

Should Catalonia hold an independence referendum? Four responses from EUROPP contributors

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A demonstration in support of Catalan independence from Spain was held on 11 September to coincide with the National Day of Catalonia. With no agreement between the Catalan and Spanish governments over whether a proposed referendum on independence should be held in November, we asked four of EUROPP's contributors to give their views.

- **Francesc Trillas:** “[Catalonia should find a better way than a secession referendum to decide about its future constitutional status](#)”
- **Montserrat Guibernau:** “[Why should Catalans be ‘different’ from the Scots? Are they second-rate citizens?](#)”
- **Joan Costa-i-Font:** “[An independence referendum is the only solution to the current constitutional conundrum](#)”
- **José Javier Olivas:** “[This referendum would likely aggravate rather than solve the complex social problems that have emerged during the recent economic crisis](#)”

Francesc Trillas: Catalonia should find a better way than a secession referendum to decide about its future constitutional status

Catalonia should find a better way than a secession referendum to decide about its future constitutional status, in a world of overlapping and shared sovereignties where the nation-state is becoming obsolete. If and only if, over an extended period of time, a very large and stable majority shows an unambiguous support for a detailed “independent” constitutional project within a clear international framework, then some democratic procedure accepted by all relevant actors should be established to peacefully negotiate and finally take a final decision about it. These conditions clearly do not apply today.



Most internationally recognised legal scholars and political scientists believe that the right to secede should be restricted to extreme cases. Accordingly, secession referendums are the exception in developed democratic countries, especially in the context of the European Union and the Eurozone, which are in a [complex process](#) of increasing political integration and redistribution of sovereignty.

There are three commitment problems, well-known to social scientists, associated to the unrestricted use of a referendum of independence in federal systems:

- 1) Federal governments should not be too powerful, and focus on the creation of the legal and regulatory frameworks for markets to operate efficiently (including a strong currency and clear borders), and *commit* both not to expropriate private investments and not to interfere with federal units, according to the theory of market preserving federalism due to [Barry Weingast](#) and his co-authors.
- 2) Potential majorities or elites in federal units should *commit* not to cheat opportunistically on the specific investments made by large minorities assuming the permanence of some federal institutions: educational degrees, retirement benefits for federal civil servants, language skills, factor mobility, currency...
- 3) The governments of federal units should *commit* not to use their resources to promote the partition of the federal state. Otherwise potentially federal states will be reluctant in the future to decentralise in contexts where it would be

desirable to do so. When federal units are relatively rich, there should be a mutual commitment for the units to fairly, boundedly and transparently contribute to the common resources and for the federation to preserve self-government and the participation of the federal units in shared decision-making.

Unless these commitments are respected, societies may fail to build the stable federal systems that are necessary in our increasingly integrated economies. To preserve commitments, democratic societies build institutions that constrain the unrestricted use of majority rule. That is why we have constitutions, international treaties and courts of justice. To the extent that, as I believe, it is desirable that both Spain and the EU become better federations, the use of a unilateral independence referendum as a decision mechanism would jeopardise this objective. It would also trigger internal and external cascade effects that would make it impossible to focus the energies on a more integrated and democratic Europe.

Spanish and Catalan leaders should instead build on our common values to submit to the final decision of the electorate an agreement on a shared institutional architecture that can be legal and stable in the European context, and give satisfaction to historical grievances.

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Montserrat Guibernau: Why should Catalans be 'different' from the Scots? Are they second-rate citizens?

According to an opinion poll by *Metroscopia* published by the newspaper 'El País' on 20 July, if 70 per cent of Catalans were to vote, support for secession would rise to over 50 per cent; the percentage of people prepared to back independence has risen 3 points since May 2014. Younger generations feel a strong sense of entitlement to decide upon their future and regard the negative of the Spanish State to allow a binding referendum on Catalan self-determination as diminishing. Why should Catalans be 'different' from the Scots? Are they second-rate citizens?



This brings to the fore awareness of the different political cultures and historical background of EU member-states and signals the need to reconcile contrasting views of democracy coexisting in the EU. To a point, it highlights diversity within the EU; it also reveals uneven perspectives from which democracy and civil rights are interpreted and applied by different member-states.

During the transition to democracy, and after almost forty years of dictatorship, Catalan majority nationalism defended the idea that the 'one nation, one state' theory was not an indispensable condition for a nation to attain its full development. Consequently, it endorsed devolution within Spain and rejected secession. However, this position has changed dramatically since 2000. At present a strong grassroots secessionist movement – which defines itself as pro-European and democratic – is demanding the right of the Catalan people to hold a binding referendum on whether Catalonia should become independent or not. So far, this is strictly forbidden by the Spanish State.

Catalans invoke democracy and the right to decide upon their collective future. In response, the Spanish State appeals to Articles 2 and 8 of the Spanish Constitution which state, respectively, that 'the Constitution is based upon the indissoluble unity of the Spanish nation common and indivisible patria of all Spaniards', and that 'the Army's mission is to guarantee the sovereignty and independence of Spain, to defend its territorial integrity and the constitutional set up'.

Catalonia is not considered a separate *demos* within Spain and any decision affecting its political status has to be sanctioned by all Spanish citizens, including the Catalans. They are what I refer to as 'a constant minority': since the

Catalans are a minority within Spain, it follows that they have little or no chance of ever having their voice heard, unless new policies destined to grant 'voice' and 'veto' power to minorities are put in place.

Catalonia should be allowed to hold a referendum on independence based on democratic grounds. Referendums are instruments that provide a clear response from the citizenry and which have been regularly used by European liberal democracies, including Spain. The key questions we should be asking here is why a solid non-secessionist Catalan movement has turned into a fully-fledged secessionist movement? What has prompted the shift from devolution to secession? Have all parts concerned done their best to find a democratic peaceful solution to a situation facing gridlock?

In Catalonia, fear associated with the dictatorship is still present among those who lived through the Spanish Civil War and the dictatorship that followed it. The strong resurgence of conservatism and centralism in contemporary Spain endorses a static conception of the Spanish Constitution. In so doing it prevents further development of democracy as a dynamic process that requires to be constantly updated.

Montserrat Guibernau – *Queen Mary, University of London*

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Joan Costa-i-Font: An independence referendum is the only solution to the current constitutional conundrum



Should Catalonia have the right to hold a referendum on independence? The short answer is yes – an independence referendum is the only solution to the current constitutional conundrum.

Ideally, Catalonia should have been a leading community within a multinational Spain constituted as a well-designed federation. For Catalonia to be fully recognised, one would expect the following: First, on identity, Catalan should have the legal status of an official language (e.g. as French has in Canada). Second, financially, regional funding should meet basic fairness principles implemented in most federations. Finally, politically, central state interference in devolved responsibilities should be limited and allow for proper mechanisms of political representation.

However, as I explain below, the failure of Spain at attaining such goals (which were 'signed and sealed' after the Constitutional ruling of the Catalan statute in 2010) only allows for two alternatives: Either to hold a referendum on independence (based on the radically democratic 'right to decide'), or to patiently wait for an opportunity to reform the constitution in the distant future after smoothing the strong aversion to territorial diversity of the two main state-wide parties.

From both options, the only realistic one is the former, even when it encompasses a challenge to the European Union, who should by now start developing clear legislation.

Why has regional autonomy failed?

First, regional autonomy in Spain is perceived as being a short term commitment. Framework laws have been systematically put in place to reduce autonomy since as early as 1981 (health care coordination bill) and all the way until this year's new education legislation. Unlike in any federal state, the Spanish central state can either suspend or threaten to suspend regional autonomy, which is one of the foreseeable consequences to date of Catalonia going ahead with a referendum, as admitted by the Spanish government.

Second, regional funding has traditionally been ill-defined and unfair. Fiscal imbalances have not only reached 9 per cent of regional GDP, which is unparalleled in the developed world (except for megacities such as London), but they have also modified the ranking of regions after tax and transfers (e.g. so receiving regions become richer than

contributing regions). The latter has triggered a feeling of unfairness; especially after spending cuts mean Catalans can't afford services offered in other regions.

Finally, Spain falls short in recognising language diversity. After 36 years of democracy, and Catalan being the ninth EU language in terms of the number of speakers, it is still not in the list of [official EU languages](#). The Cervantes Institute (the Spanish equivalent of the British Council) has systematically failed at promoting what is today the Spanish second language. The Spanish government is perceived in Catalonia as attacking the existing language legislation which has promoted the Catalan language (banned for the vast majority of the 20th century) without hampering the command of Spanish among pupils.

So a referendum to do what?

A referendum or a 'consultation' as it is termed in Catalonia (which in its current form is not legally binding and hence constitutional) could help to establish how frustrated Catalans are to date, and it will offer a last chance for the Spanish government to react – very much like the unionist parties have done in Scotland – to convince the Catalans to vote to stay.

Whether the referendum is allowed or not will be the ultimate test for Spanish democracy. If it is not allowed, resentment will follow, which could not only lead to several forms of civic reaction that are difficult to predict (damaging the apparent Spanish economic recovery), but also open the door to viewing the results of a future electoral contest as effectively being a referendum in all but name, after which a declaration of independence could follow. On all grounds, it would be far more civilised, and fair, to hold a referendum.

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José Javier Olivas: This referendum would likely aggravate rather than solve the complex social problems that have emerged during the recent economic crisis



A multitude of criticisms have been expressed about the procedural and legal validity of the political process through which the Catalan government have sought to bring about a referendum. The [questions proposed for the referendum](#) were defined and approved by Catalan nationalist parties without the participation of non-nationalist parties. Their wording is ambiguous and the two-question design – “Should Catalonia be a state?” and, if so “Should it be independent?” – may lead to results which can be [difficult to interpret](#). The thresholds required for the validation of the secession process have not been clearly defined.

Moreover, the purpose and questions of the referendum clash with the Spanish Constitution which explicitly states the '[indissoluble unity of the Spanish Nation](#)' and received 91 per cent support in Catalonia in 1978. Claims of Catalonia being a sovereign entity have been [unanimously rejected](#) by the Spanish Constitutional Court. While the British Parliament validated the organisation of the referendum in [Scotland](#), the Spanish Parliament [rejected](#) the Catalan one by a very large majority.

Through negotiation and persuasion the Spanish Constitution could be theoretically modified and the abovementioned procedural errors mitigated in order to organise another referendum. But even in that case it would be necessary to assess whether holding an independence referendum in Catalonia is a desirable option.

Deontological arguments against a referendum

Many of the justifications for Catalan secession [are based](#) on misrepresentations of the history and current situation of Catalonia. From a deontological perspective, systematic oppression or exploitation may justify the right of 'self-

determination' of a territory. Nonetheless, Catalonia's situation is far from that of a territory subdued to a colonial power and its citizens enjoy the same rights and opportunities as those in the rest of Spain. Catalonia has never been independent except from 1640 to 1659, during the so-called 'Reaper's War'.

Difference (or singularity) is another deontological justification used. The argument goes like this: 'Catalans are different from other Spaniards; therefore, Catalans should have the choice to decide whether to have or not an independent state. However, this argument overemphasises the differences between Catalans and other Spaniards, is almost impossible to establish empirically and, if difference justifies self-determination for a region like Catalonia, couldn't other sub-regional entities, such as provinces or towns, claim the same rights? In fact, ethno-linguistic and cultural differences do not seem a sufficient reason to separate people and create borders within modern democratic states.

The unilateral right of secession also collides with the principles of equality and redistribution, which are core to the modern conceptions of democracy. People should be entitled to similar rights regardless of where they live and of their ethno-linguistic or cultural backgrounds. Attributing the right to decide over the division of a country only to the citizens of some areas is problematic. Since Catalonia's secession would have a considerable socio-economic impact in the rest of the country and hinder redistribution, denying the rest of Spain the capacity to participate in an eventual referendum could be deemed discriminatory.

Consequentialist perspectives

Consequentialist arguments should also be taken into consideration. Upon granting the power to the *Generalitat* to organise an independence referendum, it would be almost impossible to deny future referendums in Catalonia and other regions, turning Spain into an inherently unstable political entity. In addition, allowing an independence referendum is a *de facto* recognition of the sovereignty of Catalonia and a restraint on the Spanish sovereignty as defined by the 1978 Constitution. That is why pro-independence nationalists are not as concerned with the result of the referendum as they are with the capacity to organise it.

Referendums empower citizens and provide legitimacy, but the risks and costs associated with them have made their use marginal in modern representative democracies. An independence referendum frames a complex social problem in a reductionist way. It forces people to choose among two diametrically opposed positions and eliminates middle ground options, which are often the [preferred choice](#) of the majority. The political campaigns that accompany independence referendums tend to revolve around passionate discourses and contribute to a [further polarisation](#) of society.

Moreover, the secession of Catalonia may be considered [a contradiction](#) in the already fragile process of European integration and could produce negative spill-over [effects](#). On the other hand, [a no-vote](#) would not make pro-independence nationalists [abandon their claims](#) either. They would continue their nation building process and prepare for other bids in future consultations. Thus, for the large majority of Spaniards (including many Catalans) the potential outcomes of an eventual referendum range from not positive, in the case of a no-vote, to negative or very negative in the case of a yes-vote.

In sum, referendums are powerful tools but politicians and academics should remember Maslow's '[law of the instrument](#)': '[...] it is tempting, if all you have is a hammer, to treat everything as it were a nail'. Overreliance on a particular tool can be dangerous. Referendums, like hammers, cannot fix every problem and can have harmful consequences. The Catalan independence referendum is being inadequately devised, and insufficiently justified. Most importantly, this referendum would likely aggravate rather than solve the complex social problems that have emerged during the recent economic crisis. Fortunately, Catalan and Spanish policy-makers have other instruments at their disposal. Institutional dialogue and collaboration between Spanish and Catalan governments and parliaments is probably a less traumatic and more efficient way to tackle these problems.

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