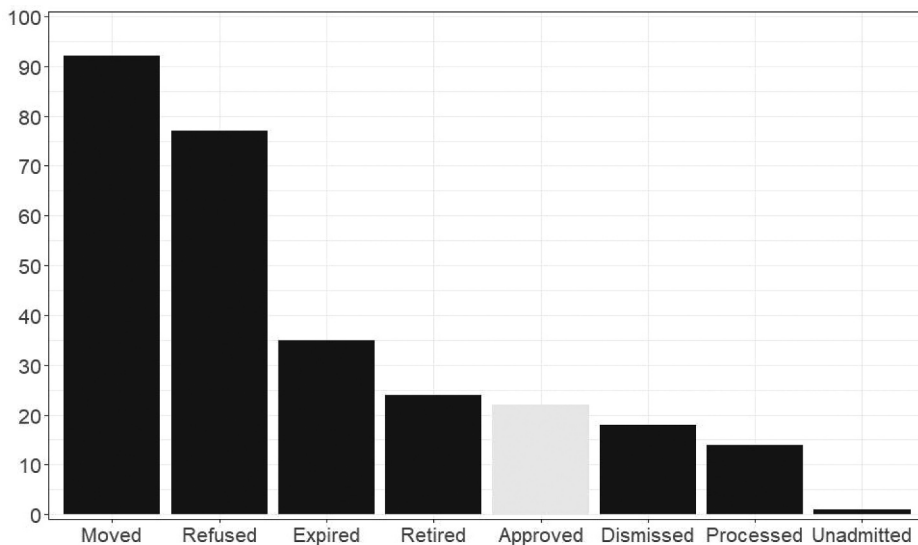


Figure 1. Outcome of regional legislative initiatives in Spain, 1978–2021.

Source: Authors' elaboration from the original dataset.

Note: 'Moved' means that the regional initiative parliamentary debate was moved to another legislative year/term. The 'expired' initiatives are those whose time to vote expired. 'Refused' means parliament rejected the regional initiative. 'Retired' initiatives were retired from the list of topics on the parliamentary agenda. 'Approved' means the regional initiative was passed by parliament. 'Dismissed' initiatives were set aside by parliament. 'Processed' initiatives were accepted to initiate the legislative procedure. 'Unadmitted' regional initiatives were denied discussion in parliament.

term. A few were finally retired, but in most cases they were ultimately refused or else expired as a legislative project. In our research we wonder if there is a homogeneous use of these initiatives among other questions. What explains the low success rate, since only 23 initiatives were finally approved? Are there territorial or ideological patterns that explain the use and success of these peculiar initiatives?

Considering the theoretical framework sketched in the last section, our intuitions point in two – contradictory – directions. On the one hand, *ceteris paribus* we should not expect a relevant variation in the use of this mechanism by the regions. From a strictly formal perspective, all 17 Spanish regions (and the autonomous cities of Ceuta and Melilla) have access to this legislative mechanism and refer to it in their Statutes of Autonomy (except Navarre). However, on the other hand, we expect variability in the use and success of regional legislative initiatives, since their strategic dimension and shared-rule nature, involving regional parties represented in regional parliaments, might foster this behaviour. In sum, there are reasons to think that a formal approach can be complemented by structural and strategic elements to understand variability over time and across regions.

Moreover, the existing literature supports this general hypothesis. Mueller and Mazzoleni (2016) analysed an analogous device for regional legislative initiatives in Switzerland. In this case, the 24 Swiss cantons have a similar way to put forward their legislative interests. In a general quantitative analysis, these authors concluded that these kinds of initiatives have increased mainly as a remedy for under-representation in the Council of States and for peripherality. They also found a strong statistical association between the existence of regionalist parties in a canton and more activity in terms of legislative initiatives. Moreover, comparing the Italian-speaking canton of Ticino and the French-speaking Geneva, they observed a use of these initiatives as peripheral protest: that is, promoting territorial interests, associated with regional actors (not only regionalist political parties but also economic and social actors) (Mueller & Mazzoleni 2016, p. 61).

As in the Swiss case, and without empirical evidence from the Italian or Portuguese experiences, we think that the Spanish territorial asymmetries as a structural difference, both *de facto* and *de jure*, might shape and explain the observed variability in the use and success of this legislative mechanism. Asymmetries among regions in Spain ‘have long-standing precedents and have been a constant feature. Although from Madrid unification and centralisation were long pursued, asymmetries persist thanks to strong sub-state identities, communities and institutions’ (Bossacoma & Sanjaume-Calvet 2019, p. 430).

Therefore, through the perspective of existing asymmetries in Spain, we can formulate some meaningful *ex ante* ideas. First, we assume that the historical communities (Catalonia, Basque Country and Galicia) that first developed

political autonomy, opting for a fast-track to autonomy in the 1980s, will be more active in terms of using this legislative mechanism, at least during the period of incremental autonomy. If this proves to be the case, it would mean that a structural asymmetry of the Spanish political system is reflected in the use of regional legislative initiatives.

H₁: *Historical autonomous communities (Catalonia, Basque Country and Galicia) introduce more legislative initiatives than other regions.*

However, these historical and national asymmetries are reflected not only in the history of political autonomy or national attachment, but also in the degree of 'nationalisation' of the Spanish regional party-systems. The presence of regional parties has been more prominent in the Spanish minority nations, especially in Catalonia and the Basque Country but also in Navarre, Galicia, and other territories with distinctive historical sub-state (regional or national) identities such as Asturias, Canary Islands, Valencian Community and Balearic Islands. In their large-N analysis of 19 parliamentary democracies, Amat and Falcó-Gimeno (2014) observed that the distribution of bargaining power among parties (including regional parties) is a key factor in order to understand decentralisation dynamics. Indeed, among other factors, to understand the '*why and when*' a country decentralises party dynamics is a crucial question (Amat & Falcó-Gimeno 2014, p. 845). Similarly, Verge argues that 'vote-maximising state-wide parties can actually opt for an adversarial centralist strategy, the well-established assumption that they will accommodate the regionalist issue is challenged' (Verge 2013, p. 333). She also observes a certain continuity of adherence to centralism over time among state-wide parties driven by ideological reasons (Verge 2013, p. 333). Following this intuition, we assume that regional parties might foster the use of this mechanism. At least, the presence of regional parties in parliamentary majorities should have an impact on the use (and potential success) of regional legislative initiatives to strategically reinforce their demands or politicise certain topics by bringing them to the national parliament through this mechanism.

H_{2a}: *A strong presence of regional parties in the regional parliament is expected to be associated with a stronger use of regional legislative initiatives.*

Similarly, we expect higher rates of approval in these cases since these parties, when strong in their constituencies, will lobby in favour of this measure in the national parliament through their representatives elected in the general

elections. This will be even more possible when there is a minority government that requires the support of regional parties.

H_{2b}: *A strong presence of regional parties in the regional parliament is expected to be associated with higher rates of success of regional legislative initiatives.*

Following this logic, since we know that bilateral relations are more successful when Spanish minority governments need regional party support, legislative initiatives might be more successful when there is a regional government based on a regional party and no majority in the national parliament. This applies especially to the Catalan and Basque cases, i.e. the regions with the most prominent bilateral negotiations in exchange for parliamentary support.

H_{2c}: *Regions with regional party governments will be more successful in approving regional legislative initiatives when there is no absolute majority in the Congreso de los Diputados.*

A corollary of this hypothesis (H_{2a}, H_{2b}, H_{2c}) in the Spanish context is that we can also hypothesise, not only that regional parties might improve the possibilities of success, but also that successful initiatives will be more probable when regional and central parliaments have similar majorities in terms of 'political colour'. This is obviously only possible, for most of the period, when there is a coincidence of a conservative (*Partido Popular*) or a socialist (*Partido Socialista Obrero Español*) majority.

H₃: *Similar political majorities at regional and central levels will be associated with successful regional legislative initiatives.*

Finally, we think it is reasonable to expect a certain mimicking of this specific regional mechanism with regard to the general intergovernmental dynamics in Spain, which are embedded in the lack of shared-rule mechanisms of the territorial model as described in the previous sections. We expect to find evidence of using regional initiatives as a sort of self-government bilateral negotiation rather than as a shared-rule bottom-up legislative process. This fits the theoretical expectation that shared-rule mechanisms might involve a cleavage representation and generate a regional strategic behaviour to exploit them. As intergovernmental relations mostly privilege bilateral relations rather than multilateral forums (Colino 2013), legislative initiatives will be related to the transfer of regional

powers and to aspects concerning the Autonomous Communities' competences. This strategic behaviour does not involve a 'shared-rule' use of the legislative mechanism but its strategic distortion as a sort of self-rule negotiation mechanism.

H_{4a}: *Regional legislative initiatives related to the regional scope of powers will be more frequent than those related to issues affecting the whole state.*

H_{4b}: *Regional legislative initiatives related to the regional scope will be more successful than those related to issue affecting the whole state.*

Data and method

The original dataset on regional legislative initiatives in Spain presented in this article was built using the official database of the *Congreso de los Diputados* as the main source of information as well as the Official Gazette (BOE). The scope of the dataset ranges from 1978 to 2021 including fourteen legislative terms. We gather information on the 283 legislative initiatives including proposing region, types of legislative initiative, results, issue, region, date, political majorities, scope of the proposal and other variables as shown in [Table 1](#).

Table 1. Dataset main variables ($N = 283$).

Variables		Characteristics
Initiative characteristics	Type	Law; Amendment; Transfer of powers
	Year	1978–2021
	Term	I–XIV (until December 2021)
	Region	Andalusia; Aragon; Asturias; Cantabria; Castilla-León; Castilla-La-Mancha; Canary Islands; Catalonia; Extremadura; Galicia; Balearic Islands; Madrid; Navarre; Basque Country; Valencian Community
	Result	Approved; Transferred; Expired; Refused; Decay; Retired; Not Admitted; Processed
	Issue	Administration; Culture; Environment; Finances; Foreign; Health; Infrastructures; Justice; Labour; Security
	Approved	Yes; No
Political variables	Regional Scope	Regional (self-rule)/State-wide (shared-rule)
	Central Government	PP, PSOE, PSOE-Podemos
	National	Conservative; Progressive
	Parliamentary Majority	
	Regional Government	PP; PSOE; NSWP
	Regional Parliamentary Majority	PP; PSOE; NSWP
	Parliament Board Majority	Conservative; Progressive

Source: Authors' elaboration from the original dataset.

To perform an in-depth analysis of our dataset, we test our hypothesis by running a descriptive analysis, and later a multivariate statistical analysis. We proceed in two steps. First, the article gives a descriptive analysis of the main characteristics of the regional initiatives. Later, we estimated a series of random effect panel regressions model.⁹ Finally, we discuss the results and suggest future avenues of research on regional legislative involvement, intergovernmental politics, and federalism in Spain.

In order to test the article's hypothesis, the control variables of the statistical analysis are based on factors which emerged from our literature review as having an effect on the observed variability in the use and success of this legislative mechanism. We aim to capture structural and strategic factors such as asymmetries (current and over time) and political coalitions. Thus, the analysis includes the Spanish territorial asymmetries (Mueller & Mazzoleni 2016), both *de facto* and *de jure*, that might shape and explain the observed variability in the use and success of this legislative mechanism. We also include other factors such as political colour majorities (parliament board, governments and chambers) or type of initiative – factors described as important in the literature on intergovernmental relations as mentioned above (Colino 2013; Aja & Colino 2014).

Findings: descriptive analysis

Use and success: a picture of territorial diversity

The use of the regional legislative initiatives presents an important variability over time and across regions (Figures 2 and 3). Therefore, a first important observation is the extremely heterogeneous use of this legislative mechanism made by the Autonomous Communities. Regional initiatives were relatively low and stable in the first legislative terms of the democratic period (around 20–25 per term). They increased over time until the 7th (2000–2004) and 8th (2004–2008) national parliamentary terms, when the second generation of Statutes of Autonomy were about to be negotiated or were being negotiated (Orte & Wilson 2009).

There is a clear imbalance in the use of this mechanism and the trend seems to confirm our initial intuition. This mechanism has not been used homogeneously across time and regions. Just one region, Catalonia, has used this mechanism more than 80 times, almost a third of total cases (see Table A1 in the Appendix available online at <https://doi.org/10.1080/13608746.2023.2228099>) while Murcia has never used it.

The ranking of the total number of uses of this mechanism is, indeed, a partial confirmation of our first hypothesis (H_1). Beyond Catalonia, among the most active regions we find Balearic Islands, Galicia, and Navarre; although only Galicia is a historical community, Balearic Islands and Navarre are territories

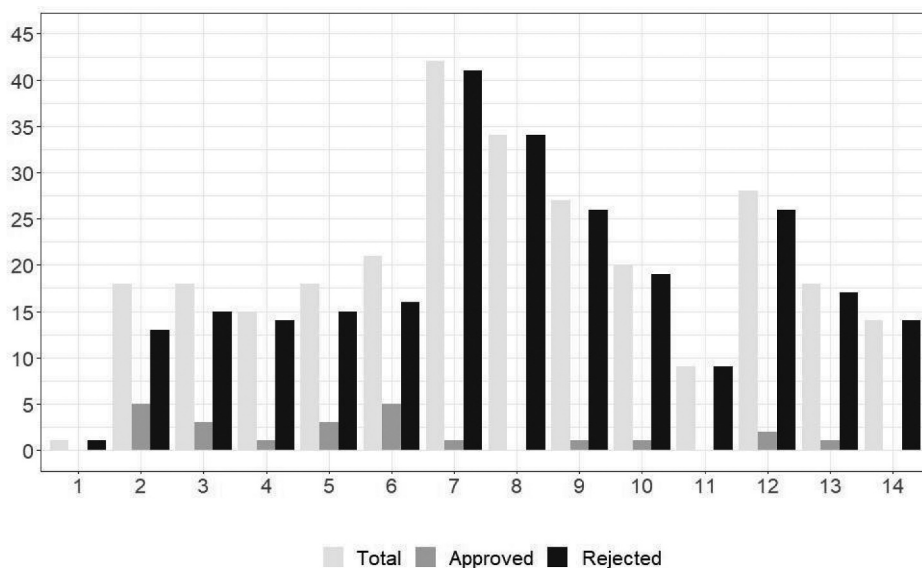


Figure 2. Evolution of Spanish regional legislative initiatives (1978–2021) by legislative term. Source: Authors' elaboration from the original dataset.

Note: (1) Rejected initiatives in this figure include all processed initiatives but not approved. (2) Legislative terms in Spain: I (23/03/1979-17/11/1982), II (18/11/1982-14/07/1986), III (15/07/1986-20/11/1989), IV (21/11/1989-28/06/1993), V (29/06/1993-26/03/1996), VI (27/03/1996-04/04/2000), VII (05/04/2000-01/04/2004), VIII (02/04/2004-31/03/2008), IX (01/04/2008-12/12/2011), X (13/12/2011-12/01/2016), XI (13/01/2016-18/07/2016), XII (19/07/2016-20/05/2019), XIII (21/05/2019-02/12/2019), XIV (03/12/2019-16/08/2023) *.

*Data until March 2022.

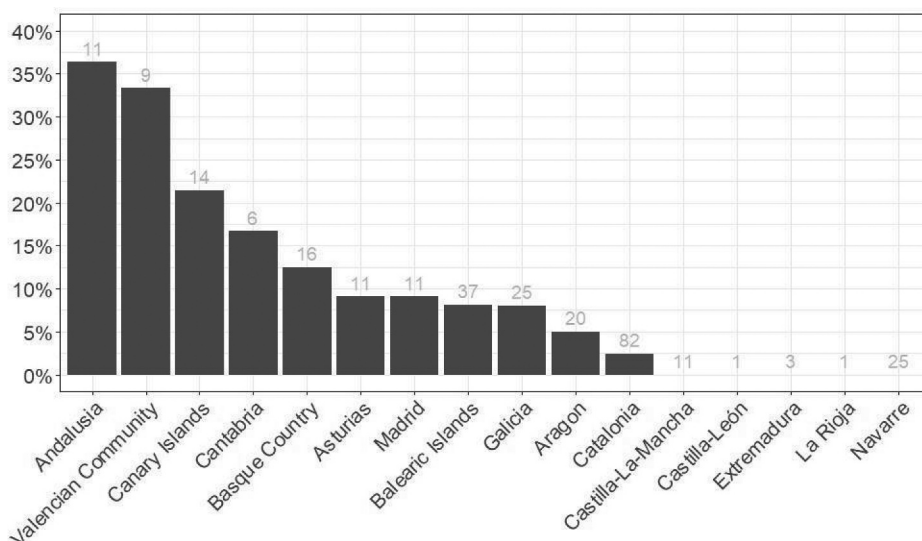


Figure 3. Rate of success of Spanish regional legislative initiatives (1978–21) by Autonomous Community. Source: Authors' elaboration from the original dataset.

with co-official languages and Navarre has a special financial status. Although initially it was not considered a historical community, Aragon accomplished an ambitious reform of its Statute of Autonomy in 2006, defining itself as a 'nationality' and a 'historical nationality' including a catalogue of 'rights and duties' (Orte & Wilson 2009).

Therefore, the use of regional legislative initiatives somehow reflects the territorial diversity of Spain and its asymmetries both *de facto* and *de jure* (Bossacoma & Sanjaume-Calvet 2019), confirming the importance of structural factors.

These findings also suggest a verification of our second hypothesis (H_{2a}). There is stronger use of regional legislative initiatives where there is a strong presence of regional parties, like the cases of Catalonia (CiU/Junts/ERC) and Navarre (HB/CDN/EA/UPN/Geroa Bai), although, during most of the time of such period, the regional parties were ruling with a coalition government. However, two cases seem to run against this hypothesis: Balearic Islands and the Basque Country. The former is not a historical community but despite a relatively weak presence of regional parties, its insularity and cultural difference (Catalan is a co-official language) make it a potential candidate to propose more regional initiatives. The Basque case is even more surprising since it is a historical community with regional parties, Basque Nationalists (PNV-EAJ), always in power except for 2009–2012.

Within the seven active Autonomous Communities with more than 10 legal propositions, we observe a relevant pattern. Clearly, Catalonia, Aragon, Navarre and Basque Country (to a lesser extent) present more state-wide scope than self-rule scope initiatives. On the contrary, Galicia, Balearic Islands and Canary Islands clearly use this mechanism to lobby on regional matters with initiatives only related to self-rule powers. These findings are again consistent with the literature on party politics (Verge 2013) and with similar cases such as Switzerland (Mueller & Mazzoleni 2016).

On the one hand, insular or relatively poorer regions (below the mean) use this mechanism to lobby. Galicia, Canary Islands and Balearic Islands together have submitted 67 proposals, half on financial issues regarding the region or on the devolution of powers and another 13 involving infrastructure demands. That is, these regions use this mechanism as an opportunity to claim for self-rule issues. On the other hand, relatively richer regions that developed their autonomous powers faster (Catalonia) or receive asymmetrical treatment in financial terms (Basque Country and Navarre) are more prone to submit state-wide initiatives.

This finding is also consistent with power bargaining dynamics described in the literature. Hombrado has coined the terms 'most-empowered regions and less or non-empowered regions' to describe regional demands dynamics as an effort by less-empowered regions to 'catch-up' with the most-empowered regions (Hombrado 2011, pp. 450–455). Despite the methodological problems

in categorising certain regions through these labels, in our case, we observe this dynamic in the use of a specific mechanism. Insular and relatively poorer regions clearly identify the mechanism as a tool for improving self-rule. Hombrado affirms that a less/most-empowered approach clearly ‘entails an important advantage over the one distinguishing between nationality-based vs. regional-based units’ (2011, p. 488). In our case, it is a combination of both approaches which helps us to better understand initiatives.

The discussion on territorial variability (see next section) must be completed with another important finding regarding success rates. As we show in Table A1 in the online Appendix, success rates are relatively low but also very diverse, ranging from more than 35 per cent to 0 per cent. Andalusia and Valencia are the territories with the highest success rates with a relatively low use of this legislative mechanism, while Castilla-la-Mancha, Castilla-León, Extremadura, La Rioja and Navarre, have never succeeded in approving a regional legislative initiative. Another surprising finding is the very low rate of approval of Catalan legislative initiatives. Catalonia has succeeded in having only two (out of 82) legislative initiatives approved. These concerned the Catalan television channel and the Catalan Ombudsman and occurred at the very beginning of Catalan autonomy during the second legislative term in 1982. Similarly, Balearic Islands has used this mechanism 37 times but has only seen three initiatives approved: on the declaration of a national park (Cabrera), on changing the name of the province from ‘Balears’ to ‘Illes Balears’, and on its financial regime.

Varying regional strategies

Our intuitions on political coalitions seem to be reinforced from just using descriptive data. In Spain there have been 14 legislative periods in the national parliament. In 1982–1993 (2nd, 3rd and 4th legislative terms) there was a socialist (PSOE) majority and in 2000–2004 (7th) and 2011–2015 (10th) there was a conservative (PP) majority. For the rest of the legislative terms there were minority governments, either of UCD (Unión Centro Democrático – Democratic Centre Union) (1st term), PSOE or PP. These minority governments, except for the current coalition between PSOE and Unidas Podemos, were single-party executives with legislative support from regional parties. Since the 2000s and the beginning of the 7th legislative term, there were almost double the number of initiatives in comparison with the historical record. Despite this, after the 7th legislative term (2000–2004), the number of initiatives decreased again in successive terms until the current 14th legislative term (Figure 2). This finding is counter-intuitive since the 7th term was a majority parliament, a moment in which multilevel bargaining, at least for regional parties, looks less probable than in minority parliaments. Therefore, the increased use of this mechanism during this legislative term remains to be explained.

A possible explanation is that most of these propositions were strategic. That is, they aimed to politicise topics directed to public opinion and to generate political debate over specific issues (e.g. minority languages) in the national parliament. This would be consistent with the theoretical expectations described in the first sections of the paper. Moreover, this finding is also consistent with the explanations related to decentralisation and political coalitions. In fact, three-quarters of initiatives submitted during majority terms came from regions governed by the state-wide opposition parties or a regional party.

An example of this is the relatively high number of initiatives submitted during the PP absolute majority (a total of 28 only in the 7th term). The period 2000–2004 has been described as follows:

The four years of PP majority government (2000–2004) were generally seen as rather centralising, and stimulated demands for stronger guarantees of autonomous powers. There was also a case for modernising statutes to take into account the evolution of government in Spain and Europe since the 1970s. (Keating & Wilson 2009, p. 541)

If we look more closely at the initiatives presented during this period, most referred to the plurinational nature of the State. More than half (15) were submitted by Catalonia (which for most of this term was governed by a regional party) and a further 12 by ACs with official languages other than Castilian calling for multilingual official documents, currency, and stamps. Moreover, some initiatives included demands such as the capacity of ACs to act at the European level or a reform of the judiciary system. Later, these demands were included in the wave of Statutes of Autonomy reforms. In fact, 22 out of the 28 initiatives submitted this term came from regions that would reform their Statutes (Catalonia, 14; Balearic Islands, 4; and Aragon, 2). Significantly only one (minor) initiative was approved: the one presented by Galicia, with a PP majority at regional level, on the creation of a national park (under central government jurisdiction) to protect the Atlantic Islands.

A different categorisation of regional legislative initiatives, as those related to distribution of regional powers (self-rule) vs initiatives related to state-wide powers (shared-rule) and relative majorities (party politics), that is with or without absolute majorities (PP or PSOE) at the *Congreso*, gives us more information. As we said, this dynamic is crucial to see if there is a multi-level bargaining dynamic involved in which minority (or absolute majority) parliaments foster regional initiatives.

In Table 2 we can see that PP majorities do seem to influence the promotion of state-wide initiatives, although with little success (zero in fact). There is a clear strategic use of initiatives on certain topics, for example those related to the

Table 2. Total regional legislative initiatives by majority and minority parliaments (1978–2021).

	Absolute Majority		Relative Majority	
	PP	PSOE	PP	PSOE
Regional scope initiatives (self-rule)	8 (2)	29 (5)	20 (6)	26 (4)
State-wide scope initiatives (shared-rule)	54 (0)	22 (4)	58 (1)	66 (1)

Source: Authors' elaboration from the original dataset.

recognition of national diversity issues, since most of these initiatives came from Catalonia, Balearic Islands or Navarre.

The t-test analysis underlines that, with regard to promoting regional initiatives, a PP majority is a hindrance ($t = 3.48$, $p = 0.0006$), while a PSOE majority has a positive effect ($t = -3.28$, $p = 0.0012$).¹⁰ In contrast, minority terms seem to result in a more balanced picture between PP and PSOE governments.

Despite the variability in terms both of its use over time and of political majorities, the number of initiatives approved through this mechanism has always been extremely low. Since the end of the 7th legislative term (2004), only five initiatives have been successful out of 126.

Regarding the topics of regional initiatives, there is considerable variation as well (see Figure A1 in the online Appendix). Issues related to culture, justice and administration have, by and large, been dominant. Typical initiatives in this domain include the recognition of cultural and national diversity (for example the use of official languages in car licences, passports, or stamps), transfer of educational powers to the regions or modifications of the judicial administration. The content of these issues typically includes two different objectives: either the amendment of a state-wide law or regulation (what we call shared-rule function) or a transfer of powers (what we call self-rule). Only the three first initiatives in the early 1980s had a slightly different nature: although formally regional legislative initiative, in practice they were demands for the national government to authorise the broadcasts of the regional TV channels in Catalonia and Galicia.

Therefore, a first finding of our descriptive analysis concerns important variations in the use and success of regional legislative initiatives. Although the use of this mechanism became more popular over time among regions, we find diverse institutional understandings, showing a sort of opportunistic or strategic approach rather than a coherent legislative procedure. Further evidence supports this idea.

The dominant issues are also different for historical and non-historical communities (structural differences) (see Figure A1 in the online Appendix). As expected, historical communities give more weight to cultural initiatives and aspects related to the structure of the state and regional powers (justice), such as the role and composition of the Constitutional Court or the capacity to organise referendums.

Regarding the nature of the proposals, descriptive data gives us important information on the influence of the scope of the proposal, initiatives with the aim to change state-wide or regional laws, as already described above. The functioning of the legislative mechanism seems to mimic the dynamics observed in other fields of territorial politics in Spain, such as an absence of coordination and the prevalence of bilateral relations in intergovernmental arenas. The data shown in Figure A2 in the online Appendix seems to point in this direction: although most initiatives were directed to changing state-wide

laws, thus refuting our H4a, the approved initiatives were basically related to regional laws or regional institutions.¹¹ Of the initiatives approved through this mechanism during the whole period, only the amendment of the organic laws of the Constitutional Court and the judicial power proposed by the Basque country was a ‘shared-rule’ initiative. The remaining 22 initiatives included the creation of TV channels, regional ombudsman institutions, the modification of provincial or municipal boundaries, the creation of national parks, minor transfers of powers, meteorological facilities or financial arrangements and some infrastructure transfers as well.

To better understand and analyse the importance of the nature of these legislative initiatives, in the next subsection we perform a multivariate analysis on the effect of the proposal’s scope on the probability of legislative initiatives being approved.

Findings: multivariate analysis

In the following statistical analysis, our unit of analysis, or observations, concerns legislative initiatives per region. Given that we treat each legislative initiative as a ‘separate observation’, and the same region’s initiatives are presented several times, the article has estimated a series of random effects panel regressions models.¹² In these panel models, the standard errors of estimates are corrected to consider repeated observations for each initiative across legislative terms. We built two models where the effect of the scope of the proposal is tested on a dependent variable: the condition of being approved. That is, we use the regional scope of a legislative initiative to capture the effect of the scope of the proposal on the probability of its being approved.

Model 1 in [Figure 4](#) (Table A2 in the online Appendix) shows that the regional scope of the initiative increases by 1.47 points the probability that a legislative initiative is approved. This result confirms how the general intergovernmental dynamics in Spain are embedded in the lack of shared-rule of the territorial model. In other words, model 1 highlights that the use of legislative initiatives is some sort of self-government bilateral bargain, rather than a shared-ruled bottom-up legislative process (H4b).

Moreover, model 1 reinforces the extreme relevance of political coalitions in the Spanish context, and in the legislative proposal success in particular. As [Verge \(2013\)](#) argued, state-wide parties adapt their use and understanding of shared-rule depending on their position. In this sense, regarding the regional legislative initiative process, the salience of political coalitions is a positive determinant for initiative approval. That is to say, strategic behaviours regarding legislative initiatives are aligned with party coalition reasons.

Going one step further, model 2 (Table A2 - see online Appendix) includes an interaction effect between the regional scope and the type of the initiative. It reveals the much lower effect of an initiative being of regional scope when the

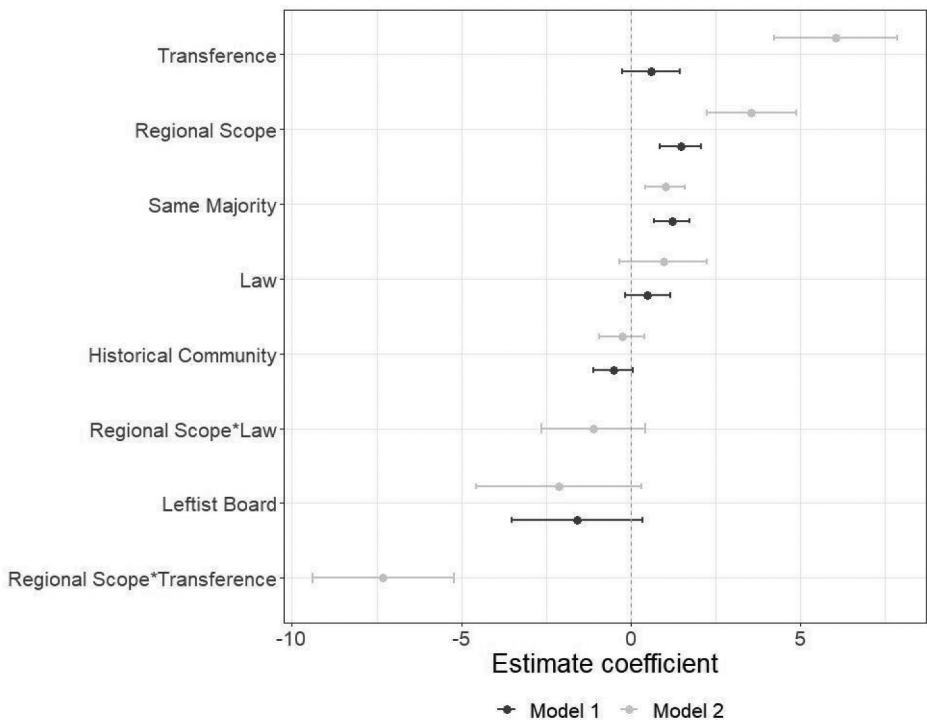


Figure 4. Regression model with the approval of regional legislative initiatives as dependent variable.
Source: Authors' elaboration from the original dataset.

legislative initiative is related to transfers of power instead of a law. Such results indicate how, even though the use of the regional initiative is a kind of self-government bilateral negotiation, as model 1 indicates, such a procedure loses power if this is an initiative asking for more self-rule. Thus, it shows that, although the constitutional framers designed the article 87.2 mechanism as a shared-rule legislative procedure, its use has not empowered regions vis-à-vis central institutions, but instead has provided a rather weak mechanism to seek transfers of power and resources in specific areas such as infrastructure and green policy.

Interestingly, model 2 reinforces the positive effect of political coalitions again. Specifically, if the regional and national parliaments are controlled by the same party, a legislative initiative has a higher probability of being approved.

On the other hand, the results of our models (Figure 4) interestingly do not confirm the existence of a historical communities' effect. Although the historical communities are in the top six regions in terms of the number of initiatives submitted, with a great variance in the issues of their initiatives (see Table A1 in the online Appendix), the statistical analysis does not confirm this as a structural factor affecting approval rates. These findings from the multivariate analysis

reinforce the salience of political coalitions as a main explanatory factor for the success of legislative proposals compared to structural explanations.

Assessing the record of regional legislative initiatives as a shared-rule mechanism

The evidence shown in the preceding sections is clear. Since 1978, a total of 283 initiatives have been submitted to the lower chamber of the national parliament and almost all ACs have proposed at least one initiative. However, this legislative mechanism has not been an effective shared-rule institution. In more than 40 years, only eight per cent of initiatives have been approved and almost half were rejected and therefore never discussed in parliament. Moreover, 29 per cent of initiatives involved self-rule proposals, i.e. legislation affecting only the proposing region. Among the legislation approved through this mechanism – a total of 23 cases – only four were related to shared-rule issues but of these, three were on the same topic (initiative for a regional Ombudsman) submitted simultaneously by different regions.

Our findings point to an unequal use of this mechanism. Seven regions account for 80 per cent of initiatives and Catalonia alone for almost one-third. This finding confirms the unequal effects on regionalisation in Spain and distinct levels of territorial activity. We observe a pattern of the use of this mechanism that should be considered in parallel to other dynamics observed in the Spanish territorial model, for example in intergovernmental relations. Further research should perform an encompassing analysis of distinct mechanisms of interaction between regions and central government. For example, there is a high correlation between the use of regional initiatives and the total number of challenges presented to the Constitutional Court on state-wide legislation (see Figure A3 in the online Appendix). Pearson's correlation between presented initiatives and the total amount of constitutional challenges presented is 0.77 ($p = 0.0005$).

Our data confirms at least two general trends in the use of regional legislative initiatives. First, initiatives with a state-wide scope seem to have a strategic rather than a legislative purpose. The explosion of initiatives during periods with a conservative majority at the national level (2000–2004, 2011–2015) confirm this trend. We label these initiatives as strategic or opportunistic in the sense that it was not expected they would be approved. Instead, their aim was to politicise some issues by putting them on the political agenda. Catalonia is a case in point here. This region submitted one-third of the initiatives (80) of which only two were finally approved. Most of the Catalan proposals concerned state-wide norms. However, in a number of cases these legislative proposals, often presented in coordination with other historical communities, were a means to politicise issues related to cultural and linguistic aspects (e.g. initiatives referring to a multilingual currency, driving licences or passport). In

other cases, Catalan initiatives have been a sort of bilateral channel for negotiating aspects of Catalan autonomy. A recent example was the proposal for a referendum on Catalan independence.

Second, regional scope initiatives have a different nature since they seem to be more effective and designed to be approved. In fact, as we show in our multivariate analysis, the scope of the initiative is a good predictor of its success, even more than the political majorities. However, the approved initiatives concern relatively minor issues (e.g. infrastructure or environmental policies) that could be channelled through other mechanisms such as IGR bilateral commissions rather than a regional legislative initiative. The fact that most of these initiatives are submitted repeatedly across different parliamentary terms gives the impression that regions, especially those with a state-wide party majority in the regional parliament, simply use this mechanism as one more tool to push for minor self-rule gains.

In a nutshell, the overall analysis of our dataset and the variability of cases in terms of territories and issues presents a rather gloomy picture of strategic and/or unimportant use of regional legislative initiatives in Spain. This reality might change in the future. The relatively recent evolution of the Spanish party system (Orriols & Cordero 2016), in which absolute majorities are far more difficult to achieve as new regionalist parties emerge, could transform the use of this legislative mechanism. A potentially more cooperative approach could emerge in which regions use the multilevel nature of the system to co-legislate together with central actors. Recent initiatives such as the one presented by the Andalusian Parliament¹³ on free education, already accepted and in the legislative process, or the initiative presented by the Parliament of Asturias¹⁴ on energy sectors, point in this direction.

Conclusions

The evidence presented in this article offers an understanding of the nature and use of the regional legislative initiative mechanism in Spain. While in the past, several authors have studied the existence of this legislative mechanism in Spain (Aragón 1986; Lavilla 1990), to date there was no systematic study of its use and success. Our research, based on an original dataset, allows for an empirical study of this mechanism and its potential uses.

We can assume that the drafters of the Constitution had a strong reason to include a regional legislative initiative mechanism in article 87. As we argued in the first section, the structure of Spain's central institutions did not leave much room for regional participation in the legislative process since most of the Senate was elected by provincial constituencies. The Senate's weak legislative role as a second reading chamber did not invite optimism regarding regional involvement in the state-wide legislative process. Moreover, in 1978 there was an important degree of uncertainty

about what the final territorial model would look like in terms of power-sharing dynamics and regional autonomy. In any case, in spite of the contradictory aspects of this constitutional article, the drafters were probably looking for a promotion of legislative shared-rule including regional initiatives as a mean to foster regional participation in the legislative process.

Has this shared-rule effect been achieved? Not really. This mechanism has been heterogeneously used by regions, with little success since only 8% of legislative initiatives have been approved. On the one hand, initiatives concerning state-wide issues were mostly strategic and unsuccessful. On the other hand, initiatives concerning regional powers were usually used as a decentralisation mechanism on minor issues that could have been channelled through intergovernmental mechanisms.

Future research on regional legislative initiatives can improve our knowledge of this mechanism, and its influence on territorial politics, through a comparative perspective. Beyond the Spanish experience, new comparative datasets can include similar units of analysis in Italy, Switzerland and Portugal among other cases to identify similar effects and causes. The relationship between regional legislative initiatives and multilevel intergovernmental relations in federal systems can be further explored as well.

Notes

1. Plus two autonomous cities, Ceuta and Melilla.
2. Despite the constitutional distinction between *regions* and *nationalities* (Article 2 SC).
3. See Aja 2003; Requejo 2005; Burgess & Gagnon 2010; Burgess 2006; Elazar 1987; Grau Creus 2000; Loughlin et al. 2013; Moreno 2010; Watts 1999; Lago 2021.
4. In 1992 the two State-wide parties agreed to transfer 32 new powers and equate the degree of autonomy of the historical regions to the 'slow-track' ones.
5. The 'Conferencia de presidentes' is the highest body in Spain for political cooperation between government and the Autonomous Communities. It is composed of the Spanish prime minister, who exercises its presidency, and the presidents of the Autonomous Communities.
6. See: https://www.mptfp.gob.es/portal/politica-territorial/internacional/ue/ccaa-eell-ue/consejo_ministros.html.
7. In the Constitutional Court ruling 23/1990 the Court backed the Board of the Congress in its role of control and evaluation of the initiatives presented by the regions.
8. Although this has not impeded Navarre using this mechanism 25 times.
9. In the case of this multivariate analysis, our methodology aims to capture the main factors explaining the approval of regional legislative initiatives that are unobserved in the descriptive analysis.
10. The differences have been calculated with Welch's t-test due to their unequal variances.
11. T-test analysis confirms the existence of a significant difference between approved regional scope initiatives and those that are rejected ($t = -3.78$, $p = 0.003$). The differences have been calculated with Welch's t-test due to their unequal variances.

12. We run a fixed effect panel regression model and there are no significant differences in the results. We are controlling for the average differences across legislatures in any observable or unobservable predictors. In sum, the reason why we are controlling by legislative term (fixed effect) is due to the fact that we want to control for the existence of unequal contexts of each unit of observation.
13. See: 125/000012 *Proposición de Ley de relativa al reconocimiento de la gratuidad y universalidad del primer ciclo de la educación infantil*. Available at: https://www.congreso.es/public_oficiales/L14/CONG/BOCG/B/BOCG-14-B-180-1.PDF.
14. See: 125/000013 *Proposición de Ley de declaración del carácter estratégico de la industria de muy alto consumo de energía eléctrica radicada en España*. Available at: https://www.congreso.es/public_oficiales/L14/CONG/BOCG/B/BOCG-14-B-196-1.PDF.

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Notes on contributors

Marc Sanjaume-Calvet is Assistant Professor of Political Theory at Pompeu Fabra University and Coordinator of the Political Theory Research Group (GRTP). His research focuses on secessionism, self-determination, federalism and democracy. He has published in numerous journals including *Journal of Politics*, *Party Politics*, *Nations and Nationalism*, and *West European Politics*. He is co-editor (with Ferran Requejo) of *Defensive Federalism: Protecting Territorial Minorities from the 'Tyranny of the Majority'* (2023, Routledge).

Andreu Paneque is a researcher at the Andorran Studies Institute and Adjunct Professor in the Department of Political and Social Sciences at the Universitat Pompeu Fabra (UPF), Barcelona, Spain. He is a member of the Institutions and Political Actors Research Group at UPF. He is also a member of the OPCAT (Observatory of Political Parties in Catalonia), which is linked to the PPDB (Political Party Database Project). His research has been published in *Party Politics*, *Government and Opposition* and *Parliaments, States and Representation*.

ORCID

Marc Sanjaume-Calvet  <http://orcid.org/0000-0001-8723-1618>

Andreu Paneque  <http://orcid.org/0000-0002-9093-2092>

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