

Could Catalonia Become Independent?

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This question could become the shortest presentation ever made, as the answer is so simple: YES! But in order to make it clear, we must take a look into the different arguments and scenarios surrounding the Catalan process.

Catalonia is a nation with a large historical background and strong identity, which developed its juridical and political structure after its emancipation from the Carolingian Empire by its counts in 987. The *Constitucions de Pau i Treva* and the *Usatges de Barcelona* were the founding documents for Catalonia's civil constitution, which was extended and perfected in subsequent centuries. The Court of 1283 (known as the "General Court for the Catalans"), one of the most firmly established parliaments of medieval Europe, institutionalized the role of an assembly of "estates in the realm" and the co-legislative role it shared with the king. This Court consolidated the monarchy at the same time it established a pact with the king, foreshadowing the political concept –later developed by political liberalism– originally founded on the sovereign's respect for law and the country's respect for the sovereign. In addition, a system of relations was established between the different units of the kingdom also based on a territorial pact. The "*Diputació del General*" –representing the commoners– was set up in 1359 to collect taxes, eventually becoming the government of the country and the institution that had to ensure respect for the law.

This is how the Catalan nation developed, with common cultural and linguistic features and ties of solidarity, as well as a state, which became

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consolidated by its Mediterranean growth during the 13th and 14th centuries. In 1422 the first compilation of laws was completed, which gathered the “*Usatges de Barcelona*”, the Catalan constitutions and the “*Capítols de Cort*” in force, and which later gave rise to the official compilation of the “*Constitucions i altres drets de Catalunya*” (1589).

Following the union between the crowns of Aragon and Castile in 1479, the two territories shared a king, although each had its own juridical and political structure within a compound monarchy. The imperial leanings of the Hispanic monarchy created growing tension with Catalonia as it demanded men and resources for the war without the necessary authorization from the Catalan institutions, as laid out in the *Constitucions*. The policy of pacts was then notably weakened. More than a decade of confrontations and of questioning by the Spanish monarchy of Catalonia’s system of juridical and political guarantees led to the outbreak of the “War of the Reapers” (1640), also known as the “War of Catalan Separation”. Led by the President of the Generalitat, Pau Claris, Catalonia became –first of all- an independent republic and later came under the protection of the King of France (1641). When the war ended with the victory for the Castilians, King Felipe IV respected the Catalan institutional system, though he imposed control over who could accede to the “*Diputació del General*” or to Barcelona’s “Council of the One Hundred” and extended the monarchy’s powers of taxation in Catalonia. Furthermore, in 1659 he signed the so-called Treaty of the Pyrenees with France, which meant that Catalonia lost part of its territory when the Counties of Rosselló and Cerdanya were ceded to the French kingdom. In that conflict Catalan patriotism identified with the laws of the country and national feeling grew more vigorous.

Early constitutionalism in Catalonia responded to the object of limiting the powers of the king and organizing the *res publica*, reaching its peak at the Court of 1701-1702 and 1705-1706. The latter approved measures limiting the power of the king and his ministers as much as possible with the object of preserving fulfillment of the law. Apart from sanctioning the feudal privileges that were a feature of society under the Old Order, the Catalan Court –like the English Parliament after the so-called Glorious Revolution (1689)– had managed to limit the power of the monarch in matters of taxation, military affairs and legal guarantees. The Constitutions protected social benefits for the majority in the spheres of taxation, war, justice, the economy and individual safeguards. Shortly before being abolished, the Constitutions showed they were an efficient instrument for answering to the demands of society. In turn, the institutions had acquired remarkable political power in the context of European parliamentarianism. The system was based on political representation of the “estates of the realm” and allowed significant representation of the *common man* in the municipalities.

Around 1700, Catalonia was on the brink of making a qualitative leap in its consolidation as a nation. A specialized economy was beginning to take shape, one oriented towards production and trade that laid the foundations for growth in the following centuries, backed by a dynamic society that had access to political representation in its institutions. This arrangement helps us to understand its wager in the War of Spanish Succession. The Catalan leaders saw this international conflict as an opportunity to make real progress towards a constitutional model, along with an economic project that was favorable to trade and to its own production. Furthermore, in face of the absolutist French model, the Austrian candidate was a better guarantee for the Catalan institutions. Hence its alignment with the maritime powers (England and the Dutch Republic) in favor of the Archduke Carlos III and against Felipe V. The War of the Spanish Succession, though, would turn out to be a deathblow for Catalan sovereignty.

With the Treaty of Utrecht (1713), which recognized Felipe V as King of Spain, and with the final defeat of Catalonia on 11 September 1714, following England's withdrawal and after months which the city of Barcelona was besieged by Castilian and French troops that were far superior in numbers and fire-power, the king of the Bourbons dynasty appealed to the "fair right of conquest" to get rid of the Catalan institutions and set up a "*Junta Superior de Gobierno del Principado de Cataluña*" which took over control of the country. It was the end of the Catalan state, as well as of the compound monarchy. The destruction of Catalonia's constitutional rights were put into effect by the "*Decreto de Nueva Planta*" (1716) which totally wiped out Catalonia's juridical and political structure. A hierarchic, homogenizing and militarized "new beginning" took the place of the policy of pacts and the system of political representation in force until then. Castilian became the sole language of the administration.

The Constitution of Cadiz (1812) brought a certain degree of freedom but confirmed a unitary Spain, not all given to the political accommodation of its inner pluralism. During the 19th century, periods of freedom were brief and recognition of Catalonia's national identity non-existent. Following the death of Fernando VII, who repressed liberal sectors and the disturbances that broke out in Catalonia, Catalan demands in favor of differentiated treatment in the political, economic and juridical spheres multiplied. These demands, which were often stifled by military means with systematic bombing of Barcelona (1841-1843 and 1870), crystallized in various political protest movements. The consolidation of industrialization, with an active civil society at the same time as it was conflictive, stressed the different nature of the Catalans in Spain as a whole and reinforced a collective conscience that was differentiated from the other societies around us.

The move in favor of self-government reached its first landmark in 1914 with the creation of the “*Mancomunitat de Catalunya*”, led by Prat de la riba, two centuries after the loss of statehood. But Primo de Rivera’s dictatorship in the 1920’s brought an end to this incipient form of government, which made relevant achievements despite the political modesty of its institutions and its small budget. The proclamation of the Spanish Republic (1931) opened the way to re-establishing the Generalitat and the approval of a Statute of Autonomy (1932) allowing certain level of home ruling. On 6 October 1934, Lluís Companys proclaimed the Catalan Republic in the framework of the Federation of Iberian Republics. The reaction of the central government led to repression and the imprisonment of the whole of the Government of the Generalitat, the Members of the Catalan Parliament and of the Barcelona City Council and the Statute of Autonomy was suspended.

After the Spanish Civil War (1936-1939) the Dictator General Franco put an end to autonomy and to democratic freedom and exercised systematic repression of Catalan culture. However, the vitality of the civil society and the spirit of resistance of some cultural elites ensured the survival of the national collective identity. With the recovery of the democracy following the death of Franco (1975), the Spanish Constitution of 1978 opened the way to the so-called “State of the Autonomies”, including the concept of “nationalities” in the text. The Statute of Autonomy of Catalonia (1980) meant a return to the political institutions of the Generalitat, co-official status for the Catalan language, a level of home-rule and the longest period of political autonomy since 1714. Nevertheless, given the political and economic shortcomings that characterized the implementation of the Constitution over the following three decades, a process began to reform the Statute, finally approved in a referendum by the citizens in 2006. However, the 2010 sentence by the Constitutional Court in practice marked a break with the spirit of consensus which had been the foundation for the Constitution of 1978.

To sum up, Catalonia has managed to preserve its national and cultural collective identity over the last three centuries. During this time, all attempts made to reach an agreement with the Spanish state in fair and stable terms of national recognition and political accommodation have failed, as have the attempts to obtain real political power and sufficient financing in keeping with the wealth Catalonia generates. As the Catalan Parliament has repeatedly expressed over the last decades, Catalonia has built up one of the oldest-established national collective personalities in Europe which, through the exercise of the right to self-determination, legitimates the consultation on the constitution of an independent state.

Just focusing on the last events, the main were the political decentralization process opened with the Spanish Constitution (1978) and the

recovery of the Catalan institutions through the Statute of Autonomy (1980). Since then, Catalonia had all governments led by Jordi Pujol –leader of Convergence and Union (CiU)– until the Catalan parliamentary elections in 2003. Their governments in Catalonia and their parliamentary groups at the Spanish Parliament usually gave external parliamentary support to the UCD, PSOE and PP governments, trying to focus on improving Catalan self-government. In 2003 the Catalan elections allowed a change in government for the first time, although CiU still won the election. A coalition government formed by Socialist's Party of Catalonia –PSC–, the left-wing republican and independentist party –ERC– and the former communist party of Catalonia –ICV– took the government. The first legislature of this coalition government was focused in drafting a new Statute of Autonomy, assuming that the new Spanish socialist government led by José Luis Rodríguez Zapatero would allow for a brand new relationship of Catalan self-government. The new Statute of Autonomy (NSA) was finally approved in 2006 by more than 90% of Catalan parliament and thus approved by a popular referendum. Next Catalan parliamentary elections gave almost the same result, and the coalition government was built up again. In this moment the conservative party –PP– among other (the government of Aragon and the People's Defender) took the NSA to the Constitutional Court to block their improvements for Catalonia. After four years the Constitutional Court drafted a Statement declaring most of the relevant parts of the NSA to be non-constitutional, just basing their Statement in political rather than juridical arguments.

That was the moment when all citizen mobilizations began. After the Statement, Barcelona saw a citizen demonstration of more than 1.2 million people under a simple slogan: “We are a nation, we decide”. Obviously the Constitutional Court, nor the PSOE or PP said a word in favor of the Catalan self-government. Next stage of the process was last year, 2012, when civil society decided to carry on another citizen demonstration during the Catalan National Day (Diada) on September 11th, with more than 1.4 million people from around Catalonia under a clearly independentist slogan: “Catalonia, new State in Europe”. Following this huge demonstration and hearing the demands of most part of the Catalan people, after the Catalan parliamentary elections of November 25th 2012, the Catalan Parliament make a Declaration of Sovereignty (fig.1), making clear the will of the Catalan people to decide our own political future.

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En dos minuts

**El Parlament de Catalunya
ha aprovat la declaració de sobirania
del poble de Catalunya**

#4
Gener
2013
X legislatura

**EN EL PRIMER PLE DE LA LEGISLATURA EL PLE DEL PARLAMENT
HA APROVAT PER 85 VOTS A FAVOR, 41 EN CONTRA I 2 ABSTENCIONS
LA DECLARACIÓ DE SOBIRANIA**



DECLARACIÓ DE SOBIRANIA I DEL DRET A DECIDIR DEL POBLE DE CATALUNYA

D'acord amb la voluntat majoritària expressada democràticament pel poble de Catalunya, el Parlament de Catalunya acordarà iniciar el procés per a fer efectiva l'exercici del dret a decidir per tal que els ciutadans i les ciutadanes de Catalunya puguin decidir l'horitzó polític col·lectiu, d'acord amb els principis següents:

SOBIRANIA
El poble de Catalunya té, per raons de legitimitat democràtica, caràcter de subjecte polític i jurídic sobirà.

LEGITIMITAT DEMOCRÀTICA
El procés de l'exercici del dret a decidir serà escrupolosament democràtic i garantirà especialment la pluralitat i el respecte de totes les opcions, per mitjà de la deliberació i el diàleg en el si de la societat catalana, amb l'objectiu que el pronunciament que en resulti sigui l'expressió majoritària de la voluntat popular, que serà el garant fonamental del dret a decidir.

TRANSPARÈNCIA
Es facilitaran totes les eines necessàries perquè el conjunt de la població i la societat civil catalana tinguin tota la informació i el coneixement adequat per a exercir el dret a decidir i perquè es promogui la seva participació en el procés.

DIÀLEG
Es dialogarà i es negociarà amb l'Estat espanyol, amb les institucions europees i amb el conjunt de la comunitat internacional.

COHESIÓ SOCIAL
Es garantirà la cohesió social i territorial del país i la voluntat expressada en múltiples ocasions per la societat catalana de mantenir Catalunya com un sol poble.

EUROPEISME
Es defensaran i es promouran els principis fundacionals de la Unió Europea, particularment els drets fonamentals dels ciutadans, la democràcia, el compromís amb l'estat del benestar, la solidaritat entre els diferents pobles d'Europa i l'aposta pel progrés econòmic, social i cultural.

LEGALITAT
S'utilitzaran tots els marcs legals existents per a fer efectiu l'enfortiment democràtic i l'exercici del dret a decidir.

PAPER PRINCIPAL DEL PARLAMENT
El Parlament, com a institució que representa el poble de Catalunya, té un paper principal en aquest procés i, per tant, s'han d'acordar i concretar els mecanismes i les dinàmiques de treball que garanteixin aquest principi.

PARTICIPACIÓ
El Parlament de Catalunya i el Govern de la Generalitat han de fer partícipe actius de tot aquest procés el món local i el màxim de forces polítiques, d'agents econòmics i socials i d'entitats culturals i cíviques de Catalunya, i han de concretar els mecanismes que garanteixin aquest principi.

El Parlament de Catalunya encoratja tots els ciutadans i ciutadanes a ésser protagonistes actius del procés democràtic d'exercici del dret a decidir del poble de Catalunya.

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**PAÏSOS QUE HAN APROVAT DECLARACIONS DE SOBIRANIA
PER REFERMAR EL SEU CARÀCTER NACIONAL DAVANT DEL MÓN**



República Turca del Nord de Xipre 1983

* Estònia 1988

* Eslovènia 1990

* Letònia 1990

* Lituània 1990

Tatàstan 1990

Ucraïna 1990 *

Abkhàzia 1988 *

Moldàvia 1990 *

Bòsnia i Hercegovina 1991 *

Eslovàquia 1992 *

Montenegro 1992 *

* Amb posterioritat va aconseguir un estat independent

 Generalitat de Catalunya

Figure 1. Declaration of Sovereignty of the Catalan Parliament, 2013, source: www.gencat.cat/govern.

The core of the process lies then in the confrontation between two sovereignties: the assumption that sovereignty resides only in the whole Spanish people or, as stated by the Catalan Parliament, the assertion that the people of Catalonia is also a political subject, and therefore, we can exercise our "right to decide". Last –but not least- episode was during the last *Diada*, when two civic organizations –*Assemblea Nacional de Catalunya & Omnium Cultural*- organized the most relevant citizen demonstration ever had in Catalonia: more than 1.6 million people forming a human chain from the first town in the north border of Catalonia with France up to the last Catalan town in the south border with Valencia: around 413 Kilometers long. The slogan was clear: “Catalan way, towards independence”.

Apart of the political reasons, there're a couple of arguments supporting the process for the Catalan independence. One of the most relevant topics on the debate is the fiscal deficit among the Autonomous Communities in Spain. Some scholars –i.e. the professor at Columbia University Xavier Sala-i-Martí- argue the existence of two universal constant values: the gravity force (9,8 meters/sec) and the Catalan fiscal deficit (around 8% GBP/year) (Fig. 2)

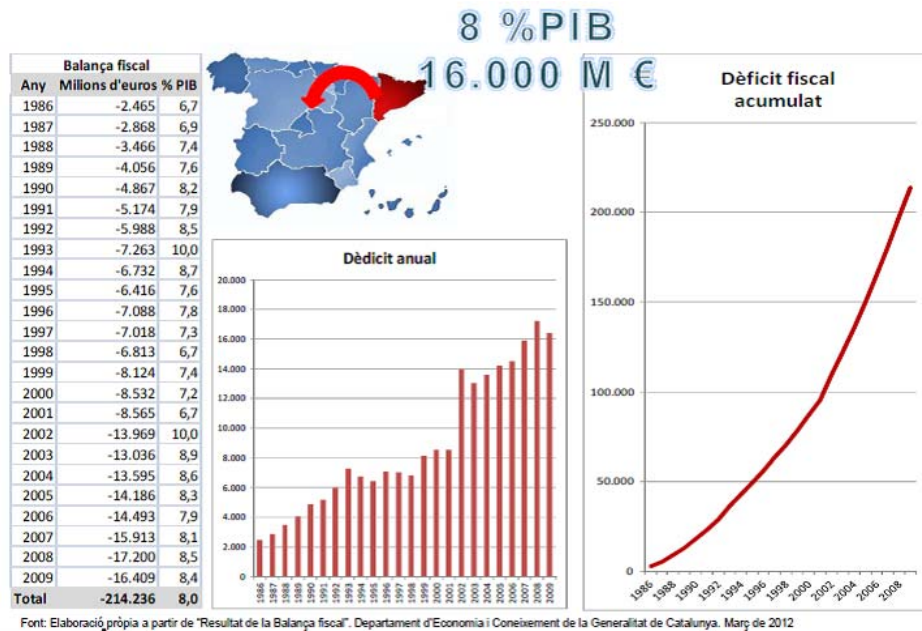


Figure 2. Fiscal deficit of Catalonia, 1986-2009.

Finally, the third group of reasons is those about the Catalan identity: language, culture, education... During the current Spanish government, there've been several attempts to undermine those aspects especially the reform on the general education law, trying to minimize the linguistic normalization process, which is the basis of social coexistence in Catalonia, in order to "make Catalan children more Spanish" as Minister Wert said.

Under this scenario, which is (or could be) the Catalan path to independence? Above all we must keep in mind that there're two key-concepts that must guide all the process. It should be a *legal* process, and, second, should be made under the existence of a *democratic mandate*. To foresee which legal ways do exist to achieve such a democratic mandate the government, as part of its parliamentary agreement with ERC, appointed the 14 members of the ACNT (Advisory Council for the National Transition, CATN in Catalan). The main purpose of the ACNT is to elaborate several reports regarding the so-called "state structures": 19 reports from the consultation scenario to the ICT regulation, the relationship of Catalonia within the EU or the management of natural resources.

The first report, "The Consultation on the Political Future of Catalonia" was published in July, 25th, pointing out the existence of 5 ways to call for a referendum or citizen consultation. If the government and/or the Parliament decides to call it under the Catalan legal framework, there're two possibilities: using the Catalan Referendum law 4/2010, that needs the authorization of central government, or the Non-referendum consultation law (law actually being elaborated by the Catalan Parliament) which, for that purpose, won't need any authorization from the Spanish government. Whereas there seem not to be juridical problems in using these legal possibilities, politically is clear that the Spanish government will took both to the Constitutional Court in order to suspend its validity.

Then the second scenario would be using the Spanish legal framework, asking the Spanish Government an authorization to call an Autonomous Referendum according to art. 92 of the Spanish Constitution. Or, following the Scottish process, requesting a temporary delegation of powers according to art. 150.2 to call for the referendum. It's also quite clear that the Spanish government will not accept either these ways, and it's not difficult to imagine that it will argue that the Catalan demands do not fit into the constitutional framework and thus are non-constitutional. The last –but not least- possibility to call for a referendum could be the proposal to reform the Spanish Constitution, which never could be qualified as non-constitutional...

In this case the answer would be only political, denying any possibility of a negotiated solution to the process. Then the ACNT suggested the President using his parliamentary powers to call for early parliamentary

elections, which will become in fact plebiscitary elections. If the result becomes a clear democratic mandate then the elected Parliament and the new government could try again to negotiate with the Spanish government the secession process or, finally, to make a Unilateral Declaration of Independence.

The solution is still to be found...

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