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ARGENTINA

Expert

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I. GENERAL QUESTIONS

1. **How is the federation formally called (regional, federal state, other…)?**

Article 35 of the National Constitution, originally sanctioned in 1853, expresses that: "The names adopted successively since 1810 until the present, say: "United Provinces of the Rio de la Plata", "Republic of Argentina", "Argentinean Confederation", will from now on official names to designate the Government and territory of the provinces, using the words "Nation of Argentina" in the formation and sanction of laws".

The most used denomination has been Republic of Argentina. Even though in the first years -1853 y 1880- the denomination of Confederation of Argentina was used, it is now evident that ours is a Federation since 1853 not a confederation.

2. **Since when has the power been decentralized in your federation? Was the decentralization established in its origins or in a later time?**

Decentralization goes back to the origins of the Federation, since it was established since the sanction of the origin National Constitution in 1853. Previously, in the years that went from 1810, when the first national government was instituted and begun the independence war, we went through cruel civil wars between Unitarian and federalists –especially between 1820 and 1853-, until the Constitution was sanctioned in 1853, whose article 1st makes reference to the "representative, republican and federal" form of government.

3. **Has decentralization been formally abandoned or practically inoperative in any historical phase?**

Decentralization was never abandoned, but throughout the history of Argentina we have suffered a deep centralizing process, that has shown the distance between the formal constitution and reality. For different historical, political, economic, social and demographic reasons, among others, a structural unsolved problem exists between Buenos Aires and the rest of the country, as referred by historian Felix Luna, due to the concentration of political, economic, cultural and demographic power in the capital, which is one of the main causes for the incorrect functioning of federalism in Argentina.

4. **Which are the deep reasons in the adoption of a politically decentralized system?**

The adaptation of federalism and a decentralization system which also included the municipal regime, -included to the National Constitution in article 5 in 1853- was the result of the mentioned Argentinean civil wars, which lead to this form of State as the only solution for the political, economic and social conflicts of a country with an huge territorial extension, which was influenced by several immigration currents (of the North, Cuyo and Rio de la Plata) of Spanish colonialism. The fourteen provinces (that correspond to the name of States) that existed previous to the Federal State (or Federation) crated it by delegating powers through the National Constitution. In this aspect, this was similar to the North American process, which also gave its model to our federalism, because our Supreme Law followed the lines of the Constitution of Philadelphia of 1787. The historic Provinces were created from 1815 to 1834 (Buenos Aires, Cordoba, Santa Fe, Entre Rios, Corrientes, Mendoza, San Luis, San Juan, Santiago del Estero, La Rioja, Catamarca, Tucumán, Salta y Jujuy) and through interprovincial pacts settled the bases of Argentinean federalism, which was consecrated in the National Constitution in 1853, according to the Agreement of San Nicolas, subscribed in 1852, after the victory of General Urquiza over General Rosas in the battle of Caseros. This Agreement also implied the fulfillment of the federative organization already foreseen in the Federal Pact of 1831, which gave base to the "Argentinean Confederation", which existed from that date to 1853. That is why, the Preamble of the Constitution makes reference to the gathering of the General Constituent Convention "… by will and election of the Provinces that compose it, in fulfillment of the preexisting pacts…"

5. **Could you point out the main phases of the system and the main characteristics?**

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1st . Stage: Federalism in the Origin Constitution of 1853

As we've mentioned, between 1810 and 1853 the adoption of federalism was made as a State form as expressed in the 1853 constitution. This was the result of cruel civil wars between Unitarians and federalists, in which besides the Hispanic traditions from the different colonial currents, the forces of the town hall (on top of which the provinces were formed), the geographic conformation and the interprovincial pacts that succeeded since 1820, ended the definition of this fundamental aspect of our political organization.

The Unitarians were a cultivated minority that sustained centralization, they were settles mainly in the cities and particularly, in Buenos Aires, from where they intended to rule the country. In the opposite, the federalists fount their support in the popular masses from the interior of the country called "montoneros", which were lead by the provincial caudillos.

The instrumental force of federalism were the interprovincial pacts, which reached almost one hundred and from which we must point the Pact del Pilas (23-2-1820) between the Provinces of Buenos Aires, Santa Fé and Entre Rios; the Treaty of the Quadrilateral (15 to 25-1 and 7-4 of 1822); between the Provinces of Buenos Aires, Santa Fé, Entre Rios and Corrientes; the Federal Pact (4-1 to15-2-1831) between the Provinces of Buenos Aires, Santa Fé and Entre Rios, to which others joined after; and as an immediate precedent the constitutional sanction of 1853, the San Nicolas Agreement (31-5-1852), which ratifies the federative organization bases already established by the Federal Pact of 1831.

The Constituent Convention of 1853 gathered in the city of Santa Fé, with the representation of thirteen provinces and the absence of the Province of Buenos Aires. As we've already said, the Convention had the Philadelphia Constitution of 1787 as an antecedent, even though some differential characters were established, postulated by Juan Bautista Alberdi who was the father of our public law, which had been written specially for the occasion, his transcendent book "Bases and departure points of the organization of the Confederation of Argentina".

The influence of Alberdi meant the consecration, in the origin text of 1853, of a more centralized federation than the north American, due to, for example, national bottom legislation (civil, commerce, penal, etc) was attributed as a legislative power to the Nation's Congress, as was the revision of the Provincial Constitutions and the political trial of the provincial governors (art. 67).

Otherwise, the same organization of the north American federation was adopted: A federal State that requires the coexistence of two different state and government orders, with a power distribution that gives the federal government only the delegated powers in an express or implicit manner, while the Provinces have the residual powers, besides their own institutional, political, financial and administrative autonomy (constitutional power) (arts. 1, 5,104,105 y 106)). We believe it is important to transcribe these norms due to their fundamental importance to understand our federalism. Article 1 established: "The Argentinean Nation adopts a representative, republican and federal form of government, as established in this Constitution". Art. 5 disposed: "Each Province will dictate for itself a Constitution under the representative and republican system, according with the principles, declarations and guarantees of the National Constitution; and that assures its justice administration, their municipal regime and primary education. Under this considerations, the Federal Government guarantees each Province the enjoyment and exercise of its institutions". Art. 104 (actual art. 121) prescribed the basic norm in power allocation, as follows: "The provinces maintain all non delegated powers at the moment of their incorporation". Art. 105 (actual 122) expressed: Give themselves their own local institutions and are ruled by them. Elect their governors, their legislators and other provincial functionaries, without the intervention of the Federal Government" and Art. 106 ordered that: "Each Province will dictate their own constitution, according to the disposition of article 5". (This norm which is the actual art. 123, would be modified in the 1994 constitutional reform, to precise the sense of the municipal autonomy).

Likewise concurrent powers were prescribed for the Federation and the Provinces (art. 107).

The Senate was established as a federal organ par excellence, with an equal representation for each Province (State), of two Senators, who were appointed by the respective provincial Legislatures and the same representations by the Federal Capital. (Art. 46, actually modified under number 54).

The 1853 text established that the Federal Capital should be the city of Buenos Aires and that the Federal Government had the power to intervene federally in the Province's territory (arts. 3 and 6).

2nd Stage: Federalism in the 1860 constitutional reform.
After the secession of the province of Buenos Aires, in 1853, the problems in the Argentinean Federation continued, until the battle of Cepeda in 1859, where Gral. Urquiza as Head of the Argentinean Confederation triumphed and as a consequence of which the San Jose Pact or Union Pact was produced (11-11-1859) this meant the integration of that Province to the Federation, previous reform to the National Constitution of 1853.

This reform was made through a special procedure, different from the one established in the 1853 text, which leads certain Argentinean constitutionalists to sustain that this was too an original constituent, instead of a derived one and that is why they call our Supreme Law as of 1853 and 1860.

Beyond this matter, it is interesting to outline that this reform produced important reforms in the Federation, since in modified some 1853 articles, with the intention to establish bigger power decentralization. So, it is evident that this derogated the norms that prescribed the revision of the provincial constitutions by the Congress of the Nation, so as the political trial of the Provincial Governors before this organ.

Likewise, two important articles were modified: art. 3 on the Federal Capital and art. 6 on federal intervention. In the first case, the same principle of art. 13 was established, which is that the integrity of territory in the creation of new provinces, that meant that the territory of the Federal Capital should be determined by a Law of Congress, previous cession of the respective territories by the legislatures of the affected Provinces (art. 3). Regarding art. 6 on federal intervention, the redaction was precise in order to reduce the discretion of the federal authorities to intervene, indication the need of a previous requisition by the provincial authorities to the Federal Government, to support them in case of rebellion or invasion by other provinces.

An important matter as the federal property of customs revenues, which had separated the Province of Buenos Aires from the rest of the Federation, since they benefited of them based to the important production of the port of the city of Buenos Aires, was solved in a definitive form by the constitutional reforms of 1866.

Definitively, despite de transcendence of this 1860 reform, the problems between the Provincial and Federal Government continued and after the battle of Pavon, where Gral. Mitre won, produced the first *de facto* government in our history and in 1862 this triumphant chief was elected President of the Province of Buenos Aires, which gave the leadership of the national organization was conducted by this Province.

3rd Stage: Towards "concert" federalism (since 1950)
In this stage, called this way by Pedro José Frías ("Derecho Publico Provincial", Frías y otros, Depalma, Bs.As., 1985. , pg. 389), begun the transit from a dual or competitive federalism to a "cooperative" of "concert" federalism, since the beginning of the exercise of the attribution of art. 107 (actual 125) from the constitution of 1853-1860 that established: "The provinces may celebrate partial treaties on justice administration, economic interests and common utility works, with the knowledge of the Federal Congress…".

In deed, provincial pacts which had stopped being celebrated in 1853, start to slowly appear in 1948, and then affirmed in the decade of 1950 and continued until today, with different objectives and

names, which made possible building bridges and an interprovincial tunnel, the treatment of interprovincial rivers as a basin unit, the creation of water committees, the creation of a Federal Investment Council and other Federal Councils for different matters, so as for problem solution and project treatment.

4th Stage: The deepening of federalism in the 1994 constitutional reform:
The 1994 constitutional reform, made by the Federal Constituent Convention gathered in the cities of Santa Fe and Parana, had the deepening of power decentralization in Argentina as a main idea.

As we've studied in our book "Federalism, municipal autonomy and the city of Buenos Aires in the 1994 constitutional reform", (1997) Depalma, Buenos Aires, the debate on this question –in which we were honored to participate as Vice president of the Redaction Committee- include an important part of the Convention, that as indicated, include three grand chapters: federalism, municipal autonomy –undoubtedly consecrated art. 123 of the Supreme Law- and the autonomous city of Buenos Aires, which had the character of city-state recognized –under our point of view-, with a similar institutional hierarchy to that of Provinces, as derived from art. 129 of the current Supreme Law.

Specifically, regarding federalism, such constitutional reform included different aspects: 1.Institutional and political. 2.Financial. 3. Economic and social.

About point 1, the Constitutional Reform established the following modifications:
The four orders of government of the Argentinean federation: In deed, actually there are this orders: Federal Government (arts. 44 to 120), Provincial Governments (arts. 121 to 128), Government of the Autonomous City of Buenos Aires (art. 129) and Municipal Government (art. 123), with their respective powers and autonomy, that express the decentralization of political power in our country. The Argentinean federal society in composed by the Federal Government, 23 Provinces, the autonomous city of Buenos Aires, actual see of the Federal Capital. We also indicate that the Federal Government has no direct relations with municipal governments, since they are made through the provincial governments and States. The reform that included the regions in the constitution (art. 124), was foreseen as a reunion of provinces, exclusively for economic and social development and not as new political entities.

b) Power distribution: In the fundamental matter of power distribution in the federal State, the 1994 reform didn't modify the most important rule, which is ancient art. 104 (actual 121), which resumed the historic law of the Argentineans, in the words of Joaquin V. Gonzalez.

The circumstance that this questions were not discussed, does not imply that the Convention had denied its importance and transcendence of this problems, probably the more difficult for a federation. For us, this means that the constituents gave the principles fixed by the supreme law of 1853/1860 as immovable. The concepts of Alberdi y Gorostiaga are fully valid, accepted by the doctrine and jurisprudence of the Supreme Court in the sense that the provinces have retained and unlimited powers, and the federal government exercises those delegated in an express or implicit form, so, those are limited powers.

It is true that this rule suffered changes, as the country's centralization process happened; and even the Supreme Court's jurisprudence begun admitting those advances of the central government, as pointed by authors as Vanossi, Frías, Bidart Campos, Romero, etc., but we are confident in the changes that must happen in the future, according to the constitutional mandate which emerged from the reform that deepens in federalism.

- In consequence, the classifications made by the doctrine on the relations of our federal structure, also remain current. In this sense we remember the subordination relations (arts. 5 and 31, that establish the supremacy of the national Constitution), participation (of the provinces and the city of Buenos Aires in the federal government, specifically in the Senate) and coordination (which in the delimitation of the powers of the federal and provincial governments and the city of Buenos Aires), opportunely pointed

by Bidart Campos (“Manual de Derecho Constitucional argentino”, Ediar, Bs.As. 1972, Cap. VII. Pgs. 120/121).

-Actually there are several classifications of powers between the federal and province governments, which we may synthesize as follows: maintained by the provinces (art. 121); delegated to the federal government (principally those expresses of the different organs of the federal government, ex., arts. 75, 85, 86, 99, 100, 114, 115 and 116, and the implicit of Congress, art. 75, part 32); Concurrent between government organs (arts. 41, 75, part 2, 17, 18, 19, first paragraph, and art. 125); shared (that require the will of the levels of government as the law-agreement of coparticipation and the federal fiscal organ, and the transferences of powers, services and functions, art. 75, part 2) and exceptionally (for the federal government for direct taxes, art. 75, part 2, and for Province governments for dictating codes until dictated by Congress, and war vessel construction or calling armies in case of foreign invasion or of danger, so imminent, that does not allow any delay, art. 126).

-There are also prohibited power for the provinces (because they were delegated to the federal government); prohibited for the federal government (because they are kept by the provinces) and prohibited to all government levels (as the concession of extraordinary powers, form the total public power or submission or supremacies to any government or person, art. 29, or the violation of the declarations, rights and guarantees from the dogmatic part of the supreme law).

We’ve said that after the reform the federal relation bonded the federal government, 23 provinces and the autonomous city of Buenos Aires, and, in consequence, are of general application, the classifications mentioned above. Nevertheless, as the city of Buenos Aires has a special nature, that of a city-State, which distinguishes it form the provinces and municipalities, we remit to chapter IV of our cited book for a particular analysis.

- The constitutional reform added the following powers to the federal government, according to the prolix enumeration made by Castorina de Tarquini (“Derecho constitucional de la reforma de 1994”, Pérez Guilhou y otros, Depalma, Bs.As., 1995, Cap. XXVI, El régimen federal y la reforma constitucional, pgs. 351/2):
"1) Establish and modify specific sharable resources allocation sharable, for a determined time and through a special law (art. 75, part 3);
"2) Provide for the harmonic growth of the Nation and to the population of its territory; Promote differentiated policies aimed to balance the unequal relative development of the provinces and regions (art. 75, part 19);
"3) Sanction organization and education base laws that consolidate national unity respecting provincial and local particularities, complying with certain requisites (art. 75, part 19);
"4) Approve or drop the new international treaties incorporated by the reform, this is, treaties on human rights with future constitutional hierarchy, integration treaties, norms dictated by supranational organisms and have knowledge of the international treaties celebrated by the provinces (art. 75, part 22 y 24, y art. 124);
"5) Legislate affirmative action measures that guarantee real equality in opportunities and treatment, and pain enjoyment and exercise of the rights recognized by the Constitution and by the current international treaties on human rights (art. 75, part 23);
"6) Dictate a special and integral social security regime for children in defenseless situation and for mothers during pregnancy and nursing period (art. 75, part 23);
"7) Order or decree federal intervention (art. 75, part 31, and art. 99, part 20);
"8) Exert the govern function whose leadership is recognized to the person of the president of the Nation (art. 99, part 1);
"9) Exert the general administration of the country, through the chief of cabinet, being the president of the nation the political responsible and its control organ, the General Auditory of the Nation (arts. 85, part 1, and 100, part 1);
"10) Dictate decrees of need and urgency under determined conditions, excluding from this normative what refers to penal, tributary, electoral and political parties matters (art. 99, part 3);

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"11) Make collect the Nation's revenue and execute the national Budget Law, power of the chief of the Cabinet (Gabinete), who will exercise it under the supervision of the Nation's president (arts. 99, part 10, and 100, part 7);
"12) The organization and administration of justice. A special organ, the Council of the Magistrature, which has no provincial representation, does the appointment of magistrates. The appointment is always made by the president with the agreement of the Senate (arts. 99, part 4, y 114)".

- The Constitutional reform also augmented the exclusive powers of the provinces, as indicates María Celia Castorina de Tarquini, pg. 353):
"1) Dictate provincial constitutions according to art. 5, assuring municipal autonomy and regulating its reach and content in the institutional, political, administrative, economic and financial order (art. 123). This disposition draws the third level of political decentralization, and gathers the, every day stronger, tendency, of provincial public law, in the sense of recognizing municipal autonomy.
"2) Create regions for the economic and social development and establish organs for to comply with its goals (art. 124);
"3) Celebrate international convention under certain conditions (art. 124);
"4) Exercise all those powers which are implied in the concept of provincial origin domain of the existing natural resources in their territories (art. 124);
"5) Exercise police and imposition powers on national utility establishments within the Republic's territory (art. 75, part 30)".

-Regarding concurrent powers, the reform incorporated: intern indirect taxes (art. 75, part 2); powers related to Argentinean indigenous peoples (art. 75, part 17) stated in the new progress and human development clause (arts. 75, part 19, primer paragraph, and 125). Even though there is no exact relation between the texts of these last norms, we interpret, in coincidence with Castorina de Tarquini (op. Cit., pg. 355), that all those matters mentioned in art. 75, part 19, first paragraph, require provincial concurrence execution, and we also think that the generic enunciation of art. 125 comprehend the more specific of that norm. Likewise, art. 41 recognizes the Nation's power to dictate "the norms that contain the minimum budgets" on environment, and art. 75, part 19, those "organization and base laws" for education, but for us the constitutional doctrine on concurrent powers, as sustained before the Constituent Convention. (See "Reforma constitucional de 1994. Labor del Constituyente Antonio María Hernandez (h.)", Imprenta del Congreso de la Nación, Buenos Aires, 1995, pg. 60).

-Art. 125 also prescribes that "the provinces and the city of Buenos Aires may maintain social security organisms for public and professional employees ", which must be interpreted as a ratification of the concepts already determined by art. 14 bis, in a special defense of the powers of the provinces and those of the city of Buenos Aires, in front of the beatings from the central government, which through fiscal pacts and other pressures, intended the transfer of the pension funds.

Finally, regarding art. 42 which foresees " the necessary participation of consumer and users associations and the interested provinces, in the control organisms ", in the "prevention and solution of conflicts" and the "regulatory frames for the public services of national competence", we also share the opinion of Castorina de Tarquini (op. Cit., pg. 358), that a power, originally national, may turn in exercise concurrent by the will of the provinces who are interested in participating. We add that provincial participation in national organisms must be pointed as another important slaughterhouse of deepening in federalism.
- Regarding the new shared powers introduced by the reform, Castorina de Tarquini (op. Cit. Pgs. 359/360) indicates: "1) the establishment of the contributions coparticipation regime, which will be made through a law-agreement, on the base of agreements between the Nation and the provinces [. .] 2) The same constitutional disposition [art. 75, part 2] establishes another shared exercise power, by establishing that there will be no power, services or function transfers, if the respective resource re assigning is not made, approved by a law of Congress when necessary and by the interested province of the city of Buenos Aires, in such case. This means that such a transfer will operate if there is an agreement among the different political powers. [. . .] 3) Finally, the control of coparticipation and the

possible service transference, will be in charge of the federal fiscal organism, with the representation of all the provinces and the city of Buenos Aires, by which this function is also exercised in a shared form (art. 75, part 2)".

The Senate and its federal role. The reform produced this changes: 1) the incorporation of a third senator for each province, who corresponds to the second party in the elections, or to the minority (art. 54). 2). The direct election of senators and the reduction of their mandates, since before it was indirect and with a nine year mandate, which was reduced to six. (Arts. 54 y 56 which modify anterior 46 y 48) and 3) The accentuation of the federal role: because it was instituted as an origin chamber in the treatment of two fundamental laws: The tax coparticipation law-agreement (art. 75 part 2) and the laws on the harmonic growth of the Nation and population of its territory and promotion of differentiated policies aimed to balance the unequal relative development of provinces and regions (art. 75 part 19).

c) Federal intervention: This is the classical claim of Argentinean federalism as expressed by Frías, sine our history counts more than 150 interventions of which nearly 2/3 were disposed only by a Decree of the President of the Republic and only the remaining third by a Law of Congress. Consequently, to avoid this abusive use of the institute which was one of the causes of the centralization of the country, the Reform established that only Congress could declare the intervention of the federation in the Provinces of in the autonomous city of Buenos Aires (art. 75 part 31), which also approves or revokes the intervention decreed by the President of the Nation during the recess of Congress. Art. 99 part 20 established that if the Executive Branch decreed an intervention during the recess of the legislative organ must be simultaneously called to extraordinary session to deal with the measure.

d) Political parties and federalism: We consider that by including parties in the Constitution (art. 38), with the obligation to respect the Constitution, they must accept the values and principles of federalism not only in state organization but within their organization and functioning. Another of the causes of disfederalization of the country has been the lack of a proper fulfillment of these principles by the bigger national parties.

Regarding point 2, on the financial aspects of federalism, the reform modified a: a) tax coparticipation and b) the federal principles of the nation's federal budget.

On tax coparticipation, first, the reform clearly defined power distribution between the federal and provincial governments, regarding: external indirect taxes, as federal - part 1 of art. 75-; the indirect internal taxes, as concurrent– in part 2, first paragraph of art. 75-; and direct tributes, only exceptionally belongs to the federal government –in part 2, second paragraph, of art. 75- as stated by the doctrine.

Immediately after, part 2 of art. 75 defines as coparticipable those indirect intern taxes and those direct that in an exceptional form are collected by the federal government, except for the part or totality of them that are specifically assigned. This last matter was object of intense negotiations, since this was a commonly used system to take away funds from the sharable mass, which affected the provinces, that is why they establishes special conditions in part 3, as we will see. The taxes that correspond to provinces that have natural resources are not part of the sharable mass.

Afterwards part 2 says: "A law-agreement, on the base of agreements between the Nation and the provinces, will institute regimes of coparticipation for this contributions, guaranteeing the automatic remission of funds. ".

-. The above-mentioned law - agreement must fulfill the following conditions according to the Supreme Law: 1) The Senate is the Chamber of origin. 2) The sanction must be with the absolute majority of the totality of the members of every Chamber. 3) It cannot be modified unilaterally. 4) Neither can it be regulated. 5) It must be passed for the provinces. 6) The distribution between the Nation (or Federal Government), the provinces and the City of Buenos Aires, and between these, will

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be carried out in direct relation to the competences, services and functions of each one of them, contemplating objective criteria of allotment. 7) These criteria must be: equity, solidarity and priority to achieve an equivalent degree of development, quality of life and equality of opportunities in the whole national territory.

The incorporation of the institute of the law - agreement to the Constitution is, for us, a transcendental reform destined to guarantee a federalism of conciliation, in one of the most troubled chapters of Argentinean history: the financial relation between Nation and provinces.

The National Constitution, in a notable advance, forces to the conciliation: 1) first, of the president and of the governors, and also of the chief of Government of the City of Buenos Aires, since it is not possible to ignore his participation, so much in the debate on the primary distribution, as in the secondary distribution, as expressly mentions part 2 of art. 75, to formulate the base of agreements on the co partnership. 2) Secondly, the project of law - agreement must get approval for qualified majority, specifically absolute majority of the totality of the members of every Chamber, which forces then to a high degree of consensus between the representatives of the people and of the provinces, since the legislative functioning indicates the difficulties to reach the above mentioned aggravated quorum. 3) Thirdly, to reach this laborious step of the law - agreement, sealed by the consensus and the conciliation, the approval must achieve on the part of each of the legislatures province

These special requirements are meant to revert, on the one hand, the simple adhesions that the provinces had to give to the legislation that the central government was imposing almost always due to the dependence of the provinces, and, on the other hand, fix a definitive regime with clear rules, which allow a balanced development of the federation, instead of the arbitrariness that has sealed the relation Nation - province.

With regard to the nature of the law - agreement, Masnatta thinks that a contractual norm of right is "intra federal that and differs from the generality of the laws ", with "soul of contract and body of law" (according to opinion expressed in the bosom of the Constituent Convention).

-. The Constitution has prescribed the integration of the coparticipable mass with the indirect internal taxes and the direct ones that correspond to the Nation in exceptional form, according to part 2 of art. 75; but has admitted the possibility of derogation of a part or of the totality of they by means of specific assignments. Nevertheless, since for this route once affected federalism, as it has been indicated by Rodolfo Spisso (“Derecho Constitucional tributario”, Depalma,. Bs.As. , pages. 156/7), in cases like the creation of the Transitory Fund to finance fiscal provincial imbalances (law 23.562), or the tax on interests and adjustments of fixed deposits in benefit of certain provinces (law 23.658), part 3 of 1art. 75 have established special requirements for them. In effect, it orders that the laws that establish or modify specific assignments of coparticipable resources should have determined time and sanctioned by a special quorum of the absolute majority of the totality of the members of each chamber. We insist that especially the latter requirement is very important as guarantee for the provinces, since it is not easy to reach the above-mentioned quorum in the legislative task, without a high degree of consensus. Likewise, in the arduous negotiations on this norm, they tried that the quorum was increased - of both two thirds of the totality of the members of the Chambers-, but finally the consensus achieved with the sanctioned draft, which will not be the ideal one, but that reflects the decision of the constituent to limit this modality that turned out to be so negative for the tax co partnership.

-. The reform imposed share criteria, for the primary distribution of resources as for secondary. Regarding primary distribution, between the Nation and the provinces and the city of Buenos Aires: a) related to specific grants, recently analyzed, y b) "the direct relation to the powers, services and functions of each one of them considering the objective share criteria.", as says part 2 del art. 75, in a phrase that is correlated by a later paragraph of the same norm that expresses: " there will no be transference of competences, services or functions without the respective reassignment of resources, approved by law of the Congress when it corresponds and by the interested province or the City of

Buenos Aires, in its case". We highlight the transcendence of this criteria, since one of the tools to the federal government to injure the federalism was to impose transferences of competences, services or functions to the provinces or to the City of Buenos Aires, with what it centralized resources and nationalized the deficits.

Regrettably we know that transitory disposition number six was not observed, which indicated a final term to issue the coparticipation regime “before the end of 1996”, but we pointed that this criteria would be determinant at the moment of discussion the primary distribution, because many services have passed to the provincial sphere and even municipal, in a decentralization process that we consider fundamental for the future of the country, and that, as a consequence, will require an increase of the corresponding percentage for the provinces, the city of Buenos Aires and after to the rest of municipalities.

The transitory disposition that we just mentioned, also insists in the concept we referred, because it prescribes that “current powers, services and functions distribution at the moment of sanctioning this reform, will not be modified without the authorization of the interested province"; and adds: "neither can the current resource distribution be modified in detriment of the provinces and in both cases until the issuance of the mentioned coparticipation regime. This clause does not affect the administrative and judicial claims in process originated by differences due to competence, services, functions or resources distribution between the nation and its provinces".

Regarding the terms used by the Constitution, Humberto Quiroga Lavié indicates that: "A competence is the ambit of juridical validity that habilitates to create of apply law. A function is a role foreseen within the administrative organization, to achieve determined objectives programmed by the administration. A public service is an activity of public utility, those knows an administrative law public services, which, then, are submitted to rules imposed by the need of giving the service, which implicates the exercise of police power " (“Constitución de la Nación Argentina comentada”, Zavalia, Bs. As., 1996, pg. 350).

The sharing criteria for secondary distribution, in other words, between the provinces and the City of Buenos Aires, shall be, according to the constitutional norm we are studying: a) objective: which means, reasonable; b) equitable: with justice in the concrete case, ex.; c) solidarity: interprovincial mutual aid; and d) priority for the achievement of an equivalent degree of development, life quality and equality of opportunities. This clear concepts, related to the high purposes of art. 75, part 19, which intends to be a new progress clause, with special emphasis in human development, oblige to make a big effort to correct the unbalances, inequities and injustices of the Argentinean society.

We share the opinion of Horacio Rosatti (“La reformat de la Constitution”, Urinal Culzoni Editores, Bs.As. , 1994, pags.243/4), which the "quality of life" and the "equality of opportunities" indicate that the tributary policy "must have the concrete inhabitant as a recipient” more than the regions, since they all have elevated poverty and marginality indexes. But we must add that the other parameter, "the equivalent degree of development ", reinforces the idea of overcoming the actual differences between the provinces and must be related to another important reform: the constitutionalization of the regions for economic and social development.

- The tax coparticipation law-agreement wasn’t sanctioned in the established term, which was another violation of the Constitution.
- Finally, the reform disposed the creation of a Federal Fiscal Organism (art. 75 part 2) which orders: “Un federal fiscal organism will be charge of control according to the law, which shall assure the representation of all provinces and the city of Buenos Aires in its composition”. So, the constituent elevated to the maximum hierarchy an existing organism, the Federal Tax Commission created by law 20.221, in 1971.

Respecting point b) on federal principles of the federal budget, this is an important modification established by art. 75 part 8, which posses the attribution of Congress to sanction the federal budget,

and adds the following formula: “according to the established parameters in the third paragraph of this article”. I remind that those parameters were indicated for the sanction of the tax coparticipation law-agreement. Consequently, both for the public spending and the calculation of re foreseen resources in the budget, must be based in the government and public investments program which must respect the constitutional parameters of objectivity, equity, solidarity and priority for the achievement of an equivalent development, life quality and equality of opportunities in all national territory. This constitutional policy links the budget with essential matters for the federal project: regionalization, integrations, decentralization and autonomy strengthening.

Unfortunately, as we’ve exposed, this dispositions haven’t been respected after the reform.

In point 3, on economic and social aspects of federalism, se points the following reforms introduced in 1994:

a) The Federal Bank: In fact, part 6 of art. 75 established that Congress has powers to “establish and regulate a federal bank with power to issue coin, so as other national banks”. The intention of the modification was adapting the Central Bank, whose conception and name is proper of a Unitary State, to that corresponding to a Federal State, following the examples of other federations as the north American, the Suisse or German.

b) Regions for economic and social development: As indicated by art. 124: “The provinces may create regions for economic and social development and establish organs with powers for the fulfillment of those objectives...”. This modification has special importance and means, first, that the finality of regions must be the promotion of economic and social development.

Second, the constitution allows provinces to celebrate partial treaties for justice administration, economic interests and common utility works and forbids them to celebrate partial political treaties, so regions may not constitute a new political government level.

Third, for us, regions have juridical public state personality; with adjective decision power, limited to the promotion of economic and social development; whose creations depends of the will of the provinces, according to the reformed constitution.

Fourth, the region is an alternative to strengthen federalism as anticipated by Alberto Zarza Mensaque (“La región como alternativa federal”, Boletín de la Facultad de Derecho y Ciencias sociales de la Universidad Nacional de Córdoba, nº 1 y 2, 1977, Córdoba). This means that the regions must only exist to strengthen our form of State, which is federal. Which means that the region is another form of decentralization that must serve the constitutional federal project and cant be used to centralize or attack the provincial or municipal autonomy.

On the meaning of economic and social development, indicated by the supreme law, we remind that development is the new name of peace, as said Paul VI in the "Populorum progressio". That is why the 1994 constitutional reform incorporated a new clause of progress or of development, in part 19 of art. 75 –as a power of Congress and the provinces art. 125-, with the name of “human development ".

Consequently, there shall be a relation between economic and social development and human development, which is a common obligation for all the institutional actors of the federation.

In the Argentinean case, the federal structure of the State allows the addition of the possibility of regionalizing only for economic and social development to achieve the country’s integration and a more balanced development of the different regions and provinces.

For a more detailed study on this matters see “Integración y globalizacion: rol de las regiones, provincias y municipios”, where we point the necessary reforms to deal with national and supranational integration.

C) Provinces and international relations:
Art. 124 of the national Constitution, after referring to provincial powers to create regions, establishes that: ". . . and may also celebrate international conventions while this are not incompatible with the Nation's foreign policy and do not affect the powers delegated to the Federal Government or the Nation's public credit, with the knowledge of the national Congress. The city of Buenos Aires will have the regime established to the effect ".

The imperious need of supranational integration –as a path imposed by globalization, interdependence and the increasing international economic competence-, originated the development of binational border sub regions, where some Argentinean provinces intervened.

In fact, within the frame of MERCOSUR and as a consequence of the Sub regional Border Integration Protocols, were created the Crecenea y Codesul, a reunion of Argentinean Provinces and States of Southern Brazil aimed to promote foreign commerce and integration. Likewise there were other regional integration experiences, as the Noa (Argentinian Northwest)-Grand North if Chile and of infrastructure, as the Zapala-Lonquimay railroad –between the province of Neuquén and the respective region in Chile -, etc. Before the 1994 reform, some provinces had developed another important experience regarding international management: promotion of exterior commerce. In this sense, we must point the example of the province of Cordoba, which since 1983 made more than 50 foreign missions, had a Ministry in the matter and a "Córdoba Trade Center" with see in New York, Roma and Sao Paulo, with results in the notable expansion of the provincial exports.

Regarding the reach and limits of these conventions, we must conclude that the constituent distinguished the conventions from the treaties, according to their limited reach.

In this sense, Nestor Pedro Sagues ("Los tratados internacionales en la reforma constitucional de 1994", La ley, 11-3-1994) has sustained that "the provincial-international conventions must not exceed provincial powers in their competences (reason by which they may only operate in the matters within provincial powers or with provincial concurrent powers with the Nation), and besides has to respect the existing federal law (constitutional and infraconstitutional), previous and posterior to the provincial-international convention".

Regarding their limits, the Constitution expressly mentions them in its text, not stopping in its analysis due to briefness reasons, but we remit the reader to our cited work on "Federalism..".

D). The provinces and the original domain of natural resources.
The reformed national Constitution, in the last paragraph of article 124, establishes: "The original domain of the existing natural resources in its territory corresponds to the Provinces".

The increasing centralization process suffered by the country, had as one of its most negative aspects, the advance of the national government over the domain of provincial natural resources. This invasion was affirmed by laws of Congress and through the jurisprudence of the Nation's Supreme Court of Justice, which under our point of view were unconstitutional, because even if the 1853/1860 text did not define the matter expressly, the federal principle of articles 1, 3, 13 y 104 should be applied. We even arrive to recognize the national domain, article 40, which constitutional zed the take away.

That is why this assignation to the provinces or the original domain of natural resources, made by the 1994 Santa Fe and Paraná Convention, must be seen as a decisive expression of the strengthening of Argentinean federalism, which was one of the stronger ideas-forces that lead the reform.

As understood, this domain reaches the sea. hydrocarbons, energy, fishing, etc. Consequently, this supposes the modification of the respective legislation by the Nation's Congress.

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But we can't stop signaling the provincial responsibility, who have to defend the rights that undoubtedly corresponds to them, and that is why, should not doubt on the possibility of challenging before justice to make them prevail. .

Likewise we consider that the exploration, exploitation and benefit of natural resources, with a sustainable development concept, opens a wide field for concert federalism, through the use of interjurisdictional relations and entities. This institutional modernization, fundamental for federal, provincial, of the city of Buenos Aires and municipal governments, and even with regional level, will be a requisite to face the great challenge of transforming in a developed, integrated and balanced country.

We do not ignore that this process demands an elevation of our political culture, to be able to overcome exacerbated individualism, corporative tendencies and the impossibility- that many times we suffer- to project and execute architectonic policies face to the structural problems of the Argentinean society and State.

e). Social security organisms and other concurrent powers.
The 1994 constitutional reform, in its art.125, added the following paragraph to the anterior art. 107: "The provinces and the city of Buenos Aires may maintain the social security organisms for public and professional employees; and promote economic progress, human development, job creation, education, science, knowledge and culture".

This norm ratifies the dispositions of art. 14 bis, which defend provincial autonomy, from pressures made for the transfer of the provincial pension funds to the federation. Likewise increases the reconnaissance of the free exercise of concurrent powers by the provinces.

The matter inscribes, under our point of view, in the strengthening of other aspects of federalism: specifically social.

f). Federal principles on education, science and culture.
Besides art.125, which defines, this matters as concurrent, art. 75, on the powers of Congress, expresses in part 19, third clause: "Sanction the law for the organization and for education base that consolidate national unity respecting the local and provincial particularities; [. . .]", and in its fourth clause: "Dictate laws that protect the identity and cultural plurality, free creation and circulation of works from the author, artistic patrimony and cultural and audiovisual spaces ".

The reform has not only confirmed –as seen before-, the existing power distribution, but when referring to congress powers in education and culture, has given precise federal directives. It can't be interpreted differently respecting the "provincial and local particularities" or the protection of the "cultural identity and plurality", of the "free creation and circulation of works" and the "artistic patrimony and cultural and audiovisual spaces".

Consequently, Congress, when dictating regulating laws, must comply scrupulously with these federal principles in culture and education, which are essential for Argentinean identity (argentinidad) and for our single and diverse reality. Likewise, in the function and services decentralization process, which operates in the country, local responsibilities will be each time bigger, particularly in education. The same will happen in knowledge and in science and technology –beyond its links with education-, due that integration, competitiveness and the rules of the economic world order will require it that way.

We understand, then, that the 1994 reform, to strengthen federalism, dealt with this matters within its social aspects.

As a conclusion, the fulfillment of the federal project of the Constitution, results of a huge transcendence for the country. Of course that such question lays within another special problem, the

lack of political and juridical culture which difficult the respect of the normative force of the Supreme Law.

6. **How many territories or main territorial communities compose the federation? Do they all have the same nature (for instance, states) or do they have different nature and position (for example, states, federal capital, colonial lands, communities with a specific regime of autonomy)?**

As we've anticipated, the Argentinean Federation has: 23 Provinces and the autonomous city of Buenos Aires, which is actually also the Federal Capital, see of the federal authorities.

The Provinces are States and the autonomous city of Buenos Aires is almost a Province. So, beyond the debates produced on its juridical and institutional nature,- remembering that for us it is a city-State-, which can't be doubted is that it is one of the 25 "partners" of the Argentinean federation, considering also the federal government.

The 23 Provinces are: Buenos Aires, Catamarca, Córdoba, Corrientes, Chaco, Chubut, Entre Ríos, Formosa, Jujuy, La Pampa, La Rioja, Mendoza, Misiones, Neuquen, Río Negro, Salta, San Luis, San Juan, Santa Cruz, Santa Fe, Santiago del Estero, Tucumán and Tierra del Fuego.

7. **Do they have singular features (for historical, linguistic, geographical, political, legal or economical reasons)? Do these singular features have political or legal consequences? In other words, how have the differences between the main territorial communities been approached from the perspective of uniformity/diversity or asimmetry/simmetry?**

There are no differential elements between the members of our Federation. We've only distinguished between "historic" and "new" provinces. The first, formed between 1815 and 1834, which were 14: Buenos Aires, Catamarca, Corrientes, Córdoba, Entre Ríos, La Rioja, Mendoza, Santa Fe, Santiago del Estero, Salta, Jujuy, San Luis, San Juan and Tucumán, were formed around the cities that were funded by the different colonial currents and gave origin to our federalism un the National Constitution of 1853 and 1860.

The 1994 reform, as we've seen, created the Autonomous City of Buenos Aires, with a special institutional hierarchy, as a semi province, which also integrates the Argentinean Federation.

II. CONSTITUTIONAL LAW

1. **Do you have a written Federal Constitution? What is the procedure for its elaboration, ratification and amendment? To what extent can states participate in the process of elaboration, ratification, or constitutional amendment? Which have been the most important amendments or the main constitutional phases until now?**

As we anticipate, there is a Federal written Constitution. For its elaboration and sanction a Constituent Convention met in 1853 that exercised the constituent original power. Though distinguished authors, among whom Germán Bidart Campos, recount the exercise of an original and opened constituent power, exercised between 1810 - date of our first government - and 1853 and 1860, in which the initial text is sanctioned. In the above-mentioned years, there were different attempts of constitutional organization in the country, besides a fratricidal struggle between unitary and federal, that ended with the victory of the latter.

In turn, the procedure for the constitutional reform is regulated in art. 30 that say: " The Constitution can be reformed in everything or in any of its parts. The need of reform must be declared by the Congress with the vote of two thirds, at least, of its members, it won't be carried out but by a Convention summoned for the effect ".

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In consequence, a pre constituent stage exists in charge of Congress, integrated by its two chambers, that of Representatives and that of Senators, who must declare the need of the reform and then if necessary to choose the Constituents that will have in their charge the specifically constituent stage.

The Convention at that time, express the popular sovereignty in its higher expression.

Some support that in 1853 they exercised as original constituent power, when the representatives of fourteen historical provinces, sanctioned the Supreme Law, under a representative, republican and federal form of government, as says the art. 1 º, though the federal one is a form of State.

Also, since we have advanced it, they support that in 1860 they exercised original constituent power, since the above mentioned reform was carried out after the incorporation of the Province of Buenos Aires to the Federation of Argentina, since it had been secessioned in 1852 and had not met in the Convention of Santa Fe in 1853 that was sanctioning the original text of the above mentioned year.

Beyond this question, of doctrinaire interest, we can indicate these stages of reform: a) initial Sanction in 1853. B) Reform of 1860. C) Reform of 1866. D) Reform of 1898. E) Reform of 1949, which was left without effect in 1956. F) Reform of 1957. G) Reform *de facto* of 1972, which also was left without effect. H) Reform of 1994.

This last reform, the most important in our whole history, ended definitively with the debate on our reforms. Indicating that the current Federal Constitution is that of 1853, with the reforms of 1860, 1866, 1898, 1957 and 1994.

As for the participation of the Provinces in the constitutional reforms, we indicate that the Preamble of the Constitution expresses: " Us the representatives of the people of the Nation of Argentina, assembled in General Constituent Congress for will and election of the Provinces that compose it, in fulfillment of preexisting agreements... ". Which indicates that the Provinces preexisted to the Federal State and that it was them, who sent representatives, and also, created the Federal Government by means of the delegation of their competences by means of the Constitution, being still the North American model.

As for the stage of exercise of constituent derivative power, that destined for the reform of the Constitution, the Provinces take part hereby: in the pre constituent stage, the members of the Representatives Chamber of the Nation, are elect in representation of the people of the Nation, on a demographic base, in each of the Provinces. And besides, and this is the more specific, in the Federal Senate, exists an equal representation of the Provinces, which had two Senators for each of them, and now, after the reform of 1994 they have three Senators. Here we observe with major intensity the participation of the Provinces in the pre constituent process. Our Senate, since it corresponds to a Federation, is the federal organ par excellence. We have already said, that it was still the model of the North American Senate.

In turn, in the specifically constituent stage, the Convention joins with a number of constituents, elected by the people, which is the sum of the number of Representatives and Senators. Even though the constituents represent the people of the Nation, are elected in each of the Provinces that integrate the federation.

2. **Do you have any complementary constitutional federal rules? If so, which are the most important? Are "constitutional conventions", namely, unwritten binding agreements or rules of conduct, recognized in your system? Could you mention the most important?**

In our constitutional system, as in the North American, there exists the principle of constitutional supremacy, enunciated in the art. 31 hereby: " This Constitution, the laws of the Nation that in her consequence are dictated by the Congress and the agreements with foreign powers, are the supreme

law of the Nation and the authorities of every province are forced to conform her, nevertheless any disposition in opposite that the laws or provincial constitutions contain... "

In consequence, they can indicate some federal laws that complement the Constitution and that can integrate what some authors are call the " material constitution ". In this respect we mention the laws on tax co partnership, of a very special way, besides others on political parties, on electoral legislation, or on the Federal Justice. Besides laws have been dictated on federal interventions or on industrial promotion or on natural resources or public services that affected Argentinean federalism, in a particularly negative way, for not having respected the constitutional bases of delimiting competence.

We must also indicate here, with critical sense, the jurisprudence of the Supreme Court of Justice of the Nation, which not always supported the federalist theses, but it admitted the advance of the powers of the Federal Government in decline of the provincial and local powers.

Since these questions cannot be answered with total accuracy, nobody can indicate the existence of constitutional conventions. Only some expressions of the doctrine (See Castorina de Tarquini Maria Celia, " Federalismo e integración", Ediar, Bs.As., 1997, pag. 73/77), following the terminology of German federalism, she refers to the principle of " federal loyalty " and to the " federal guarantee". But we have doubts in the matter, for being completely different situations and because we do not believe that especially the first principle has had force in our country, considering the incorrect functioning of the federal system of the Constitution.

3. Are there any written state constitutions? What is the procedure for its elaboration, ratification and amendment? To what extent can the federation intervene in these procedures? Could any federal organism provisionally suspend some of their provisions? Are state constitutions bound by federal rules other than the Federal Constitution? If so, which are they?

As we previously anticipated, every Provincial State has recognized autonomy that includes institutional, political, financial and administrative aspects. The exercise of its constituent power is prescribed in art. 5 of the Supreme Law of the Nation, which says: " Every Province should dictate a Constitution under the representative republican system, in agreement to the principles, declarations and guarantees of the National Constitution; and that assures the administration of justice, its municipal regime and primary education. Under these conditions, the Federal Government will guarantee to every province the possession and exercise of its institutions ". In consequence, the Provinces sanctioned their Provincial Constitutions, first in an original way, immediately after the sanction of the Federal Constitution, and then exercising derivative constituent power.

As for the procedure for the sanction of the Constitutions, generally they used a method similar to that of the federal order, through constituent conventions. Though for the reforms of provincial constitutions, we observed in some cases, the procedure of the amendment of some articles by the proper Legislature, and then it was submitted to a popular "referendum" for its definitive approval.

The Congress of the Nation revised the provincial constitutions, until the reform of the federal Constitutional of 1860. But after the above-mentioned year, only through the judicial route can there be a control of the constitutionality of a provincial constitution reform, so the Supreme Court of Justice of the National is the final interpreter of the Federal Constitution in the matter and the one that has the last word. There is no participation of the Federal Government in the provincial constituent process.

This topic of the control of constitutionality of a provincial constitutional reform, of special complexity, has been considered in our work ""El caso Fayt y sus implicancias constitucionales", Academia Nacional de Derecho y Ciencias Sociales de Córdoba, 2001, to which we send the reader in reason of briefness.

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Besides judicial control, in a theoretical form it is possible to support that if a Province does not respect the constitutional limits of the Federation, it can be an object of an intervention of political and extraordinary nature by the Federal Government. The above-mentioned possibility emerges since as we saw from art. 5 " *in fine* " of the Supreme Law and explicit in art. 6 º, that says: " The federal government intervenes in the territory of the Provinces to guarantee the republican form of government, or to repel foreign invasions, and by requisition of their authorities constituted to support them or to restore them, if they had been deposed by a rebellion, or by the invasion of another province".

The Provinces, as we have seen, must respect the principle of federal supremacy of art.31 of the National Constitution and specially, the bases of art. 5 º already described.

III. CONTENTS OF THE FEDERAL CONSTITUTION. DOES THE FEDERAL CONSTITUTION:

1. **Expressly recognize federalism or political decentralization as a constitutional principle or value?**

Previously we have explained in detail this question.

Federal constitution has established undoubtedly some clear decentralization of the power in the Argentinean State and especially, after the last constitutional reform of 1994. As referred, in the above-mentioned opportunity, besides the deepening of the federalism, was recognized the principle of the municipal autonomy and create the Autonomous City of Buenos Aires, as another member of the Federal State.

Some authors, as Bidart Campos, have supported that federalism is a "stony" content of our Constitution, beyond of the opinability of the above-mentioned term. Beyond this debate, for us it is evident that decentralization is one of the principles and values of major importance in our constitutional organization.

2. **Design a map of the territorial organization? In other words, does the Federal Constitution identify or enumerate the territories and/or the communities that conform the federation?**

No.

3. **Enshrine the autonomy of the states? If so, in which way?**

We have already recorded it when mentioned the most important articles 5 º, 121 º, 122º, 123 º and 124 º. There are also others that link themselves to the above-mentioned question, as arts. 3 º and 13 º on the Federal Capital and the formation of new provinces, which establish the principle of integrity or territorial intangibility, as other one of the elements of the provincial autonomies, as always it becomes necessary the agreement of the provincial respective legislatures for the transfer of provincial territories in the above mentioned cases.

4. **Recognize states or main territorial communities the capacity to federate among them? If so, can they establish links or celebrate conventions among them without the participation of the federation?**

The current National Constitution in art. 125 (before 107) indicates: " The Provinces can celebrate partial agreements for purposes of administration of justice, of economic interests and works of common utility, with knowledge of the Federal Congress;... " So the Provincial States can celebrate these called "domestic" agreements, providing that they are not of "political" nature, since this one

prohibited by current art. 126 (before 108) that express: " The Provinces will not exercise the power delegated to the Nation. They cannot celebrate partial agreements of political character... "

These interprovincial agreements gave place, as we mentioned in the historical stages of our federalism, to a cooperative or conciliation federalism, instead of the previous dual federalism.

For the celebration of the above mentioned agreements, and beyond the doctrinaire debates, we support that as the constitutional text indicates it, only it is necessary that the agreement gives knowledge to the Federal Congress, which only takes part to the purposes of controlling "ex-post fact" if it has been violated or not the constitutional federal text, being able to challenge before the Supreme Court of Justice of the Nation or very eventually, use the federal intervention power of art. 6 º.

After the reform of 1994, art. 124 º as we saw, has recognized the provinces and the autonomous city of Buenos Aires, the possibility of creating " regions for the economic and social development " and of celebrating " international agreements ", which means the incorporation of a procedure that we consider to be fundamental for the future of Argentinean federalism. The topic of the both national and supranational integration was meaning a process of modernization and of change in the public law of our country, in the light of the constitutional produced reform and that we have studied in our works " Federalism ... " and " Integration and Globalization: role of the regions, provinces and municipalities ", already mentioned, to that we us send in reason of briefness.

5. **Fully define the whole system of decentralization, or is this system thought to be developed to a great extent by future federal provisions? If so, which are they?**

Let's consider the regime of the decentralization to sufficiently define in the National Constitution. Though it is necessary in some cases, the regulation by other authorities. Ex., the municipal regime, though it has to respect the big principle of art. 123 that municipal autonomy establishes in the aspects institutionally, politically, economically, financially and administratively, as for their " scope and content ", must be specified on the part of the respective Provincial Constitutions.

On the other hand, as for the Autonomous city of Buenos Aires, art. 129 of the Constitution established that the Congress of the Nation had to dictate some regulation laws in the matter to delimit competences between the Federal Government and to Autonomous city.

6. **Allow the exercise of the right to self-determination or the separation of states or other territories?**

We think that not, since it is accepted among us that definition of the Supreme Court of Justice of the United States, in the case " Texas vs. White ", that the " federation is an indestructible union, of indestructible states ".

We are a federation, not a federation (even there are historical denominations) and in consequence, the rights of secession and of nullification are not recognized on the part of the provincial states. It does not mean that of a province others could be formed or of several one, or that new provinces could be admitted, as art 13 authorizes it in the following terms: " new provinces will be able to be admitted into the Nation; but a province can’t be raised in the territory of other one or others, or several form one alone can’t be formed, without the assent of the Legislature of the interested provinces and of the Congress ".

IV. INSTITUTIONAL ISSUES

1. **Do states participate in the election, appointment or cessation of the federation's chief? Is there any other relationship between this figure and states or main territorial communities? Which one?**

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Before the 1994 constitutional reform, the President and Vice-president's election was indirect by means of Electoral College, like in the north-American system and with double electors than representatives and senators on each province. But after the reform, the election was direct and at double turn. Therefore, it can be said that the States don't participate in that designation as themselves.

In reference to the existence of any other relationship, in addition to the Federal State main between it's different governments, we must mention art. 128 (110 before) saying: " The province governors are natural agents of the Federal Government applying the Constitution and the law nations". However, reading this article in accordance to our State form, that has brought some interpretative problems, can only mean the necessary cooperation between different government areas.

2. **Is there any Senate or second legislative assembly that represents the states? If so, does it exercise its representative role effectively? Why? What functions does the Constitution attribute to this legislative assembly? How are states represented in this chamber? Do they have the same kind of representation on the basis of the number of votes or seats? Does any state have a special position in this chamber (for instance, exclusive initiative or veto prerogatives, etc.)? How representatives are organized in this second chamber, according to their territorial origin or to their political groups?**

As said before, when existing a Federal Senate, in the north-American style, formed by 72 Senators that in paritary way of 3 members represent each of the 23 provinces and the autonomic city of Buenos Aires (art. 54º).

Our Congress is a complex organ composed by 2 Houses, were the House of Representatives represents the Nation and the Senate the provinces.

Moreover, according to it's functions, the Senate is institutionally more important than the House of Representatives, as it agrees the Presidents decision for designation of State high functionaries as Judges, Ambassadors and high officials of the Army. (Art. 99º parts. 4º, 7º y 13º)

The constitutional 1994 reform, in order to reaffirm it's federal importance, in the process of law formation and sanction, also gave the initiative referring to law tax coparticipation projects and over harmonic development of the Nation and population of it's territory and promotion of different public policies tending to balance the different development relating provinces and regions (art. 75º parts. 2º and 19º).

Without deeply considering this issues, it must be said that historically the Argentinean Senate didn't accomplish accurately it's federal paper, as it currently acted following the political national parties lines, instead of defending the respective provincial interests, as seen in the discussion referred to federal interventions, industrial promotion laws, co participative taxes or affecting provincial natural resources.

3. **Do states have legislative initiative over federal subject matters? Is their consent required for the enactment of certain federal acts? In other words, do they have a veto? If so, what kind of veto?**

It has been said that the Senate only has initiative in 2 types of mentioned laws: laws of tax coparticipation and those related to the territorial population and the promotion of measures pretending to overcome the unequal development of the regions and provinces.

At the same time, it's also necessary the province participation with the governors intervention, who hold the executive power, to come to an agreement with the Republic's President in the Coparticipation tax law, according to art. 75 part 2. That agreement must be approved by absolute majority of each one of the houses of the federal congress and for each of the provincial term of office.

It's also necessary the conformity of the provincial sessions in the case of cession of territory in the creation of the Federal Capital or the formation of new provinces, as established in arts. 3º and 13º of the Supreme Law and as said before.

In consequence, it has not been foreseen the *vetoes* by part of the Provinces.

4. **Is there any neutral judicial court (Constitutional Court, Supreme Court, etc.) that protects the allocation of powers between the federation and the states? Do states participate in the process of designation of its members? How do you assess the influence of this court upon the current system of political decentralization? Broadly speaking, could you tell whether its case law has been most favorable to the interests of the federation or the states? Are there any subject matters or historical phases in which this phenomenon occurred? Can ordinary lower courts interfere in conflicts of powers between the federation and the states?**

That organ is the Nation Supreme Court of Justice that is the head of the Judicial Federal Power and the last interpreter and irrevocable of the National Constitution. The Argentinean Court, as it's north-American model, exercises constitutional control.

In addition, it has exclusive and original competence due to the 117º Supreme Law, in any cause in which the province is part.

The Provinces participate in the designation of the members of the Court through the Nation's Senate, as the ministers are designed by the Nation president with Senate agreement, manifested in public session and with two thirds of the present members, according to the art.99º part 4 of the National Constitution.

I don't consider the Supreme Court jurisprudence in this area to be positive, as almost always –except few cases-, in the competence conflicts, it declined for the attribution primacy of the federal government over the ones belonging to the provinces and municipalities. Only in the first years as State Power of the Court did it develop a better jurisprudence in these issues. Although afterwards it's jurisprudence validated the centralization process. Finally, we must repeat that the inferior judicial organs cannot take part in these subjects, as the original and exclusive competence belongs to the Nation Supreme Court of Justice.

5. **Which legal mechanisms do the federation and the states have to protect their powers? Are they recognized only against legislative acts, or against regulations and administrative decisions or omissions as well? Could you tell whether the safeguards and procedural position of the federation and the states are symmetrical? In other words, can the federation challenge state acts before a court? And vice-versa? Has the federation a veto against state legislative acts, regulations or decisions? And the states against the federation? Can a state bring a conflict of powers against another state before a court? In each state, which is the legitimate organism –legislative, executive, etc.- to bring judicial actions to protect state powers? Can local entities or municipalities bring judicial actions to protect their autonomy against federal or state acts o rules? Are there any other institutions or individuals legitimate to challenge federal or state legislative acts, regulations, rules or decisions on the basis of a conflict of powers?**

Not only the Federation but also the Provincial States can appeal to the Nation Supreme Court of Justice to defend their competences. That means that they have the respective procedural legitimization, normally developed by the Procuration of the National Treasure and by the Provincial States Attorneys, respectively, to exercise the different judicial actions in defense of their rights. Therefore, they are appeals, certitude declarations, or ordinary judges, predicted in the respective procedural legislation. Theoretically, it can be claimed that the federation and the provincial states have a symmetrical position.

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On the other hand, the constitutional control is exercised not only over laws but also over any other norms or facts that break the Supreme Law.

The municipal governments can appeal to the Judicial Court of the respective provinces and to the Federal Judicial Power in defense of their rights and competences. Normally, once exhausted the provincial via by a Provincial Court of Justice, they can lodge an extraordinary appeal in front of the National Supreme Court of Justice, if a federal case has been raised.

In a different manner, in the cases in which a Municipality is part, there is no original competence in front of the National Supreme Court of Justice. In other words, if the local governments has to sue the Federal Government, it must appear in front of a First Instance Federal Judge and afterwards carry the process at the Federal House of Appeal, and finally, if the requirements have been accomplished, reach the National Supreme Court of Justice by the extraordinary appeal way.

However, after the constitutional reform of 1994, it has to be mentioned that once constitutionalized the autonomic municipal principle explicitly in the art.123º, it is now easier to treat this matter as a federal question, and therefore reach the Supreme Court and not leave the cause only in front of the respective provincial jurisdiction. In this sense, we must precise that the Provincial Constitutions prescribe that the Supreme Court of each province is the one that must take action originally and exclusively in the cases in which a municipality is part, and also in those cases of competence conflicts between the Province State and the municipality.

It must also be said that once constitucionalized the appeal of unconstitutionality in the art. 43, as a guarantee to assure the applicability of the rights recognized in the Supreme Law and in the International treaties that structure the federal constitutional bloc, it has been extended the procedural legitimating to even a collective appeal of unconstitutionality in case of collective or diffuse interests. The respective competences can also be defended by the same means.

6. **Who is in charge of the official appointment of the main state authorities (the chief of the state, government, parliament or legislative assembly, judicial power of the state, etc.)? Does the federation intervene in the process of appointment?**

As established in art. 122º of the National Constitution, the Provinces: “create themselves their own local institutions and rule themselves too. They elect their own governors, their legislators and other province civil servants, without Federal government intervention.”

7. **Does the judicial power follow the allocation of powers? In other words, are there federal and state courts with jurisdiction to solve federal and state cases respectively? Regarding state courts, is the appointment of judges, magistrates and administrative staff a state power? Do states enjoy legislative power to regulate these issues? Is there any body of self-government of the judicial power? If so, which is its composition? What functions does it have? Who is responsible for the provision of material resources to the administration of justice (federation or states)? Which are the criteria for the allocation of resources? Can federal courts review state court's decisions? In what circumstances?**

In the Argentinean Federation there is a Federal Judicial Power and a Judicial Power for each of the Provinces. The Federal Constitution in the art. 75º part 12 prescribes that the application of the Bottom Codes (Civil, Penal, Commercial, Mining and Social Security) are applied by the federal or provincial courts, “depending on the things or the people under their jurisdictions”.

At the same time, and as seen, it established as one of the requirements for the dictation of the respective Constitution by each of the Provinces, the assurance of the “justice administration”.

In consequence, each Provincial Constitution organizes its Judicial Power normally integrated by the Superior Court of Provincial Justice and the lower courts, depending on the different subjects.

Since every Province is autonomous, it prescribes the way of designation of the members of it's Judicial Power, and also supports it, without any intervention of the Federal Government. Likewise it is one of the principal powers reserved of the provinces to dictate it's respective Codes of Procedures in the different matters.

In the same way as the Federal Congress is authorized to sanction the legislative procedure destined for the administration of federal justice, in the Provincial Constitutions is authorized to the Legislative provincial Power, at the expense of the Legislatures, to sanction the respective procedure of organization of the provincial justice.

As for the designation of the provincial judges, in approximately the half of the provincial Constitutions there has been created a Council of the Magistracy, integrated normally by representatives of the attorneys, of the judges, of the Legislative Power and of the Executive Power, with powers for the selection by contests of the justices and judicial civil servants, in the same way as it happens in the federal order, after the constitutional reform of 1994, for the designation of the low judges. In other provinces, governs in general the traditional system of designation of the judges on the part of the Governor with agreement of the Legislature.

There will be understood that I must realize a very general analysis, since the detailed consideration of these systems would take us to an analysis of 23 Provincial Constitutions and of the Constitution of the Autonomous City of Buenos Aires.

Already we have anticipated besides, that to assure the constitutional supremacy dedicated in the art. 31 º of the National Constitution, the Supreme Court of Justice of the Nation can manage to check all the acts or procedure that they do not know, belong to federal or provincial or municipal authority.
The law 48 organized the Federal Justice and in it's art. 14 º expired to the extraordinary resource as the route normally more used to exercise the above mentioned control of constitutionality, in the cases indicated by three clauses, where there are planned federal simple or complex questions, according to which the procedure or acts in direct or indirect form clash with the procedure of the federal constitution. But besides the jurisprudence of the own Court was extending the control of constitutionality in the cases of arbitrariness of judicial provincial judgments or in the called cases of institutional gravity.

8. **Are there others mechanisms for state participation in federal institutions or functions? Do states participate or are represented in relatively autonomous federal organisms, regarding, for instance, citizen's rights or intervention in the economy (independent agencies with regulative, financial and arbitration powers, etc.)?**

Besides the Federal Councils in functioning, as those of Investments, of the Education, of the Energy, etc., the reform of 1994 has foreseen a fiscal federal organism with participation of the provinces and of the autonomous city of Buenos Aires for the control of the system of tax co-partnership, which has not been regulated yet.

9. **Can states freely convoke a referendum regarding political or legal measures? Are there any constraints? In other words, does the federation have any power over this field?**

In general the Provincial States have been recognizing the exercise of the institutes of direct or semi direct democracy as the popular initiative, the popular consultation, the referendum and in minor cases, of the popular cancellation of the authorities.

The above-mentioned institutes have to see with political and legislative questions in the majority of the cases. But it is possible to say that there are some matters forbidden as the linked ones, the constitutional reforms, the creation or annulment of taxes, etc.

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The above-mentioned institutes were dedicated first to the municipal level, then to the provincial level and finally, in the constitutional reform of 1994, in the federal level.

Nevertheless the above-mentioned constitutional consecration in the different levels of the Federation, unfortunately has been very scanty the concrete exercise of the same ones.

10. **Is there any pro-state provision concerning symbolic issues (flags, protocol, languages, etc.)?**

The Federal Constitution says nothing on the matter.

V. THE ALLOCATION OF POWERS

1. **Is the system of allocation of powers mainly enshrined in the Federal Constitution? Does the Federal Constitution secure it?**

Yes, as seen before when referring to the historical stages of Federalism, we described the power distribution system between the federation and the different provinces. Which is organized by the Constitution and in case of violation, they must be challenged before the Nation's Supreme Court of Justice, as we've seen.

2. **Which is the basic design of the system (a list of federal powers, a list of state powers, a double list, other solutions)?**

As seen before, and following the north American model, the reserved powers and not enumerated belong to the Provincial States, and those delegated expressly or implicitly, belong to the Federal Government. The basic power distribution norm is art. 121 (anterior 104º). Besides, in some cases there are concurrent powers between the Federation and Provincial Governments.

3. **Is there any constitutional provision concerning residual powers, namely, "new" subject matters, not allocated either to the federation or to the states by constitutional law? If so, where are allocated the residual powers (federal or state level)? Is it actually effective? Are there any rules or principles that presume that the power is vested in a certain level of governance?**

We have already referred to these matters when analyzing art. 121º, which establishes that this powers, belong to the Provincial States. Beyond the clear Constitutional previsions, the advance on the exercise of powers by the federal government has occurred.

4. **Is there any rule that gives preference to federal law in case of conflict with state law? If so, has it been actually applied?**

Some way, this rule (art. 31º) establishes the supremacy of the federal legislation. Even though we defend a "federal" interpretation of this norm, as the north American doctrine does, in virtue of which we must analyze if the norms of Congress were effectively dictated as "consequence of the Constitution" (and of its power distribution system, we must add) it seems to us the a different interpretation has prevailed, a "centralist" one, which instead of giving the same hierarchy to federal and principal governments, has almost always privileged the federal government, in the competence conflicts.

5. **Are there other general rules? Which are they?**

We don't have knowledge of other rules.

6. **Does the Constitution allow making more flexible the allocation of powers by mechanisms other than constitutional amendment? In other words, can the federation, by itself, transfer**

or delegate powers to states? Through which mechanisms? What role did all those mechanisms play on the evolution of the federation? How have the decisions regarding the material, economic and human resources to be transferred as a consequence of a transfer or delegation of powers been taken?

We think that the route foreseen by the Constitution for this flexibilization is the accomplishment of inter jurisdictional agreements, allowed as we saw by the current art. 125 º (before 107 º), which must take us to cooperative or conciliation federalism.

The fulfillment of the federal project must concentrate in base, to the full respect of the provincial and municipal autonomies.

As for the possibility of the delegation of competences, we must assume that in Argentinean history it was the federal government who advanced in an illegitimate way on the exercise of competences and rendering of services that were provincial and that this process, has generally stopped, for the serious financial and economic problems of the Federal Government, and in consequence, the provinces and municipalities have been re-assuming the above mentioned competitions and services. But the above-mentioned process was carried out without the due recognition of the local tributary authorities and without the economic needed means. In the last decades, the deficits continued to "nationalize" and the federal government did nothing to stop "centralizing" the resources.

The constitutional reform of 1994 demanded in this matter the following thing in one of the paragraphs of the art. 75 º part 2 º: " there will no be transference of competitions, services or functions without the respective reassignment of resources, approved by law of the Congress when it corresponds and for the interested province or the city of Buenos Aires in its case ".

Competence delegation by the Federal Government to Provinces or Municipalities is possible, in such matters as police power.

We must have in mind that the Argentinean federation does not have a federalism of execution, in the style of German federalism, since it has given priority to the conception of North American federalism.

7. **Has any subject matter been fully attributed to just one of the territorial levels of governance –federal or state-?**

If, for the case of the foreign relations and national defense, which generally correspond in exclusive form to the Federal Government. It is also possible to support that the general interests of the country are competence of the Federal Government, according to the powers delegated by the Provinces by means of the Federal Constitution in each of the high powers: Legislative, Executive and Judicial (arts. 75 º, 99 º and 116 ª). As for the provincial governments, it is possible to establish in a general way that the reserved powers they have in charge and that they have to see with the satisfaction of the needs demanded by the civil government of every locality, as it was expressed by Arturo M. Bas ("El derecho federal argentino". Nación y Provincias", Tomo 1, pg. 70, Abeledo-Perrot, 1927).

So each order of government has his respective powers, according to the prescription of the Supreme Law.

After the constitutional reform of 1994 one must not forget that the federation now endures the coexistence of four governmental orders, since we must add to the federal government and to the provincial ones, those of the autonomous city of Buenos Aires and the municipal autonomous governments, which also have their respective powers, which emerge not only of the Federal Constitution but also of the Provincial Constitutions and of the Constitution of the Autonomous City of Buenos Aires

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8. **Is the technique of "shared" powers recognized (both federation and states have legislative powers, although federal law takes precedence over state law in case of conflict)?**

The above-mentioned concurrent powers between the different governmental organs: federal, provincial and municipal, emerge from arts. 75 º part 18 and 19 and 125 º of the Federal Constitution and link with health, the education and the general well-being.

9. **Are there any subject matters in which legislative power is exclusively attributed to the federation, while executive power is attributed to the states? If so, is the regulative power regarded as legislative or executive power? Can federal legislation determine state administrative organization and practice?**

We have already exposed that in conformity with the North American model, we do not have a federalism of execution on the part of the provincial States. The regulation powers in principle have followed the legislative aspects. Only after the constitutional reform of 1994 it was mentioned as attribution of the Congress to sanction laws of " organization and have base " in educational matter, which " consolidate the national unit respecting the provincial and local particularities " (art. 75 º part 19) and on " minimal contents " of protection as for environmental legislation, whereas the provinces have the powers " necessary to complement them ", without any alteration of local jurisdictions (art. 41 º). So in these cases we can indicate a new modality for power distribution.

But generally according to our organization, the federal legislation must neither form the administrative performance of the States nor affect more than the limits concentrated on the distribution of established competences.

10. **Are there any subject matters in which the federation can establish principles or basis for the state legislation? If so, has the federation made an extensive use of this power? Is there any mechanism to correct that situation?**

We have already indicated these precise areas in the previous immediate response. We indicate that the above-mentioned legislation has not been yet dictated by Congress.

11. **Does the federation have an own administrative organization on the state territory? How strong is that administration? In which fields does it act? Can the state administration exercise any federal power delegated by the federation? If so, are state administrative bodies hierarchically dependent of the federal administration? What mechanisms of review are reserved to the federation to secure that states correctly enforce federal law?**

The Federation has an administration of its own in the territory of the States in relation to the organisms of administration of federal justice and for tributary questions, besides other establishments of national utility like Universities, military barracks, national parks, etc.

The weight of the above-mentioned establishments varies in every place of the country. We might support that it has been very important in the provinces of the South, since there were enormous extensions of area of oil property of Oil Fiscal Deposits, Carbon Fiscal Deposits and National Parks.

We repeat that Provinces can act for delegation of the federal government in matters as the exercise of the power of police, but I do not support that a hierarchic dependence exists, due to our constitutional federal organization.

12. **What are the general limits of state powers?**

As we saw when we analyzed the powers in the Federal State during the historical stages of the federalism, the provincial States cannot exercise the powers delegated to the Federal Government (art.

126), in the same way as the Federal Government has prohibited the exercise of the powers preserved by the Provincial States.

Likewise neither the grant of extraordinary powers or of the sum of the power is prohibited to both governments, nor the grant of submissions or supremacies to the Executive Power, " through which life, honor or fortunes of the Argentineans should be at the mercy of the government or some person ". (Art. 29 º of the National Constitution).

13. **In your opinion, what are the most important federal powers?**

As we saw it, those corresponding to the three powers of the State: Legislative, Executive and Judicial, that are summarized in the procuration of the common defense, of the foreign relations and of the general interests of the country.

14. **In your opinion, what are the most important state powers?**

That which concerns the interests of each of the Provinces, through the preserved powers and generally, with the powers that allow the local autonomy for the exercise of the constitutional, political, financial and administrative local aspects.

15. **Have any of these federal or state powers been extensively interpreted?**

As expressed previously in several opportunities, we are of the opinion that there was an extensive interpretation of the federal powers, which allowed an intense process of centralization of the country.

16. Does the Constitution provide the transfer of sovereign powers to regional or international organizations? Does it address this issue in the domestic legal system, taking into account the decentralized structure of the federation? Does it give the states the right to ratify international treaties or agreements? If so, in which conditions? How is the international responsibility of the federation addressed?

The constitutional reform of 1994 in art. 75 º part 24 prescribed, as a power of Congress of the Nation: " To approve treaties of integration that delegate competences and jurisdiction to international organizations in conditions of reciprocity and equality, and that respect the democratic order and human rights. The norms dictated as consequence have superior hierarchy than laws. The approval of these agreements with States of Latin America will need the absolute majority of the totality of the members of each Chamber. In case of agreements with other States, the Congress of the Nation, with the absolute majority of the present members of every Chamber, will declare the convenience of the approval of the agreement and only by the vote of the absolute majority of the totality of the members of every Chamber will it be approved, after one hundred and twenty days passed the declarative act. The denunciation of the agreements referred to this clause, will required previous approval of the absolute majority of the totality of the members of every Chamber ".

In consequence, they have constitutionalized this possibility of supranational integration, in tone with the times we live. Argentina is a part of a regional system, that of the Organization of American States, with a protection system of human rights, based essentially in the American Declaration of Human rights and in the American Convention of Human rights (Agreement of San Jose of Costa Rica, 1969), that has established an Inter-American Commission of Human rights and an Inter-American Court of Human rights. This Convention was approved previously by the Law 23.054 of 1984 of the Congress of the Nation, but after the constitutional reform of 1994, it has constitutional hierarchy, as arranged by art. 75 º part 22.

The mentioned American Convention destined art. 28 to the Federal Clause that expresses:

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" 1. When it refers to State part constituted as federal State, the national government of the state part report will fulfill all the obligations of the present Convention related to the matters on which he exercises legislative and judicial jurisdiction.
2. With regard to the dispositions relative to the matters that correspond to the jurisdiction of the entities that compose the federation, the national government must take at once the pertinent measures, in conformity with the constitution and the laws, so that the authorities that compose those entities may adopt the dispositions of the case for the fulfillment of this Convention.
3. When two or states agree to integrate a federation among them or another class of association, they will take care that the corresponding community agreement contains the necessary dispositions in order to continue the effective application in the new State, of the norms of the present Convention ".

In consequence, the provincial States must adapt their legislation and judicial jurisprudence to the American Convention, in the same way as the federal government must respect scrupulously the federal principles of the Constitution in this process of supranational integration, being careful not to affect the competences and provincial and municipal autonomies. Likewise and as we have supported, it had to give participation to the provinces and municipalities so much in the ascending as descending aspects of the international agreements of integration. (See our work " Integración y Globalizacion: rol de las regiones, provincias y municipios" and Castorina de Tarquini Maria Celia, " Federalismo e integración ", pgs. 201/243) certainly, this one is a process in motion, and we are very far from processes of integration as that of the European Union.

On the other hand, as we previously saw, according with the constitutional reform of 1994 art. 124 º, the Provinces are also authorized to celebrate " international agreements ", with the expressed limitations.

VI. LOCAL AND MUNICIPAL GOVERNMENT

1. **Does the Federal Constitution recognize local or municipal autonomy? And the state Constitutions? If so, which term is it used to refer this autonomy? What substantially follows from this constitutional recognition?**

As we anticipated, the constitutional federal reform of 1994 incorporate in art. 123 º the principle of municipal autonomy in these terms: " Every Province dictates it's own constitution, in conformity with article 5 assuring the municipal autonomy and ruling it's scope and content in the institutional, political, administrative, economic and financial order ".

It is a question of the recognition of the juridical nature of the municipalities as autonomous, or as organs with aptitude to be organized, and to be governed. It is autonomy of political nature that means that the base of our political decentralization begins with the municipalities.

The Provinces must rule its scope and content by means of its respective Provincial Constitutions, but on the base of assuring the following aspects:

a) Institutional, that means the possibility of sanctioning the own organic municipal letter, which is a real local constitution dictated in exercise of a constituent power of the third degree;
b) Political, which means the popular election of the local authorities;
c) Administrative, that means rendering the public services and other services of this character without depending on another governmental order.
d) Economically - financially, that means the free collection and investment of the local revenues.

All the Argentinean municipalities are autonomous, but it differs between those who have "full" autonomy, with the possibility of dictating their own organic letters, from those who have "semi full" autonomy, which present certain aspects, but the institutional one is absent.

Today our country has more than 100 sanctioned organic Municipal charts.

For a more detailed analysis on these questions, see our book " Municipal Law ".

2. **Are the local representatives democratically elected by the people of the municipality or local entity? If not, which is the method for the election?**

The people elect all the local authorities democratically

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Normally an executive organ exists, in charge of the Intendant and a deliberative organ, in charge of the Deliberant Council. In some provinces there exists an Account court, which is an organ of control, also elected popularly, like in the municipalities of the Province of Cordova.

3. **Are local entities under federal or state control? If so, are these controls limitated to issues of legality or do they also cover issues of opportunity? Can municipalities or other local entities challenge federal or state law or other decisions, on the grounds that they violate their autonomy? Before which bodies or courts?**

The municipalities are only subject to legality controls, by the courts of justice. Only in really exceptional situations, foreseen by the Provincial Constitutions, they can be controlled by the Provincial Government (normally for law of the legislature, with aggravated quorum).

As we said it before, the Municipalities are fully authorized to contest laws and acts both federal and state that they consider to be harmful for their autonomy. When it is a question of acts of the province in which they are inserted, they must contest before the Provincial Justice, but even in that case, they may come to the Supreme Court of Justice of the Nation, by means of the extraordinary appeal and exceptionally, even through the Amparo, demanding the Province, what would originate the exclusive competence of the high Court of the Nation.

If the harmful act comes from a federal authority, normally one must initiate the judicial action before the Federal Judge of The First Instance of the respective jurisdiction. Later, for appeal, it is possible to come before the Supreme Court of Justice of the Nation.

As we anticipated that the constitutionalization of the municipal autonomy, it is now more probable to come before the Court, which increasingly considers these questions, as a "question" or federal "case".

4. **Is the design of the local government (kind of local entities, organization, powers, human resources, etc.) under federal or state power? What local subject matters or functions are allocated to the federation and the states? Can the federation establish direct bilateral relationships with municipalities or other local entities? Can the federation intervene upon their activities by exercising federal powers concerning a particular sector or through its spending power?**

The definition of the bases of local regime, as we said it, is an obligation of the provincial States, by virtue of arts. 5 º and 123 º of the National Constitution. But the Provinces can only establish a municipal "autonomous" regime, assuring the aspects indicated before. Otherwise, the Provinces might be controlled federally by the Federal Government if they were not respecting the bases established in the proper Supreme Law of the Nation.

In consequence, the relations between the Federal Government and municipalities are not direct, but indirect through the respective provincial government, where every municipality is inserted.

Anyhow, in attention to the great power the Federal Government disposes, (with a marked centralization) it is evident that it can determine the local life with his political, economic and financial power.

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5. **Are there "city-states" in your system? According to which provision? Is their regime equivalent to the states' one? Apart from these city-states, are there any municipalities with a particular autonomous regime? Which ones? Which is the basis for the recognition of this regime?**

We already said that all the municipalities enjoy autonomy in our country, but they are still absent in the reform of five provincial constitutions for its adequacy to the limits of the art., 123 º of the National Constitution mentioned.

But besides that, I support that a real City State exists which is the autonomous city of Buenos Aires, according to art. 129 º of the Supreme Law of the Nation, incorporated, as we know in the constitutional reform of 1994. The autonomous city of Buenos Aires has now major institutional hierarchy that the autonomous municipalities, since it can even popularly designate Deputies and Senators of the Nation, besides exercising jurisdictional judicial powers. Also it informs of the Law agreement of tax co partnership and can celebrate international agreements. Definitively, the autonomous city of Buenos Aires is cuasi Province and integrates the "federal" Argentinean society, next to 23 provinces and to the Federal Government

For a more detailed analysis of this topic, see our book "Federalismo, autonomía municipal y ciudad de Buenos Aires en la reforma constitucional de 1994".

6. **Can states create "intermediate" local entities between municipalities and states? Are there any intermediate local entities in your system? Do they exist only in some states or in the whole territory of the federation? Are states free to establish their territorial limits? What powers do they have? To what extent are they dependent on the states? What is the system for the election or appointment of the chiefs of their governmental bodies? Can the federation intervene in the organization, powers or financing of these intermediate local entities? How? For which purposes?**

In our country there are no local intermediate entities between the municipalities and the provincial States, as it happens in Spain with the Provinces. What increasingly develops is the idea of the " intermunicipal relations ", which means the creation of different associative figures, with different purposes of common good, for ex. Associations of municipalities, or intermunicipal entities, or productive corridors, or metropolitan entities. But they do not exist in the whole national territory, only in a Provincial States. The above mentioned entities are created by the municipalities, without intervention of the provincial State and the designation of the authorities are the result of the decision of the respective municipalities, which by means of their civil servants (specially the Intendants), represent every local government. So there is no popular election for the conduction of the above-mentioned intermunicipal entities.

The provincial State intervenes in these entities by means of the sanction of the constitutional or infraconstitucional regulation that authorizes them, but nothing else, since it is a question of decisions that belong to the municipal governments. For a more detailed analysis of these questions, we send ourselves to our work " Municipal Law ", already mentioned.

7. **How are local powers determined? Can local governments provide services or perform federal or state powers? If so, which legal mechanisms coordinate their collaboration (delegation, assignment, etc.)? In which subject matters can this form of collaboration exist? Are local governments obliged to cooperate? Do they have a right to receive financial funds from the federation or the state that asks for the collaboration?**

The municipal competences are fixed in every Provincial Constitution and in the Organic Municipal Laws of every Province and in the respective Organic Municipal Charts, in the municipalities that have sanctioned them.

The municipal competence is very wide, since it reaches all the matters that included in the satisfaction of the needs of common good of the local society. The above-mentioned competences are in institutional, political, administrative and economic-financial matters.

The municipalities have shared powers with the provincial and federal governments and they exercise some for delegation of the above-mentioned governmental orders.

There exist different systems of assignment of powers, but generally the most common in our legal system is the one that enunciates them, in a part of the provincial Constitution and then in a final clause it recognizes also the necessary powers to satisfy the needs of the local society.

The provincial constitutional procedure authorizes not only the exercise of intermunicipal relations but also inter jurisdictional, which indicates a bridge to cross in the construction of a cooperative or conciliation federalism, where the local governments shall interrelated increasingly with other governmental orders.

Anyhow, it is necessary to advance in this matter. In this respect, we indicate that there is no general legislation that specifies for example the delegations either to the local governments or the contributions or funding that must be done. As we said it, normally the delegations are for control and for police power, ex., in health.

Even though there is a collaboration duty between the different levels of the Federal State, this is not dully established in the norms, so it is necessary to deepen in those inter jurisdictional relations.

For a more detailed analysis of these questions, see our mentioned work, " Municipal Law ", Cap. VII.

8. Do local governments have normative or regulatory power? Which other general powers do they have? What powers are lacking?

We have already established that Municipalities have a recognized and very wide normative and regulation power. We remind that 18 Provincial Constitutions authorize the Municipalities (those of major population) to sanctioning their own Organic Municipal Chart, which required the exercise of a constituent power of "third" degree. (The first degree is the federal order, second is state provincial and third, the police officer, though also it is necessary to indicate the specific that corresponds to the Autonomous city of Buenos Aires. Because we say that there are 4 different orders of government in the Argentinean Federation, after the constitutional reform of 1994)

In turn, every Municipality can sanction municipal "ordinances", which are considered to be real "material laws" and which can be challenged before the Judicial Power by virtue of the control of constitutionality, since they translate the exercise of a political and not only administrative power.

Municipalities also have attributions in administrative matter, to render public services and other functions of this character, without depending on another state order. They only lack of "armed" police, in such a way that for the execution of some of their measures, they need of the judges or of the Executive Provincial Power, the aid of the public force, which the provincial authorities are forced to give.

VII. INTERGOVERNAMENTAL RELATIONS

1. Does a principle of collaboration or constitutional loyalty among the different political and administrative authorities exist in your federation? If so, where is recognized (constitutional law, convention)? Which is its content and what consequences follow from this principle? To what extent is there a hierarchy among the different administrations?

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We have already referred to part of the doctrine that defends this principle, which should obviously have plain vigency in our constitutional organization. But the problems we've been through in this matter, makes me doubt about its vigency. Besides, there is no reference to it in the constitutional or conventional texts. We also insist, beyond the notorious larger power of the Federal Government that we can't talk in our constitutional system of different hierarchies between administrations.

2. **Does the Federal Constitution establish a system of intergovernmental relations between the federation and the states? If so, through which mechanisms? Are these mechanisms established in other constitutional or legislative provisions? To what extent are institutional practices or conventions important on this matter? Generally, which is the importance of intergovernmental relations for the dynamics of the system? To what extent do they allow to make more flexible the formal allocation of powers?**

We have already referred to this question, indicating that the text of art. 107º, sanctioned with the original Constitution of 1853-1860 and maintained in the 1994 reform, actual art. 125º, foresees "domestic" treaties between the provinces. Such norm, since the decade of 1950, enabled the transit from dual or competence federalism towards a cooperative or concert one.

Likewise we advanced towards bigger inter jurisdictional relations by means of the Federal Councils, which meant joint participation of the federal and provincial representants.

That, naturally, indicated a trial for flexibilizing the use of powers and institutional practices. But, we insist, this is an on going process, which should be confirmed.

Actually, our country goes trough a deep crisis, - in my opinion of structural characteristics in all aspects of national life-, which obviously meant the affectation of the Rule of Law and the work of the republican system and the vigency of the individual rights and guarantees.

That is why we encourage for the future the important changes that must be made to our public law, to deepen in power decentralization and integration.

3. **Are there organisms to coordinate the horizontal collaboration among states? Does the federation participate in these organisms? Is an authorization required for their creation? How the states are represented? Are they important for the system?**

They exist and are Federal Councils, which generally have participation of the Federal Government. Representation is made through the Provincial Ministers of the respective matters. Even though the Federal Government's authorization wouldn't be necessary, according to art. 125º, in some cases, the creation has been made through laws of Congress.

The most important are the Federal Investment Council and the Federal Tax Commission. The first defines study projects for the development of the provinces, of regionalism and federalism. The second carries out the interpretation of the tax coparticipation system that as understood, have special relevance, due to the complexity and weight of the question.

4. **Which role do local governments play in the system of intergovernmental relations? In which organisms of collaboration do they participate?**

There is no appropriate recognition of municipal government participation in these intergovernmental relations. Which must be corrected. This has been expressed in the interprovincial Treaty for the creation of the Central Region (between the Provinces of Córdoba and Santa Fe, which later included the Province of Entre Ríos which we had the honor of writting), celebrated on august 15 1998, where the participation of municipal governments in the process is foreseen.

On the other hand, a law of Congress created the Argentinean Federation of Municipalities, which is an association that gathers an important number of municipalities of the country. Remember that municipal and communal governments are almost 1900.

5. **Do different governments or administrations usually participate in organisms or entities with legal entity (public or private: consortiums, associations, foundations, private societies, etc.)? Is this joint collaboration usual for developing public works, managing services, or financing of activities? Which legal regime is applicable?**

This participation is not frequent. In the existing cases different legislation is applied: administrative or commercial, that allows such participation. Municipal legislation, both provincial and specifically local, has allow different forms to give public services or make public works, that allows the associative formulas, with a flexible legislation, proper to commercial societies.

VIII. TAXATION

1. **What is the level of state autonomy regarding incomes? Can they establish taxes? If so, are there any constraints? In other words, can they make use of the same kind of taxes (official prices, rates, extra charges, etc.) that the federation establishes? Can they use both direct and indirect taxation? Can they establish taxes over subject matters already charged by the federation?**

The National Constitution, after the 1994 constitutional reform, has specified the constitutional distribution in tax matters between the Federation and the Provincial States, without modifying the criteria of the Constitution of 1853 and 1860.

Due to part 1º y 2º of art. 75º, added to the other articles that weren't modified, the following classification can be made:

For the federal government:
Indirect extern taxes (customs): in a permanent and exclusive way (arts. 4, 9, 75 part 1, y 126);
Indirect intern taxes: in a permanent and concurrent form with the provinces (art. 4);
Direct taxes: in an exceptional form (art. 75, part 2).

For the provinces:
Intern indirect taxes: on a permanent and concurrent form with the federal government (art. 4);
Direct taxes: in a concluding and permanent form, except if the federal government exercises the power of art. 75 part 2 (arts. 121 y 126) .

Consequently, we can't doubt the Argentinean constituent also follows the north American model of tributary sources separation and that the Provincial States have a wide recognized tributary power, with original character, that empowers them under the classification made, to receive the classic tripartite tribute: taxes, rates and improvement contributions.

Even if tributary law does not establish the double or triple taxation between different government orders, the jurisprudence of the Nation's Supreme Court of Justice has admitted this circumstance.

On the other hand, since the 1930 decade the application of a tax coparticipation system began, not foreseen initially by the Constitution, which helped the advance of the federal government powers, in tone with the country's centralization process. Such system was finally constitutionalized in the 1994 constitutional reform, on the base of a coparticipation law-agreement, which we mentioned above and as we know, has not been yet sanctioned, producing another violation to the Nation's Supreme Law.

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2. **Can states ask for credit or issue public debit within the state or federation without the authorization of the federation? Can they do this abroad? If the federation has the power to authorize these operations, which are the legal basis that regulate this?**

In theory yes, both in the intern and international order. However, in this last order it is necessary that as expressed by art. 124º the Nation's public credit is not affected. Almost always, the required guarantee to enjoy of the credit by the Provinces, is the affectation of the federal tax coparticipation and this how the Federal government may control the question.

We must also express that the economic and financial wear of the country is so serious, that the provinces have high debts and that is why, -in our opinion in an unconstitutional form, since art. 126º prohibits "minting coin"-, have to turn to issue "bonus" of debt cancellation, which served as authentic local coin, in almost twenty local jurisdictions.

3. **To what extent are state incomes important in contrast to the transfers that the states receive from the federation? How are these transfers regulated?**

Unfortunately and this reveal too the incorrect functioning of our federalism, the own incomes of the States varies in relation with those coming from the federal government, according to the magnitude and potential of the Provinces.

When we deal with the bigger ones: Buenos Aires, Córdoba, Santa Fe and Mendoza, their own incomes reach approximately 50 % and the rest comes from the coparticipation of federal taxes. But in the smaller and unpopulated provincial states, their own incomes do not even reach 10 %, which means that the provincial public spending can be made only in virtue of the payments of the federal tax coparticipation, which is in some cases over 90 % of the resources.

Tax coparticipation is actually regulated by Law 23.548, which has established the corresponding indexes for each Province. Anyway, we express that as Richard Bird said, our coparticipation system in truly a "labyrinth", which has had multiple changes, even through the "three fiscal Pacts", between the federal government and the Provinces.

That is why the Provinces must depend on the financial aid of the federal government, that besides coparticipation, has other funds, that throughout history have been managed with an evidently discretionary way, like the ATN (Grants of the National Treasure).

This reveals the imperious need to comply the constitutional mandate and regulate the sanction of the tax Coparticipation Law-agreement, as the only way to establish a serious and stable financial relation between the Federal Government and the Provinces and the city of Buenos Aires.

Let's remember that when we analyzed the stages of federalism, se explained the matter.

4. **Do states participate in federal taxes? If so, in which taxes and to what extent do they participate? When states participate in federal taxes, do they have any kind of normative power (for instance, power to fix deductions, exemptions, discounts, etc.)?**

The vigent coparticipation system is bases in this criteria: there is coparticipable mass, integrated by the direct tributes (specially on revenues) and indirect (as the TVA) collected by the Federal Government and which must be co participated in an automatic form, over the basis of a primary distribution, between the federal government and the Provinces, which by law 23.548 must be 54,66 % for the Provinces and 42,34 % for the Nation. On this base, secondary distribution corresponds, indicated in each province's law, for example Buenos Aires, 19,93 %, Córdoba el 9,22 %, La Rioja 2,15 %, etc.

Besides we must add that some laws have established specific allocations for some tributes, so they don't integrate de coparticipable mass, and as a consequence, the principles of coparticipation are violated and the provinces are stripped (municipalities too) from funds they are entitled to.

5. **Do states receive direct transfers or funds from the federation? What criteria are used to determine the amount of these transfers? Do states participate in the determination of the amount of transfers? If so, through which mechanisms?**

We said that the coparticipation criteria were fixed in the Law that directly established the corresponding indexes, where the Provinces obviously participated through the federal legislators and in many cases, with the participation of the provincial governors.

Regarding other aids, we insist that there were arbitrary criteria, used by the Federal Government who managed them through the Ministry of Interior and Economy, based of political and party pressures.

6. **Can the federation intervene in what the transferred funds will be allocated to? If so, in which subject matters? To what extent? Generically or specifically? Can the federation determine their management or procedure? In general, how has the federal spending power determined state powers? What is its percentage with regard to state incomes? How does this system work regarding other federal and state transfers to local governments?**

Regarding coparticipation, the Federation can't incise in the destination of the spending, which means this are resources that undoubtedly correspond to the Provinces.

For other aids, especially Grants of the National Treasure, the Federal Government may indicate the destination. That in why this in not regulated, because since they are established in the national budget, the federal government arbitrarily manages them.

However, other transferences of the federal government must have a specific destiny as those corresponding to the National Housing Fund, of the Federal Council of potable water and sanitation, the Interior electric Development Fund and the Federal Roads Fund.

We must also point the previsions of part 8 of art. 75º are not observed, that as we've seen, prescribes that the same procedure shall be used for the sanction of a tax coparticipation law-agreement and for the federal budget. This means that interregional criteria should guide the destiny of public federal spending, with an adequate "federal" vision of the country. But this does not happen, and the federal government destines most of its budget to benefit the most developed and populated areas of the country, specially the metropolitan area of Buenos Aires.

We profit form the opportunity to say that Argentina suffers a deep unbalance in its development, since last year the income per capita of the autonomous city was 22.800 pesos or dollars, while those of the province of Santiago del Estero, reaches only 1900 pesos or dollars. This reveals the magnitude of the regional and provincial differences, besides the territorial ordering problems, that as we know, the metropolitan area concentrates 35 % of the country's population.

7. **What follows from the principle of "tax solidarity" among states? In other words, what kind of economic contributions do the states make to the federation? How does this system work, on the basis of which criteria?**

We already said that the current coparticipation law 23.548 established the corresponding percentage to each province in the secondary distribution. The anterior system, established by law 20.221 had more properly prescribed the solidarity criteria, since the secondary distribution was made, by art. 3 in the following way: a) 65 % in a directly proportional form to population, b) 25 % in an inversely proportional form to the development breach between each province and the most developed area of

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the country and c) 10 % in an inversely proportional form the population density between the provinces that do not reach the joint average of the provinces.

The 1994 constitution, art. 75º part 2, fixed the following as criteria for the sanction of future coparticipation law-agreement: the equity, solidarity and the priority to achieve an equivalent degree of development, life quality and equality of opportunities in all the territory of the nation.

On the other hand, it is not foreseen that the provincial states contribute to the Federation. The National Constitution, art. 75º part 9 prescribes, on the contrary, the following attribution of the Nation's Congress: "Give grants from the national Treasury to the provinces whose revenues are not enough, according to their budgets, to cover the ordinary expenses".

Anyway, we have already expressed that throughout history, while centralization grew in the country, by the advance of the federal government over provincial tributary powers, the degree of economic, financial and political dependence from the federation grew simultaneously.

8. **Can the federation unilaterally compensate the debts that states owe to the federation (for example, reducing federal transfers)? If so, in which fields do this power exist? Do states have any safeguards (right of audience, judicial actions, etc.)?**

These matters are almost always solved by agreements between governments, which are celebrated by the executive branches, and afterwards must be approved by the local legislative branch. It is always possible to take the conflicts that may arise in this subject between the federation and the provinces before the Federal Justice, specifically the Nation's Supreme Court of Justice.

9. **Who is in charge of the management, liquidation and collection of taxes? Can local governments collect taxes on behalf or by order of the federation or the state where they are located? To what extent and in which fields is this method used? To what extent is it relevant?**

As a general rule, each Federal government level makes the management, liquidation and collecting of taxes, according to the principle of treasure separation.

But the federal tax coparticipation system has allowed some taxes to be raised by the federal Government and then co participated to Provincial States, in the same way there are systems for provincial tax coparticipation, which operates the same way and it's the provincial states who raise the taxes, for example, on automobiles, which are later co participated with the municipalities.

There is no experience the other way around.

10. **What is the percentage of public spending in which each level of government –federal, state and local- incurs? How would these percentages change excluding the spending on defense, education, health, pensions and administration of justice? How many civil servants or administrative officials have each level of territorial government? Which are the figures excluding the above-mentioned fields?**

I consider this question is not definitely answered, since I'm still gathering the last documental information. Anyway I can advance that, as sustained in different occasions, the Federal Government is the one who makes the biggest public spending, face of the other government levels. So, comparing to other federal systems, we can't see the same balance as is those systems. Likewise the principle of tax correspondence is not respected, because the resources spent by the provinces originates in federal resources due to the tax coparticipation system.

11. **To what extent are the relationships between levels of governance regarding the tax system satisfactory? Which elements are more satisfactory? Which elements are less satisfactory? At present, is there any trend that should be noticed?**

There are no satisfactory aspects of this conflictive financial relation between the federal government, the provinces and municipalities. We believe that the only solution consists in strictly complying with the constitutional norms, which force, with a term that is now expired, the immediate sanction of a convention law of tax coparticipation.

12. **Can the federation establish the maximum or specified levels of state indebtedness or budgetary deficit? Can the federation establish the maximum wage of public officials (federal, state, local, etc.)?**

Due to provincial and municipal autonomy neither a deficit or debt limit nor a retribution limit be established. Nevertheless, the idea of deficit cero has been impulsed through agreements, due to the extraordinary extent of debt of federal, provincial and municipal governments.

13. **Are there coordination mechanisms among the different levels of governance? If so, are there institutions with a political nature (for instance, an assembly of territorial representation –Senate-, governmental institutions -councils of prime ministers-, etc.)? Are there mechanisms of technical coordination? (i.e., deductions in quotes of subcentral taxes in central taxes, etc.).**

Par excellence, the coordination and participation organ in our Federations is the Senate, as seen above. Even though, historically, it hasn't dully complied with its federal role because the Senators have responded to party mandates instead of defending provincial interests.

We also have diverse Federal Councils that function in different subject matters, as referred above.

It is evident that Argentina needs bigger and better inter jurisdictional relations between its government levels.

IX. LANGUAGES

1. **Does the Federal Constitution recognize more than one official language in the whole federal territory? If so, which are they? At the federal level, are they officially used on equal basis in the whole territory of the federation by the different authorities? Are they equally used in private? Why? Does the federal Constitution or law establish linguistic citizens' rights or duties?**

Argentina has only one official language, which is Spanish. The 1994 constitutional reform, article 75 subsection 17, established, regarding Argentinean indigenous people, "the right for bilingual and intercultural education". This article establishes that: "The provinces may exercise this attributions concurrently".

2. **Beyond recognizing or not more than one official language, does the Federal Constitution recognize the existence of other languages and the need of protecting them as well? Could you tell, approximately, the quantitative importance of these diverse linguistic communities?**

At the most, in our country, there might be approximately 500.000 indigenous (on a total population of over 37.000.000) who belong to different communities in the northern and southern regions of the country. They all speak Spanish,

3. **Do state constitutions recognize official languages different from those recognized by the Federal Constitution? If not, are they allowed to do it? Are federal and state official**

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languages on an equal footing? Can states establish linguistic duties to citizens and companies different from those established by the federation? Can states exclusively or mainly use an official language different from the one established by the federation as official?

Our country does not have this kind of problems, as happens in other countries. Regarding indigenous communities, we've seen that Provinces have concurrent powers with the federal government.

4. **Broadly speaking, which is the linguistic system regarding education?**

It's been explained above.

5. **To what extent are legislation and administrative practice adapted to the multilingual reality of the federation? To what extent are they the origin of conflicts between the different levels of governance or among the population? Are the different languages an important identity symbol of the state?**

This question does not apply to our reality.

X. GLOBAL ASSESSMENT AND ADDITIONAL COMMENTS

1. **At present, how is the level of political decentralization generally assessed? What is your assessment?**

From a normative point of view, I consider that power decentralization in the Argentinean State is adequately established. But reality shows that an intense fight must be made to make those principles real.

With democracy since 1983 we can sustain that the exercise of provincial and municipal autonomies rose, nevertheless, we still have a long way to go to modify the high degree of centralization of the country around the metropolitan area of Buenos Aires.

There is still a notorious economic, financial, politic and social dependence of the provinces from the federal government, which must impulse us to comply with the constitutional norms, especially those established in the 1994 reform.

This reform has marked a way to modify our public law, which must impulse us to develop the new roles of the regions, provinces and municipalities in the integration processes both national and supranational, in the context of the globalized world in which we are inserted.

The distance between norm and reality, proper of Argentina and Latin America, observed with evidence around the functioning of our federalism, indicates us that the anomie is one of the expressions of our cultural, political and juridical underdevelopment that must be overcome.

2. **What are the main historical claims by states? To what extent are they satisfied?**

The demands are not different from those exposed in the Constitutional Convention of 1994, which were settled in the sanctioned norms. But as we've permanently seen, they haven't been fully complied. This implies the need to fight for Law and make those mandates reality, assuring the normative force of the Constitution.

3. **What are the risks and main opportunities for the development and consolidation of the system of political decentralization?**

Our opportunities are signaled by the globalized world, which forces us to deepen in power decentralization as in national and supranational integration, if we don't want to suffer the negative effects of this process. That is why the word "glocal" has been installed, indicating us we must think globally but act locally.

Regarding the risks, we can't hide the magnitude of the crisis that we are going through, that as a consequence of our underdevelopment, drives us to permanently live in juncture problems and keeps us from solving our structure problems.

In this sense, we are convinced that the fulfillment of the constitutional federal project will mean en effective solution to an important part of our imbalances.

4. What are the main trends of development? Which is the likelihood of them coming true?

I want to believe that Argentina will, as time goes by, solve its problems, after going through this crisis and then, affirm power decentralization,

5. Generally, would you say that the system is becoming more centralized, decentralized or that it is in a relative equilibrium?

We sustain that at the moment there is a relative balance between both trends, but that in the future the fulfillment of the law and the Constitution must be affirmed and with it, decentralization.

6. Would you like to add any additional comment about the political decentralization of the federation that was not mentioned in the Questionnaire? Would you like to make any suggestion about the structure or the contents of it?

No, except if any answer is considered insufficient.

7. Would you mind listing particularly remarkable literature -on the basis its prestige, depth, clarity, approach-, which allows to achieve a better knowledge of your federal system?

Through this paper I have been signaling this books and works. But I remain at your disposition for any question regarding this subject.