



International and European Law and the Catalan Secession Process: Rule of Law, Human Rights and Democracy at Stake?

Helena Torroja¹ 

Published online: 27 March 2024
© T.M.C. Asser Press

It is a pleasure to present this special issue of the *Hague Journal on the Rule of Law* on the role of international and European law in the Catalan secession process (2012–2017). It was a secession (*stricto sensu*) process—as opposed to one of devolution or transfer of sovereignty, as in the cases of Quebec or Scotland—because it was undertaken in violation of the 1978 Spanish Constitution. And it took place in Spain, a rule-of-law or constitutional democracy and member of the European Union and Council of Europe, after almost half a century of construction of a strong democracy.

Certain traits of the Catalan secession process have justified its study from an international and European perspective. The first is the deep-seated *social polarization* and internal tension, not only in Catalan society but in contemporary Spanish society as a whole. This social tension is due, in part, to the conjunctural situation of violation of the rule of law, of the rights of a minority in Catalonia and of the majority Spanish right of internal self-determination and, in part, to a structural situation of peripheral nationalism. The second is the policy, typical of populism, of *abusing terms and concepts*, many with an *international content* (democracy, self-determination and so on), to win the minds of a citizenry with little, if any, education regarding what democracy is and the basic content of international law. The third is the *constant references to and allegations of international law*, as if it always took precedence over the Spanish Constitution, possibly with the aim of garnering the support of the international community. This policy additionally prompted some of the actors in the secession process to submit communications to various international human rights and political bodies.

The research methodology has mainly been to examine the facts from the perspective of the *rule of law, human rights and democracy* as protected and defined by international and European law. These three values have formed the core of international and European law since the end of World War II. Although they are given

✉ Helena Torroja
htorroja@ub.edu

¹ Associate Professor of Public International Law, University of Barcelona, Barcelona, Spain

different legal weight in each system, their inclusion has always sought to achieve the ultimate goals of peace, order and justice at the international and European levels. Therefore, if international and European law played any role in the Spanish constitutional crisis at all, it had to have been linked to this overarching purpose.

The present special issue is structured according to this logic. The first article thus offers an overview of the Catalan secession process, the Spanish constitutional system and Spain's decentralized territorial organization, mainly intended for non-Spanish readers (Juan Maria Bilbao Ubillos). The rest of the articles do not focus directly on the events. Instead, the special issue then adopts a general international law perspective, focusing on the essential principles of this system of law (Antonio Remiro Brotons and Helena Torroja). From there, it shifts to European law, with separate contributions on European Union law and practice (Araceli Mangas) and Council of Europe law and practice (Helena Torroja). It then turns to the practice of the United Nations, specifically, in the context of the UN Human Rights Committee (Jessica Almqvist) and of the special procedures of the Human Rights Council (Patricia Arias). Finally, it examines a very different matter, namely, the positions expressed by some European Union, Council of Europe and UN Human Rights Council special procedures *directly* regarding the *Generalitat's* actions in connection with the secession process and other related policies linked to nationalist ideology (Rafael Arenas Garcia).

We are extremely grateful to Dr. Ronald Janse, the editor-in-chief of this prestigious journal, to its editorial board, and to all the generous peer reviewers for their intense work.

This special issue was written as part of the research project “Secesión, democracia y derechos humanos: la función del Derecho internacional y europeo ante el proceso catalán” [Secession, democracy and human rights: the role of international and European law in the Catalan process] (PI: Dr. Helena Torroja Mateu; Spanish Ministry of Science, Innovation and Universities; reference: PID2019-106956RB-I00/AEI/10.13039/501100011033).

Barcelona, 21 March 2024

Publisher's Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.