

Catalonia's referendum: Four views on whether the vote should go ahead

blogs.lse.ac.uk/europpblog/2017/06/26/catalonias-referendum-four-views-on-whether-the-vote-should-go-ahead/

26/06/2017

The Catalan government has announced plans to hold a referendum on independence from Spain on 1 October. However, the Spanish government has argued that such a referendum would be unconstitutional and it is still unclear whether the vote will take place. We asked four academics to give their views on whether the vote should be held, and what it would potentially mean for Catalonia and Spain.

- **Mireia Borrell Porta:** [Rajoy has left the Catalan government with no other option than to call a unilateral independence referendum](#)
- **Jose Javier Olivas:** [Does the Catalan independence movement really 'love democracy'?](#)
- **Francesc Trillas:** [A yes/no self-determination referendum could be the cause of great division among Catalan citizens](#)
- **Toni Rodon Casarramona:** [It's time to give Catalonia the chance to decide on its future](#)

Mireia Borrell Porta: Rajoy has left the Catalan government with no other option than to call a unilateral independence referendum



The call for the 1 October independence referendum is the culmination of a process that started in 2010 with the ruling of the [heavily politicised](#) Spanish Constitutional Court against the 2005 Catalan Statute of Autonomy. The new Statute, [overwhelmingly approved](#) by the Catalan people and both the Catalan and Spanish Parliaments, was deemed to contain unconstitutional elements by the Partido Popular and was referred to the Court, which severely watered it down. This judicialisation of a political process deeply disappointed a majority of Catalans, who until then had made a clear bid for Catalonia to stay within Spain, firmly believing that the central government would find the political will to address the [economic and language-related grievances](#) voiced by Catalans.

The 2010 ruling was followed by a massive protest rally attended by [more than a million people](#), and what has followed in subsequent years has been a consistent and unprecedented demand from millions of Catalans for an independence referendum. Protest rallies in favour of independence have [been held every year](#) since 2012, with around one million people attending each year, and polls have consistently shown that [around 70% of Catalans want a referendum](#) to decide on the relationship between Catalonia and Spain. While the support for independence oscillates around 50% and in the latest polls is slightly below that level, most Catalans – between 60% and 70% – [feel that the level of autonomy is insufficient](#). This popular support for a referendum translated into [majority support for pro-independence parties](#) in the 2015 Catalan elections.

One would think that faced with such widespread support for a referendum and for institutional change, Mariano Rajoy would at the very least agree to a discussion on potential solutions to address what is known as 'the Catalan question'. Not only has dialogue [been repeatedly rejected](#), but a [recent Court ruling](#) has also seen the former President of Catalonia, Artur Mas, together with the former vice-president and former education minister, convicted for defying the constitutional court by pressing ahead with a non-binding independence vote held in Catalonia in November 2014.

Since his election as Prime Minister of Spain six years ago, Rajoy has refused time and again to address this issue

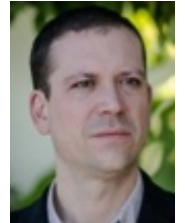
on the grounds that a referendum is unconstitutional. Nonetheless, [as was shown during the Eurocrisis](#), the Constitution is not set in stone, and his party could, if it had the political will, pave the way for the referendum to take place. Such an outright rejection of dialogue together with the judicialisation of politics has left the Catalan government with no other option than to call a unilateral independence referendum.

Mireia Borrell Porta – LSE

Mireia Borrell Porta is a Teaching Fellow in Political Economy at the LSE European Institute.

Jose Javier Olivas: Does the Catalan independence movement really ‘love democracy’?

Two days after the Catalan government announced its plans for the self-determination referendum, Manchester City’s manager, Josep ‘Pep’ Guardiola, standing in front of 40,000 people and beside a large banner with the slogan ‘Love Democracy’ written on it, read the official pro-independence [manifesto](#) urging the international community to defend *‘the rights that are under threat today in Catalonia, such as freedom of political expression and the right to vote. To face up to the abuses of an authoritarian state.’*



The hyperbolic message, the unusual speaker and the choice of the dates for the announcements, coinciding with the aftermath of the UK election and the first round of French legislative elections, demonstrate the weakness and sense of urgency of the pro-independence camp. The window of opportunity for the independence of Catalonia is closing. Since July 2016 the percentage of [Catalans against independence](#) has steadily grown (48.5% vs 44.3% in favour), popular mobilisation is decreasing, the Spanish economy is starting to improve, and they have failed in all their attempts to gain the endorsement of any relevant international actor.

The pro-independence camp selectively uses the referendums in Scotland and Quebec to justify holding a similar vote in Catalonia. By questioning the democratic credentials of Spain for not allowing the referendum, they are committing a logical fallacy and ignoring the empirical evidence. Firstly, these two cases are rare exceptions since the overwhelming majority of democracies in the world would never allow a referendum on the secession of part of their territory. Secondly, the type of unilateral referendum the Catalan government wants to organise on 1 October 2017 does not respect any minimal legal safeguards or procedures and would not be accepted either in the UK or Canada. Thirdly, a referendum is only democratic if it is legal and if those involved are willing to accept its consequences. Would nationalist leaders stop fighting for independence if they lose a hypothetical referendum? Many of them have declared that they will not cease their fight until Catalonia is an independent state.

For the nationalist camp, the referendum mainly serves to give an appearance of legality and fairness to their unilateral strategy of *faits accomplis*. A long time ago, they decided that Catalonia must secede. Without waiting for any referendum result, and having obtained only 47.8% of the votes in the last Catalan elections, the pro-independence parties declared the [beginning of the independence process](#), started creating the [institutions](#) that would govern an independent Catalonia (*‘estructuras de estado’*) and drafted the [Ley de Desconexión](#) (*‘Disconnection Law’*) which is supposed to turn Catalonia into an independent state with or without a referendum.

This law, among other controversial features, would place the judiciary under control of the Catalan government and transfer Spanish public assets and civil servants to the new Catalan Republic. This unilateral plan for independence, [initiated years ago](#), is not only undemocratic but also unpopular. Only 35% of Catalans support it according to the latest [opinion polls](#). Even the *Consell de Garanties Estatutàries* (*‘Council for Statutory Guarantees of Catalonia’*), whose members are jurists appointed by the Catalan President, ruled unanimously that this referendum breaches not only the Spanish Constitution but also the 2006 Catalan Statute of Autonomy.

Furthermore, the problem here is not only that the Spanish government *does not want* to organise a referendum, it is also that it *cannot* do it as it would breach the [Spanish Constitutional order](#) (see for instance Art 2). Spain is not an

exception and recently other Constitutional Courts in Europe, such as the [German](#) and [Italian](#) ones, have ruled out the legality of any referendum questioning their territorial integrity and clearly stated that any attempt of secession from states or regions violates their constitutional order. The unilateral referendum proposed in Catalonia clashes as well with several EU legal principles such as those of territorial integrity (Art. 4.2 TEU), respect to the national constitutional identity of Member States (Art. 4.2 TEU) and Rule of Law (Art 2 TEU).

Nationalist leaders know that the October referendum will not take place, or at least not in a way that could be considered procedurally democratic by the international community. However, the frustration of the many Catalans who believe in it may benefit electorally the independence camp and serve to boost mobilisation again, keeping the independence process alive. They are also hoping that this new challenge may provoke some sort of disproportionate reaction from the Spanish government that could be used vis-à-vis the international community as evidence that their narrative of oppression finally reflects reality. However, it is highly unlikely that the Spanish authorities will fall into that trap. The referendum is expected to be neutralised through legal actions and not via tanks in the streets of Barcelona or police repression.

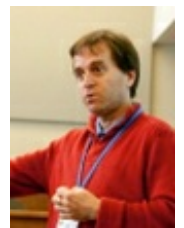
‘Love Democracy’ was the slogan chosen for the rally announcing the referendum. Although Spanish governments have lacked the ability and goodwill to address some of the legitimate claims coming from Catalonia, the reaction from the nationalist camp has been largely disproportionate. As explained above, the unilateral and illegal strategy that a minority of Catalans are using to separate Catalonia from the rest of Spain denotes little understanding and love for democratic principles and procedures. In order to prove appreciation for democracy they need to abandon the unilateral path, respect the rule of law and engage with the rest of Spain’s political actors in political talks to find a solution for the Catalan problem. Otherwise, ‘Love Democracy’ will become simply another addition to the Orwellian ‘doublespeak’ repertoire which has served to frame Catalan politics over the last decade.

Jose Javier Olivas – LSE

Jose Javier Olivas is Associate to the Civil Society and Human Security Research Unit, at the LSE, Co-founder and Editor of [Euro Crisis in the Press](#) and Director of the online voting and debate platform [netivist.org](#).

Francesc Trillas: A yes/no self-determination referendum could be the cause of great division among Catalan citizens

In the book [The Morning After](#), Canadian journalist Chantal Hébert explains what would have happened if the secessionists had won the Quebec referendum of 1995 by a small margin (in fact, they lost). The political chaos and uncertainty that she describes actually took place more than twenty years later with the Brexit referendum in 2016. One year later, the UK seems to know what 52% of voters did *not* want on the day of the referendum (EU membership), but they still do not know what the public or their leaders want for their future. It seems that yes or no answers in entirely legal self-determination referendums are decidedly inefficient tools for determining the real will of the people.



Now imagine something similar, but without a legal framework, without a census, and without a neutral electoral authority. That is precisely what the leaders of the Catalan pro-independence government want to do using their control of the autonomous executive and their majority in the Catalan Parliament, which was produced via a non-proportional electoral law that gives their coalition more than half of the seats with less than half of the votes. Amartya Sen, a scholar who has devoted his life to thinking about justice and democratic choice, recently spoke of the disadvantages of this type of plebiscite in an interview with [the Guardian](#).

The idea of a yes/no self-determination referendum is superficially appealing. *The Economist* supported this idea until they saw it implemented in Britain. Since then, they have backpedaled. It is very easy to suggest it for others. The last self-determination referendums of states in the USA took place just before the American Civil War. Referendums have been promoted recently by figures such as Recep Tayyip Erdoğan, Viktor Orbán, Geert Wilders,

Vladimir Putin, the leaders of the Serbian part of Bosnia-Herzegovina including the mayor of Srebrenica, and have been supported by dictators in the past.

Referendums can also be used for a good cause, like in the approval of the Spanish Constitution in 1978, or the Irish Good Friday agreement of 1997. These two cases have in common a democratic consensus (the unity of democratic forces) and international support. But a yes/no self-determination referendum could be the cause of great division among Catalan citizens or in other similarly diverse societies. That is why the Commission of the Council of Europe for Democracy through Law (the Venice Commission) recommends to hold them only under very strict conditions, including a strong legal framework and a neutral democratic authority. Illegal self-determination referendums in otherwise democratic societies are not at the frontier of best practices.

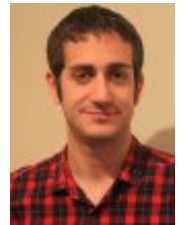
Spain needs a broad agreement for a federal reform that can be supported by people who strongly believe in it and by people that may find a common ground around it. Such a detailed agreement could then be voted on in a referendum. That could be as legitimate as other legal referendums, and in addition it would be less divisive. It would fit much better with a European Union that makes progress towards more unity and integration, and that wants to build more bridges than walls between its citizens and communities.

Francesc Trillas – *Autonomous University of Barcelona (UAB)*

Francesc Trillas is an academic in the Department of Applied Economics at the Autonomous University of Barcelona, and Researcher at the Public-Private Sector Research Center at IESE and at the Institut d'Economia de Barcelona.

Toni Rodon Casarramona: It's time to give Catalonia the chance to decide on its future

At what point, and under what conditions, should a referendum on independence be recognised as legitimate? While this question has been a hot topic for many decades, philosophers and political theorists have still not reached a definitive answer.



According to the famous [Remedial Right Only Theory](#), developed by Allen Buchanan, several “classical” injustices provide sound legitimacy for the (unilateral) right to secede: 1) Former colonies are considered to have a legitimate claim to break away from the imperial power; 2) secession is justified when it is simply the taking back of wrongly taken territory; and 3) secession is legitimate after a persistent, large-scale violations of basic human rights. Although Catalonia does not fit within this framework (it is not a colony or an occupied territory and it has not experienced human rights violations), there are at least three reasons that legitimise Catalonia's attempt to hold a referendum on independence.

First, the Catalan institutions – the Parliament and the Catalan government – have formally requested a Scottish-style independence referendum as many as nineteen times. Madrid argues that such a vote would be illegal under the current Spanish law and encourages the Catalan parties to reform the Spanish Constitution. However, this is unlikely to happen given the difficult formal process to reform the Constitution and the outright opposition of the two main Spanish parties to any asymmetrical concession to Catalonia. The Spanish position is difficult to circumvent: even if all Catalans voted for the same pro-referendum party (an extremely unlikely scenario), it would never have enough bargaining power to initiate a reform process in the Spanish Chamber of Deputies (Catalonia elects 47 of the 350 deputies in the Spanish *Congreso*, 13.4% of the total).

Second, Catalonia's bid for a referendum on independence is the last straw in a long process that started as early as 2010. In 2005, Catalonia approved a new Statute of Autonomy, which aimed at increasing self and shared-government and at preventing the Spanish government from curbing regional autonomy when they deemed it necessary – a legal manoeuvre frequently employed over the last twenty years. The new regional law was considerably watered down by a heavily politicised Court, which in turn triggered an intense territorial recentralisation process. In other words, the Spanish government not only has refused to negotiate valid claims to

autonomy, but it has also reneged on previous autonomy agreements. This, in Buchanan's words, constitutes a "just cause" for unilateral secession. In fact, instead of seeking an agreement, the Spanish government has brought to justice (and has threatened to continue to do so) politicians and civil servants that are behind the organisation of referendums.

Third, the independence referendum is the best way of resolving a stalemate with Spain. Polls have consistently shown that more than 70% of Catalans support Catalonia's right to a referendum. In contrast, the Spanish elites, as well as a majority of the country's population, prefer to maintain the territorial status quo or event to dismantle part of it. These asymmetric territorial preferences are unlikely to converge in the near future. In addition, polarisation on the territorial dimension is often employed by both sides to divert attention away from negative developments, such as corruption scandals or the increasing politicisation of the judiciary. A referendum on independence offers a legitimate tool for both sides to move forward.

Catalans have not always been sympathetic to the idea of independence. They have generally favoured further decentralisation. For many years, Spain has had the chance to turn Spain into an asymmetrical and plurinational federal state, offering an acceptable territorial solution to everyone. Yet, the recent history of Spain continues to show a permanent disagreement on its plurinational nature. The legitimate aspirations of the majority of the Catalan population have not been attended. After a long territorial struggle, it is time to solve the conflict in a manner befitting the 21st century: by letting the population decide whether they want to stay in Spain or create a different and new state.

Toni Rodon Casarramona – LSE

Toni Rodon Casarramona is a Postdoctoral Researcher at the London School of Economics, and an Assistant Professor at the Open University of Catalonia (UOC).

Please read our comments policy before commenting.

Note: This article gives the views of the author, and not the position of EUROPP – European Politics and Policy, nor of the London School of Economics. Featured image credit: [Oscar Miño Peralta](#) (CC BY SA 2.0)

•