ARGENTINA: FEDERAL DEVELOPMENT AS A STATE PROGRAMME IN THE 21ST CENTURY

||| Pablo María Garat

THE KEY FEATURES OF FEDERALISM

It is probable that societies in the 21st century particularly need federalism to form a system of internal relations as a way of resolving issues that affect the political unity of sovereignty, which historically have constituted, or led to, organisations of a new confederal nature, particularly for undertaking human development with social justice and territorial equity.

Following the objectives of this conference, but before referring specifically to the case of Argentina, we will firstly try to respond to the question of what can be considered the key features of federalism to assure its stability as a form of state for full development in the twenty-first century. We will secondly consider, in the case of Argentina, how it has been received in the constitutional organisation, such as in public conducts of the political leaders, since the late nineteenth century.

In our opinion, the first key feature that we identify for the validity of federalism consists of the way it resolves, in the dynamic of social and political life, the tension between unity and diversity on one hand and authority and liberty on the other. These two dualities are faced by any political community, but especially organisations such as federal states or highly decentralised regions, where the challenge is to look for harmony and equilibrium between them to reach and maintain stability.

The second key feature to assure stability and strengthen authentic federalism and the resolution of these two tensions is identified with the principal of subsidiarity. It seems to us that this is the "cornerstone" of the whole federal system.

Without being original in this, we propose to consider federalism as concrete expression of the principle of subsidiarity with much emphasis. This principle is understood in a negative sense (fail to do) and positive (make subsidiary). As such, the effectiveness of the government is not opposed and is probably why it has been formally received in important constitutional documents at national and international level.

It appears for the first time in the thoughts of the Social Doctrine of the Church in 1931 in the text of the Encyclical of Pope Pius XI, "Quadragesimo Anno", Punto 79, which says: "It is true, and history clearly shows it, that, due to changed social conditions, many things which were done by small associations in former times are only possible today for large associations. Still, that most weighty principle, which cannot be set aside or changed, remains fixed and unshaken in social philosophy: one cannot take away from the individuals and give to the community that which they can realise with their own effort and industry, so also it is an injustice, constituting a grave prejudice and perturbation of the right order, to take away from the lesser and inferior communities that which they can do and give it to a better and more elevated society, since all social activity, by its own force and nature, should help the members of the social body, but not destroy or absorb them."

The last line is emphasised because we want to stress that this principle should be interpreted not only in the sense of "self-governing" but also in the sense of "help", specifically "subsidiary" when the smaller community cannot achieve its goals by itself.

We find it in article 23 of the Basic Law of the Federal Republic of Germany as well as Laws 59 (1997) and 265 (1999) of the Italian Republic.

In Argentina, within the provincial public comparative law, the most modern of the provincial constitutions, that of the Province of Tierra del Fuego (1991), expressly enshrines this principle in the allocation of powers to its municipalities.[1]

Moreover, as we know, it has been formally received in the Treaty of Maastricht (1992) in its Title II, article G, introduced in article 3 b, in the Treaty of the Community of Europe and ratified and specified by the Treaty of Lisbon (2007) as 1 article 3 ter. which, in the consolidated version of the Treaty of the European Union, has remained renumbered as article 5. Likewise we can highlight that in Lisbon the protocol for the application of the principles of subsidiarity and solidarity were also signed which extended even more the recognition of the importance thereof in the community organisation.

Affirming federalism as a concrete expression of the principle of subsidiarity has important consequences:

The Decentralisation of the Federal State

The primary consequence of affirming federalism as a practical application of the principle of subsidiarity assumes to accept a determined interpretation of the term "decentralisation". According to this it does not consist in delegating the power of decision-making and / or implementation but in recognising the right of that decision and implementation and, furthermore, to accept the convenience of delegating the implementation when the right to a decision does not exist, but it is suitable for the efficient action of government; everything under certain rules of distribution and reserve powers of a constitutional nature.

Federalism and Municipal Autonomy

The second practical consequence is that their effective enforcement requires the recognition of the municipal government regime as a sufficiently autonomous regime in all aspects, institutional, political, administrative, economic and financial, as enshrined in the Argentinian Constitution in article 123.

Horizontal Intergovernmental Relations as a base for Cooperative Federalism

In a federal state regime the name of such possible coordination is that of "agreement" or "cooperation". It is always concerned with a regime of full freedom and responsibility with subsidiarity (which is the essence of a federal regime), within which the public actors are horizontally and vertically linked with a special dynamic.

In this sense, the third consequence that we note is that to realise the positive aspect of the principle of subsidiarity, for the application thereof, horizontal cooperation is preferable – as far as possible – before resorting to vertical integration (intervention).

The Internal Regionalisation of the Federal State

The fourth consequence of recognising and understanding federalism as a concrete expression and practical application of the principle of subsidiarity is the necessity to promote horizontal governmental relations – as anticipated – in a regional sense and from the lowest level: districts of local development, especially around medium-sized cities, micro-regions and interprovincial regions or internal interstates. Here, we always use the term "region" as an expression of a territorial scope of interrelation and not as the equivalent of a governmental territorial structure. For these cases, however, the concept could be applied equivalently.

The Distribution of Power and its Effective Exercise in Concurrent Matters

The fifth consequence of the affirmation proposal regarding the principle of subsidiarity is that it leads to a clear distribution of power between the Federal Government, the Provinces (or sub-national states, or regions as governmental territorial structure) and their municipalities as well as the solid and subsidiary coordination in all levels of intergovernmental relations.

The majority of governmental powers are, by their nature, concurrent. For this reason, the rule for their exercise should be that of

the principle of subsidiarity; and this should (we mentioned above the case of the Province of Tierra del Fuego in Argentina) be found to be formally received by the fundamental laws and insured by the political control the citizens have over governments (simple and transparent electoral systems; advisory boards with true sectoral representation; special institutes for political participation; initiative; consultation of the people; referendum; plebiscites; revocation, etc.).

Taxing Power in the Federal State

The sixth practical consequence of considering federalism as a concrete expression of the principle of subsidiarity – that which reflects directly with the possibility of assuring the effective validity of the former referring to the exercise of power by the distinct levels of government within the federal state – refers to the "taxation power" ("taxing power" or "power of taxation" according to various authors).

The consequence in this case is that the taxation power should be distributed in accordance with the criteria which we had proposed in the previous point, with respect to the general powers. That is to say that their exercise must be recognised at all levels in a true federal fiscal system that, so as not to create excessive fiscal pressure, demands coordination, looking for greater and better links between the government and the contributor, commencing at a local level.

The third key feature for federal stability, as a result of all the aforementioned, is that the assumptions set for above are cemented in the distribution and exercise of powers between the distinct levels of government.

We refer here to the need for federalism, expressed both in the relationship of federal or national government with the states, provinces or regions (according to the terminology of every constitutional political organisation) and in that of the lower levels of government, especially with the municipalities and / or cities, which we identify with the historical, natural and determinant bases of all federal or highly decentralised organisations. We are speaking, then,

of a federalism of cooperation and / or governmental agreements on multiple levels.

Finally, the question of the relationship between federalism and democracy has been proposed as a previous thematic area.

To answer this it seems inevitable that we must clarify which concepts of federalism and democracy we use to try to support our opinion. We already expressed our notion of federalism, which seems much more than a constitutional technique of the distribution of power.

Regarding democracy, we cannot enter into an in-depth debate about the significance of the term, due to the limited materials on this.

We start from the following assumption: we understand democracy as a form of government that permits the greatest and the best political participation of the people in the government of their community through a system of representation that, in particular, is supported by the greatest and best permanent link between the representative and the represented.

From this double conceptualisation of federalism and democracy we think that federalism is necessary – in some of its historical forms – to assure the political decentralisation which favours an authentic democracy from the municipal, provincial or regional base of states.

It is not possible to develop a genuine democracy without concrete liberties guaranteed in the context of families taking root and developing primarily. It requires a high level of decentralisation of power to be guaranteed, without which all aspiration for a better standard of political and social participation and representation seems condemned to failure.

An additional consideration regarding the relationship between federalism and democracy is that in the twenty-first century, not only the above is required in order for the political parties to admit the federal principle into their internal life and develop themselves respecting this principle in their organisation, but the high impact of technology must also be considered used in communicating and relating people and groups in this new era.

The phenomenon of "glocalisation" (globalisation / localisation), which shows the man of the twentieth century with one foot in his city and with the other in the wider world, through the web, also requires new answers which respect the old principles.

If federalism and democracy constitute a system of concrete liberties, these will allow for the connection to the people, each time in a better medium, to resolve questions in order to achieve the common good. The way of relating oneself to others has changed substantially, and not only in terms of communication devices. The man of the twenty-first century seems to be an individual, more informed and, paradoxically, more isolated and self-absorbed than ever before in history. Hence the importance of a value directly linked to the effectiveness of federalism which, at the same time, is a condition of true democracy. We are referring to roots.

As a contribution to the debate about roots and their significance, we say that we start with a concept of man as being created free, social and political by nature – the man who marches to his end transcending social life and exercising individual liberties.

Individual liberties of man are located in his family, in his municipality, in his province, in his region, in his national political community. Also the man has his place in the economic order: in his work, his company, his trade union.

The man located in such a way therefore finds himself linked by tradition to a culture, which manifests itself, from the environment in which he was born to the projection of his homeland in the universal. He is the man with roots.

Particular freedoms to reach his immediate goals include starting a family, educating one's children, access to property, work and capital that permits development and participation in civic-political life.

We think that, in order to respect nature, man needs to exercise his individual freedoms in his own matters: family, being the first social community; the municipality, as a family of families; the local and regional economy as a natural scene for development of human work and the creation of productive capital.

Without these conditions, what remains is democracy of the masses, partisan democracy and techno-democracy or the failure of democracy.

Because of this it seems relevant to us to insist that federalism is a system of individual freedoms which favours without doubt the realisation of a true political democracy.

THE CONSTITUTIONAL ORGANISATION AND ECONOMIC DEVELOPMENT IN THE FEDERAL STATE OF ARGENTINA

The federal Argentinian regime represents the natural and historic way of arranging relations between the cities and foundational Councils, and the combination of provinces and municipalities that form the later nation of Argentina. This originates from the end of the sixteenth century, 230 years before the declaration of independence and 280 years before the enactment of the federal constitution. Argentinian federalism is federalism from a municipal basis, in which the provinces have been a territorial and political extension of the founding cities and constitute the political regime of their historic tradition.

When the Viceroyalty of Río de la Plata was created in 1776, the founding Argentinian cities had existed in a politically organised manner, but autonomously, under the regime of councils for almost 200 years. These were progressively weakened by the centralist and administrative characteristics of the new viceroyal organisation. However, they were primarily the principle actors in the emancipation process from Spain (1810) and later on the Declaration of Independence (1816). They were also the seed of the 14 foundational provinces of the Argentinian Republic which was organised constitutionally from those between 1853 and 1860.

These 14 provinces, between 1820 and 1860, through more than 100 interprovincial pacts and agreements, established the base of the Argentinian Confederation which represents our historic and traditional federalism. Thus it was established in the national constitu-

tion: Argentina would be a presidential republic in accordance with the form of a federal state and in accordance with the "pre-existing pacts" which are mentioned expressly in its preamble. Including, according to article 35 of the national constitution, the (interchangeable) official names of the country, "United Provinces of the Río de la Plata, Argentinian Republic and Argentinian Confederation".

This long process, which included attempts in 1819 and 1826 to constitutionally establish a unitary state and was followed by a large civil war between "Unitarians" and "Federals", concluded with the San Nicolás Agreement (1852), the consequence of which is the definitive agreement between the provinces, except Buenos Aires, to constitutionally organise the federation. In 1860, Buenos Aires was finally incorporated into it and the original constituent cycle was happily closed.

The configurative federal rule of the constitutional order of 1853/60 is very clear: the federal government, headed by a strong presidency, has emergency powers and resources. Provinces reserve other powers and agree their share in the first instance with such a design that they performed this sacrifice to ensure national unity and consolidate peace.

We can synthesise then that originally in 1853/60:

1. The Argentinian nation constitutionally adopted the form of a federal state for their government (article no. 1).

2. The national constitution of 1853/60 implicitly recognised federalism of three levels, with a municipal base, to establish the obligation to "assure the municipal regime" on the part of the provinces in article no. 5.
   However the formal organisation and the distribution of power only expressly acknowledge two levels: federal government and the government of the provinces. Thus the municipal powers could only constitutionally guarantee a delegation of federal or provincial power. Furthermore, there are no references to Buenos Aires, which at this time was not the federal capital.

3. The powers were distributed between the federal government on one hand and the provincial governments on the other, based on the following constitutional rules:
   a) Article 104 (now 121): "the provinces conserve all the power not delegated by the constitution to the federal government and that they have expressly reserved by special pacts at the time of their incorporation."
      In accordance with this rule, the federal government could only exercise the powers delegated by the provinces specifically through the constitution, and those implied, under the jurisprudence of the Supreme Court powers, their permission following the criteria of rationality.
   b) Article 108 (today 126): in accordance with the aforementioned; "the provinces do not exercise power delegated to the nation".
   c) Articles 5 and 106 (today 123): the municipalities may exercise the powers that are recognised by their respective provincial constitutions, but without guaranteeing its autonomy, including in aspect of taxation.

Finally, the constitutional reform of 1994 introduced new highly important clauses for the strengthening of the federal regime: the power of the provinces over the natural resources existing in their territory (article 124); the creation of regions for development on the part of the provinces without federal government intervention (article 1214); the municipal autonomy (article 123); the creation of the Autonomous city of Buenos Aires as a new subject of the federal state structure; the establishment of limits on the exercising of legislative power by the national executive power (articles 76, 80 and 90, subparagraph 3) and the federal tax sharing regime as a way of expressing tax coordination (articles 75, subparagraphs 2 and 3).

Returning to the evolution of federalism in Argentina, the federal regime was weakened after the battle of Pavón (1861) in which the federal forces of the confederation were defeated by the province of

Buenos Aires. This started a disfiguration of the federal regime of Argentina and the development of what was called the period of national organisation, with its good and bad implications for the progress of Argentina but, without doubt, it was clearly negative for the consolidation of the original federalism.

For 121 years between 1862 and 1983 it became difficult to find the traces of Argentinian federalism as a historic model.

Between 1880 and 1916 the autonomist national party, the first big national political party in the history of Argentina appears. In reality this was an agreement of distinct domestic political leagues to construct and assure power as well as the presidential succession – eliminating all possibility for federal recuperation. Its support for the institutional organisation and national development is not the topic of discussion here, but rather its lack of compromise with federalism as a frame to achieve these objectives.

The radical Civil Union from 1916 and the Justicialist party from 1946, the other two big national political historical parties, represented the incorporation of enormous social sectors into political and economic life; the development of national industry; the incorporation of social rights with constitutional range and many more achievements. All of them without sufficient consideration of or – in some periods – with frank indifference towards our federal regime.

The previous periods of validity of the constitution and – for obvious reasons – the de facto governments did not change this state of affairs. These last elements only aggravated it more. In all these historical milestones the fight was for power and the republic – not for federalism.

The provinces and their leaders, far from being a stranger to this – for the abandonment of their ruling class responsibility and historical mission – were the determining factors for this course of events.

From 1983, with the recuperation of constitutional order, an institutional cycle with marked elements in favour of the recuperation of federalism was initiated. As if the constitutive genetic memory

guides the course of the most relevant decisions, the political forces in their totality are orientated to the recuperation of our municipal-based federalism.

Between 1985 and 1991 a group of clear political initiatives were set out that paved the way for constitutional reform, which finally took place in 1994, including topics which were directed towards strengthening the federal regime, as we have already mentioned.

Despite all this favourable evolution to the recuperation of federalism between 1983 and 1994, the tendency of "de-federalisation" in the material order continued with particular derivation of:

a) The concentration of the exercising of taxation powers and their administration in federal government, following the economic crisis of 1989/90 and in 1992, the federal tax sharing system began slipping into a system of conditional and unconditional transfers, under the guise of a need to solve the deficit of social security or pensions for federal government.

b) As a consequence of this, the consolidation of the rule of the "emergency economy" to further justify the major exercising of power on the part of the national executive power in decline of the congress and provinces. In particular,

c) The abandonment of the senate of its role as moderator of the exercising of presidential power.

For these reasons, we believe that the debate of a "Federalist Agenda" in Argentina is therefore more current and necessary than ever. It is likely that the new political scene which emerged from the 2015 elections – in which no political force had a sufficient majority to prevail – represents a historic opportunity to initiate a process of authentic recuperation of the federal regime which the national constitution established. This is not only the responsibility of federal government, but especially of the provinces and their representatives in the congress of the nation, particularly in the senate.

FEDERAL DEVELOPMENT AS THE NUCLEUS OF THE STATE PROGRAMME OF THE ARGENTINIAN CONSTITUTION

To properly substantiate the claim that federalism is our constitutional programme of state and that the federal development is the most important of our state politics, it is necessary to realise some previous considerations.

Human development – under any form of state – should always have as an objective, its evolution and growth as a way of assuring its benefits for families and social groups. Under a political regime or form of federal state, these objectives pose the additional challenge of aiming to achieve social justice, with regional equality and full respect for unity in diversity within the recognition of local autonomy, by the validity of the principle of subsidiarity.

In terms of social and fiscal economy, the Argentinian constitution establishes federalism also to assure the economic and social rights which are guaranteed in the preamble.

In this context we are thus convinced that, to assure social justice, peace, regional equilibrium and equity for the provincial and municipal development in all the national territory, federalism is the natural path and the state programme that the national constitution has established with much clarity.

Indeed, in economic, social and fiscal terms, our constitution-established federalism also ensures the economic and social rights that are guaranteed in the preamble and the articles 14, 14 to, 16, 17 and 33 with the framework of: 1; 4; 75 subparagraphs 1, 2, 3, 17, 18, 19, 8, 9 and 6; 41; 42; 99 subparagraphs 8 and 9; 100, subparagraph 1; 103; 124; 125, 123 and 129, that we suggest to read with this sequence as we cannot transcribe nor commentate them here for reasons of space.

But the question, following the themes of this congress, is: What are the previous socioeconomic conditions for stability of a federal or regionalised state? In the case of Argentina: What are the preconditions for the federal programme in order that the development enshrined in the constitution can be completely fulfilled?

In our opinion, a constitutional order of full socioeconomic inclusion requires the previous consensus between all productive sectors and diverse political forces on at least four permanent strategic objectives: the roots of the families in their municipalities' territory for the access of property and work; access to nutrition and basic education for all children; strengthening of regional economies (interprovincial regions in the case of Argentina) for greater integration of value chains in the production of goods and services; balanced and supportive distribution of federal income tax.

However, we also understand that the achievement of full socioeconomic development in the federal state is a prerequisite to the political and institutional agreement with respect to the importance to respond to four specific questions: What activities should each level of government carry out? Who will decide on them and in what order of execution? Where will they be developed? What fiscal resources will be needed to address them?

It should be added that in Argentina the regional question has special characteristics. In our constitutional order, the structure of federal government integrates with three levels of government: federal, provincial and municipal. In addition, the city of Buenos Aires has been recognised as a formal subject in this structure with greater status than a municipality but not exactly identical to that of the provinces.

In Argentina, the region does not constitute a level of government. However, and in accordance with article 124 of the national constitution, the provinces, without intervention from federal government, by their own decision can "create regions for economic and social development and establish agencies for achieving their goals [...] with knowledge of the Congress of the Nation". Inclusively they can organise, from the authorities of the provinces that they integrate, boards of governors, or regional parliaments, with the region not being a formal subject within the constitutional structure of the federal state, but an institutional field of interjurisdictional relations and cooperation.

On this basis, and in the perspective of federal development, in Argentina the regional question is strategic so that one can aspire to a reasonable level of success in the implementation of it, particularly given the high degree of interaction and competition which leads, likewise, to the theme of decentralisation and integration of the actions of government.

Thirdly, it is a precondition in Argentina to achieve full federal development agreement between the federal government and the provinces on a system of distribution of federal tax revenue according to the principles set out in the national constitution in articles 4 and 75, subparagraphs 1, 2, 3.

This is what has been called the "revenue sharing regime" of national taxes being owned by the federal government and the provinces and the autonomous city of Buenos Aires. However the legal regulation of each national tax regime, as well as its collection and distribution are the responsibility of the federal government.

The constitutional design originally envisaged that the federal government could be sustained with the income from export duties and import taxes, or taxes from foreign trade and only exceptionally with internal taxes, but the international crises of 1890 and 1930 led to the national treasury advancing on these resources that corresponded to the provinces. To moderate the consequences of this they adopted a system of tax coordination, a so-called "partnership". Nonetheless, aside from the crisis of the provisional system in the 90's of the previous century and the necessity to finance their deficit with taxes, as well as the dues and contributions from workers and businesses, they produced what Professor Richard Bird called, upon visiting Argentina, the "labyrinth of co-participation". This is a complex maze of taxation laws and others that detracted from the resources of the co-participants, which should have been credited to the provinces to address the social security pension deficit.

Without resolving this question and leaving this "fiscal labyrinth", Argentina will continue to slide towards a system of condi-

tional transfer to the provinces – alien to our original fiscal federal system – and it will maintain a level of taxation pressure which compromises development even more.

The previous is directly linked with the questions posed in one of the cornerstones of congress, with relation to how one can equalise the regional inequalities between economically strong and weak provinces.

In regards to this it should be noted that in Argentina the two instruments of constitutional organisation of major economic, financial and fiscal policy for the allocation of public resources are the federal budget and the revenue sharing agreement law.

On the one hand if, as it has been said in our constitutional history, to govern is to populate but also to create jobs, we have the conviction to occupy all of the national territory with rooted families, with quality education and genuine employment, it is nothing more than fulfilling the constitutional mandate of article 14 (clause "social") and the new clause of human development of article 75, subparagraph 19 of the National Constitution which states: "to provide for human development, economic progress with social justice, the growth of the national economy, the generation of employment, the professional training of workers, the defence of the value of the currency, scientific and technological research and development, their dissemination and beneficial use."

To make this possible, from the reform of 1994 we have a precisely defined axis in the subsections 2, 8 and 19, second paragraph, of article 75, which links the two instruments cited above.

Subsection 2 refers to the so called "revenue sharing" and provides that "a contract law based on agreements between the nation and the provinces shall establish systems of joint participation for these taxes, guaranteeing the automatic remittance of funds."

In subparagraph 8, it is established: "To fix annually, according to the guidelines established in the third paragraph of subsection 2 of this article, the overall expenditure budget and resource

calculation of the national administration, based on the general programme of the government and the public investment plan and to approve or reject the investment account."

The third paragraph of subparagraph 2 of article 75, which connects the co-participation and the budget as the two most important instruments at our disposal for the allocation of public resources, it is therein mentioned that: "The distribution between the nation, the provinces and the city of Buenos Aires and between these shall be made in direct relation to the power, services and functions of each of account objective sharing criteria; be equitable and unified, giving priority to achieving and equivalent level of development, quality of life and equal opportunities throughout the national territory."

Finally, in the same clause on human development of article 75, subparagraph 19 completes the cornerstone of the constitutional programme for federal development: "Corresponds to Congress. [...] To provide harmonious growth of the nation and the settlement of its territory; to promote differentiated policies designed to balance the relative unequal development of provinces and regions."

This aspect of the architecture of the reform of 1994, linking the subparagraphs 2 and 8 of article 75 and incorporating the second paragraph of subparagraph 19 of the same article (without forgetting norms of relevance as the new articles 123, 124, 125 and 129), constitutes the appropriate framework for the recuperation and strengthening of federalism, that is, the federal government and governments of the province and autonomous city of Buenos Aires and then in particular the senate of the nation – as the constitutional scope for the fulfilment of the entire federal legislative framework agreement – taking the historic mandate expressed in the preamble, "to form the national union, guarantee justice and to consolidate internal peace" and from this perspective, to promote the federal development and the economic progress with social justice and territorial equity.

CONCLUSION: THE FEDERAL PROGRAMME OF THE CONSTITUTION

In the end, it remains only to reiterate our conviction that the effective and possible response for the recovery of federalism in Argentina in full in the twenty-first century – marked by globalisation, regional supranational integration, the emergence of new actors from outside of politics that affect it, such as economic corporations and non-governmental organisations, and particularly the impact of the technological era that has already begun – lies in the acceptance of that as a practical application of the principle of subsidiarity and the system of specific local freedoms.

We should add that it is also about understanding the roots as an absolutely strategic existential value in the political perspective of the century, when the population of established families is the first requirement for the territorial integrity of a nation.

The town strengthened as a "family of families" – one could seriously think about the recovery and strengthening of the provinces as "hinges" of federalism, of the interprovincial regions as an area of territorial balance and, ultimately, the federal state as a perfect expression of unity in diversity.

It is from this possible scenario that the federal state could face the double challenge of supranational regional integration and globalisation without affecting national identity, territorial integrity, political sovereignty, economic independence, social justice and democracy with full participation and genuine representation of all the peoples – in the plural – as expressed in the first preamble of the constitution of the confederation of Argentina.

||| PROF. PABLO MARÍA GARAT

Pro titular Professor of Constitutional Law and Tax Law
in the Faculty of Law of the Pontifical Catholic University Argentina;
member of the Institute of Constitutional Law of the
National Academy of Law and Social Sciences; member of the
executive committee of the Argentinian Association for Constitutional Law;
member of the Executive Committee of the Argentinian Association of
Comparative Law; member of the Executive Committee of the
Institute of Legislative Studies of the Argentinian Federation of
Bar Associations; President of the Civility Foundation.
Has been legal advisor in the Commission of Federal Tax Revenue of the
Senate of the Nation between 1996 and 2004 and
vice president of the Federal Commission of Taxes in 1997.

NOTES

[1] Constitution of the Province of Tierra del Fuego, Republic of Argentina, article 173, subparagraph 16. "The Province recognises the following powers of the municipalities and the communes: [...] 16- to exercise any other jurisdiction of municipal interest that the Constitution does not exhaustively exclude and while it has not been recognised expressly or implicitly as belonging to the Province, fundamentally abiding to the principle of subsidiarity of the Provincial Government with respect to the municipalities."