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## Guide to Understanding Catalonian Dissent: From Proclamation to Referendum

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# Guide to Understanding Catalanian Independence

Efforts: From referendum proclamation to 1-O

Andrew P. Larkin

## **Thesis Committee:**

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## Contents

Acknowledgements.....	4
Explanation of Terms.....	4
Preface.....	5
An Introduction to the Catalonia Problem .....	6
June 9, 2017- An Official Referendum is announced.....	8
June 16, 2017- Spain’s Response to the Referendum Announcement .....	10
July 14, 2017- Preparations for the 1-O Referendum.....	11
July 26, 2017- Catalonia Votes to Modify its Parliamentary Procedures.....	12
July 31, 2017- The Constitutional Court of Spain issues precautionary suspension .....	13
August 16, 2017- The Constitutional Court of Spain dismisses Catalonia’s appeal .....	14
August 17, 2017- Terrorists Attack Barcelona .....	15
August 18, 2017- Spanish and Catalanian Leaders Gather and Observe a Minute of Silence.....	15
August 30, 2017- Rajoy Addresses Parliament to Discuss Homeland Security and Unity .....	16
September 6, 2017- Generalitat Approves Law 19/2017.....	17
September 6, 2017- Rajoy’s Government intends to contest Law 19/2017 .....	19
September 7, 2017- Catalonia adopts Resolution 807/XI.....	19
September 7, 2017- The Constitutional Court Issues Three Press Releases.....	19
September 8, 2017- Two Complaints are filed against Separatist Leaders .....	20
September 8, 2017- Generalitat Approves Law 20/2017.....	21
September 12, 2017- The Constitutional Court Suspends the Law of Legal Transition .....	23
September 13, 2017- The Constitutional Court issues two press releases.....	23
September 20, 2017- The Constitutional Court Annuls Catalonia’s Law 19/2017 .....	24
September 20, 2017- Spain’s Internal Minister Cancels Civil Guard’s Personal Leave .....	25
September 21, 2017- Constitutional Court Imposes Coercive Fines.....	25
September 22, 2017- Rajoy’s government implores Catalonia to cease its extralegal efforts .....	27
September 26, 2017- President Trump and President Rajoy hold press conference .....	27
October 1, 2017- 1-O Referendum is Held.....	29
Conclusion .....	30
Works Cited .....	32

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## **Explanation of Terms**

1-O: shorthand to denote October 1, often utilized to specify a Spanish election date

Autonomous Region/Community: a regional government that operates independent of the central government and has specified powers, almost congruent to the state in the federal system of the United States

Catalonian: (of Catalonia) Catalonians reside in Catalonia, a part of Spain, and therefore are also Spaniards

Generalitat: the executive branch of government in the autonomous community of Catalonia; led by the President of the *Generalitat*

Statute of Autonomy: law that outlines what powers the central government gives to the regional government

## **Preface**

Catalonia, an autonomous region of Spain, has been trying to secure improved conditions for its society and regional government since the Spanish Constitution of 1978 formalized the country's new rules following Francisco Franco's death. This struggle, successful or otherwise, stands to have a far-reaching impact. This region on the Mediterranean coast could influence long established notions of the right to self-determination, set a precedence that affects how the European Union and other intergovernmental organizations consider potential members, and inspire other independence movements around the world. Understanding Catalonia and its secessionist bid is paramount to comprehending participation in the globalized world.

International events, as well as economic and political circumstances, have exacerbated the situation in Catalonia. Recently, an increasing number of Catalonians have been motivated to express their contention and rally for more extreme change. They push for an independent Catalonia, free from what they perceive to be Spanish oppression.

Spaniards and Catalonians are familiar with the most frequent talking points and grievances because the basis of this conflict dates back more than three hundred years. While the tension could be described as timeless, it has gained relevance because of a rise in nationalist sentiments in a rapidly evolving global geopolitical landscape. Americans remain relatively unaware of this fray, and the limited number of sources that seek to address this situation compounds their unfamiliarity.

Many factors complicate an American's attempt to comprehend Catalonia's political reality, which prompts the topic of why Catalonia deserves further analysis. Special attention should be given to the renewed intensification of Catalonia's ploy for independence and the sequence of events from June 9 to October 1, 2017.

## **An Introduction to the Catalonia Problem**

Catalonia has a rich history, a complex identity, and a proud heritage which all contribute to its push for more regional power and independence. Influencing factors date back to the fall of the Romans, when the Latin language gave way to the Castilian, Catalanian, and French languages. Catalonia, situated between the countries that would become France and Spain, maintained its own unique language- Catalanian. The linguistic variation would prove problematic during the dictatorship of Francisco Franco. Present day Catalanian-speakers exist in Spain, France, and various Mediterranean islands.

Before the unification of Spain in 1492, there was a time in which Catalonia operated as its own kingdom and Barcelona served as its base of power. Its fortuitous position along the coast of the Mediterranean Sea allowed Catalonia to develop as a powerhouse known for its seafaring merchants. Its prominence was drastically undercut when Spanish voyages discovered the Americas and prosperous trade largely shifted to the other side of the Iberian Peninsula.

In the beginning of the 18<sup>th</sup> century, Barcelona suffered greatly in the violent turmoil that ensued during the Spanish War of Succession. King Charles II died without an heir and European was divided. Charles III of the Holy Roman Empire was endorsed by England, Portugal, and Barcelona; while France supported Philip V. Ultimately Philip V succeeded to the throne, but Barcelona continued to fight even after the war seemed decided. Eventually, Barcelona fell on September 11, 1714. Many of the established Catalanian institutions of governance were disregarded and dismantled as the new power asserted control of the city. Catalonians found themselves subjugated. The fall of the city is commemorated annually during the National Day of Catalonia, or *Diada Nacional de Catalunya*, and is celebrated on September 11 with public demonstrations.

Starting in 1936, many Catalonians fought to maintain the Republic of Spain against the imposing nationalist army of Francisco Franco. The Spanish Civil War was brutal, and Barcelona offered opposition to the nationalist army. After Franco's victory, the dictator sought to solidify his control of the country and outlawed Spain's less prominent languages. Galician, Euskara, and Catalanian were forbidden. Catalonia took the prohibition as an affront to their culture and heritage; the Catalanian language has subsequently recovered. Language is one of the most definite demarcations between Catalanian society and Spanish society.

In the first years of the new Spanish government after Franco died, Catalonia was one of the first autonomous regions to ratify its statute of autonomy. In 1979, Spain recognized Catalonia as an autonomous region and granted it certain powers. During the mid-20<sup>th</sup> century, the provisions established by the Statute of Autonomy of 1979 proved to be unsatisfactory. In 2006 Catalonia ratified a revised statute of autonomy, and one of the most notable items included was the idea of Catalanian nationality.

The Statute of Autonomy of 2006 specified Catalonia was a nation; this provision was revoked by the Constitutional Court of Spain in 2010. The four-year gap between ratification and nullification of the provision was taken as an insult by some Catalonians and pro-independence sentiments continued to fester. Various nonbinding and less consequential independence referendums were conducted because of the controversy, but none took hold.

Regional elections in 2015 ushered in a new wave of independence minded leaders. One of the most ardent proponents of separating from Spain, Carles Puigdemont, became the president of the Generalitat in 2016. The separatists maintained a slight majority in the Catalanian Parliament and Puigdemont took the majority as a firm directive to pursue independence.

**June 9, 2017- An Official Referendum is announced**

In his introduction, Puigdemont cited the upcoming seventh anniversary of the Constitutional Court's ruling which effectively nullified, reduced, and redefined parts of Catalonia's Statute of Autonomy of 2006. He explained that after the court decision, most means of dialogue between Catalonia's autonomous government and the central government have been marked by shortness:

When they asked us what we, the Catalonians, wanted, we presented proposals. All types of proposals. All of them, without exception, have been rejected or severely reduced. We come, well, to a large and disappointing collection of "No" on the part of the Spanish government and of the general congress in response to all the proposals that had been designed to resolve the political conflict between Catalonia and Spain in an agreeable manner and through dialogue. (Puigdemont, "El Gobierno se compromete a aplicar la respuesta que los ciudadanos den a la pregunta")

According to Puigdemont, all attempts to reach compromise and balance had been rebuked and disregarded. He alleged the Spanish central government categorically rejected reforms related to Catalonia. The imbalance of power continued to develop as a theme when the President of the *Generalitat* accused the President of Spain of thwarting the autonomous region's petitions for change.

Puigdemont implored his audience to reflect on the events that had driven his supporters to declare a referendum. He admitted that it seemed the only thing Spain would not consider before its congress was proposals for the Catalonian government. He pondered; maybe there will never be any consideration of the topic. In scathing words, Puigdemont admonished Spain and its political operatives. He chided them, saying, "we know that it's not a question of legality, the

entire world knows that legal framework has not been impeding the efforts made by the Catalonians” (Puigdemont, “El Gobierno se compromete”). He declared the real problem is anti-Catalonian sentiment harbored by the central government; a systematic barrier of Spanish contempt bars Catalonia from trying to exercise its rights.

Puigdemont supported his claim by stating “the world has heard it from the very president of the Spanish government himself: ‘I do not want it’” (Puigdemont, “El Gobierno se compromete”). Puigdemont, understanding future attempts to work with the central government are futile, abandoned them. The current political climate and Spain’s 40-year legacy of failure to address the Catalonia problem discouraged him. He was adamant it was no longer worthwhile to pursue reconciliation.

On June 9, 2017 Puigdemont met with his Catalanian government advisors and they agreed to fulfill their obligation to their constituents before the end of the legislative term. They would administer an independence referendum. The President of the Generalitat asserted the referendum would be “a legitimate exercise of the right of self-determination that millennial nations, like Catalonia, have.” The referendum would be on October 1, 2017 and would contain only one question: “Do you want Catalonia to be an independent state in the form of a republic?” and the question would be provided in three languages- Spanish, Catalanian, and Occitan. Referendum participants would have two voting options, “yes” or “no” (Puigdemont, “El Gobierno se compromete”).

The statement concluded with a call to action in which all Catalanian people were called on to decide their future:

It’s in your hands. In our hands, we can make it possible and show that democracy unites us when confronted by the legitimate and healthy disagreements that characterize a

mature and coexisting society- a society that knows how to make decisions for itself and how to respect the outcomes of the question asked, considering the results equal in validity and legitimacy. (Puigdemont, “El Gobierno se compromete”)

The text reads like an ode to democracy and the ideals of civility. Puigdemont emphasized the will of the people and proclaimed it will be the deciding factor in the plight of Catalonia. He closed his remarks with a final thought:

"All citizens should collectively participate, with the utmost dignity and exigency, in the exercise of their inalienable right to construct their own democracy, for it is the right of the people to decide the future of their country freely." (Puigdemont, “El Gobierno se compromete”)

It is evident the issue of realizing their independence is profoundly personal and often portrayed as a pseudo-mandate.

### **June 16, 2017- Spain’s Response to the Referendum Announcement**

One week after Carles Puigdemont announced his plan to hold a referendum, the executive branch of the Spanish government, led by President Mariano Rajoy, issued a press release. On June 16, 2017 it denounced Puigdemont’s proposal and begged for clarification. An autonomous region is not empowered to dictate unilateral policy for Spain, as implied by the 1-O Referendum. The release stated, “with such an erratic position, the government is propelled to insist Mr. Puigdemont explain the proposed unilateral track he has chosen” (La Moncloa, “Viernes 16 de junio de 2017 Comunicado del Gobierno”). The central government’s response is a clear indication of its commitment to its understanding of the law. The Catalanian intention of bypassing the central government to realize their referendum and gain independence is contrary to the Spanish understanding of the law.

The release established the central government's position by reiterating Puigdemont has no recourse to lobby for his case before the parliament or to obstruct a binding vote by the law-making body, stating:

Finally, the government maintains that Mr. Puigdemont does not have the ability to arrange an appearance before parliament, as this is for the house to decide, let alone place barriers before the congress to impede a parliamentary vote, because parliamentary votes are exactly how legitimate representatives of a sovereign nation express their political positions regarding the matters that affect the Spanish people as a whole. (La Moncloa, "Viernes 16 de junio de 2017")

The press release works to stress the importance of legislative norms while simultaneously reducing Puigdemont's position. While holding true to the law, Spain's response diminishes the Catalanian platform and serves to deepen the schism between the two.

#### **July 14, 2017- Preparations for the 1-O Referendum**

Carles Puigdemont, President of the Generalitat, and his Vice President Oriol Junqueras initiated organizational restructuring and made new appointments. Four political officers were let go in what was described as a "decision prompted by the advisors themselves and was mutually agreeable" (Catalunya, "Cambios en el gobierno catalán para asegurar el proceso y para velar por la celebración del referéndum sobre la independencia el 1 de Octubre"). The personnel changes—including the Minister of the Presidency, the Minister of the Interior, the Minister of Education, and the Secretary of the Government- signified dramatic changes to ready the region for the vote and inevitable paradigm shift following the referendum.

Unprecedented work would be required to organize an extralegal vote. The new administrators would be part of the team tasked with arranging ballots and ballot boxes; and

achieving a respectable turnout. They were also the team that would be entrusted to carry out the result of the election in either eventuality.

Puigdemont reaffirmed the autonomous community's resolve to enact the referendum's results promptly following the vote whether the majority chose "yes" or "no." He revealed that the administration would organize an immediate regional election if the referendum yielded a majority opposed to independence. Alternatively, immediate steps would be made to initiate the process of independence if the separatists won the vote (Cataluyna, "Cambios en el gobierno catalán").

### **July 26, 2017- Catalonia Votes to Modify its Parliamentary Procedures**

The Parliament of Catalonia passed "The Partial Reform of Parliamentary Regulations." It served as a revision to the governing body's parliamentary procedures and modified 25 articles of the existing governing document. The most controversial provisions included in the legislation were changes to Article 135, which dictates the conditions in which a proposal can be expediently brought to a vote. The approved text stipulates:

#### Article 135. Requirements

1. A bill can be processed directly and in a single reading by the Plenary of Parliament or by a commission, if the nature of the project advises or the simplicity of the formulation allows it. The Single reading procedure must be agreed by the Plenary of Parliament, at the proposal of the Government, of the Bureau of the Parliament, after hearing the Board of Spokespersons or at the initiative of the latter.
2. The parliamentary group promoting a bill may request its processing by the single reading procedure. It is for the Plenary of Parliament to agree on the proposal of the

Bureau, after hearing the Board of Spokespersons or on its initiative, provided that the bill complies with the requirements of authorization established by section 1.

3. The discussion of the legislative initiative in a single reading is subject to the rules established for the debates of whole; finally, the whole of the initiative is submitted to a single vote. (Catalunya, “Núm. 7421A - 27.7.2017 Diari Oficial de la Generalitat de Catalunya”)

The political maneuver was a powerful step in strengthening the separatist ability to move forward and operate within the Parliament of Catalonia while minimizing their opposition. The reforms passed, however the vote was not unanimous- 72 members voted in favor of the proposal and 63 voted against it (@parlamentcat). The modifications granted niche parties and coalitions the legal power to rush votes. The provisions risked belittling and relegating the power of debate and due consideration. It is reasonable to believe such policies would negatively affect the integrity of the legislative process by inhibiting discussion and preventing amendments.

### **July 31, 2017- The Constitutional Court of Spain issues precautionary suspension**

Ruling on a petition filed by the Attorney General of Spain on July 28, 2017, the Constitutional Court of Spain unanimously decided to validate the central government’s appeal of the parliament’s modifications and condemn the revised operating procedures. According to Article 161 of the Spanish Constitution of 1978, the central government is entitled to contest an autonomous region’s legislative proceedings and the court is obligated to sustain or overturn the central government’s objection. The court sided with Madrid and revoked the policies outlined in section two of Article 135 using a precautionary suspension (Constitutional Court of Spain, “Press Release No. 57/2017”). The constitution describes the precautionary suspension powers as such:

The Government may appeal to the Constitutional Court against provisions and resolutions adopted by the bodies of the Self-governing Communities, which shall bring about the suspension of the contested provisions or resolutions, but the Court must either ratify or lift the suspension, as the case may be, within a period of not more than five months. (Congreso de los Diputados)

In this instance, the central government employed the national judicial system to impose the law and subdue secessionist aspirations.

### **August 16, 2017- The Constitutional Court of Spain dismisses Catalonia's appeal**

In a press release issued by the Constitutional Court, the judicial body admits the suspension of Article 135 of "The Partial Reform of Parliamentary Regulations" was an automatic application of section two of Article 161 of the Constitution. The central government initiated the response and the court was obligated to carry out the precautionary suspension if it deemed it appropriate.

The regional government of Catalonia appealed the court's choice to immediately suspend the reforms. Although the precautionary action did not represent a definitive outcome, it could halt the proposed changes for up to five months until the court made its final judgement. The future ruling on the constitutional merits or lack thereof regarding Article 135 of the procedural regulations had no bearing on this appeal, as the constitution doctrine specifies autonomous regions can only appeal on procedural grounds (Tribunal Constitucional, "Nota Informativa N<sup>o</sup> 59/2017"). Once again, the court and the expectations of the law worked against Catalonia's interpretation of self-governance, while at the same time protecting the law's integrity.

**August 17, 2017- Terrorists Attack Barcelona**

Catalonia's preoccupation with independence and parliamentary procedures changed into concern and grief after a van traveling at high speeds targeted pedestrians at approximately 4:50 p.m. on August 17, 2017. The attack centered on Las Ramblas, a well-known tourist destination, popular promenade, and iconic landmark. The incident claimed 14 lives and injured 126 people, including 54 who were hospitalized. The victims were of various nationalities and represented at least 34 countries. Investigations revealed the perpetrators were affiliated with Daesh, a terrorist group (Departamento de Seguridad Nacional, "Nota informativa sobre los atentados en Barcelona y Cambrils").

Puigdemont decreed a day of mourning and consoled the public, "the government of the Generalitat wants to show our grief and, at the same time, accompany the families of the victims in these moments." Accordingly, he ordered the postponement of all receptions and official acts; and lowered the flags to half-mast at all regional buildings (Catalunya, "Núm. 7436 - 18.8.2017 Diari Oficial de la Generalitat de Catalunya").

**August 18, 2017- Spanish and Catalan Leaders Gather and Observe a Minute of Silence**

At noon Spanish President Mariano Rajoy, Catalanian President Carles Puigdemont, King Felipe VI, and their staff gathered in the Plaza of Catalonia. They observed a minute of silence to mark the tragedy of the terrorist attacks in Barcelona and in Cambrils and to honor the victims. Throughout the morning, President Rajoy took condolence calls from world leaders such as Chancellor Merkel, President Macron, President Gentioni, Prime Minister May, and Secretary General Stoltenberg (La Moncloa, "Rajoy asiste en Barcelona al minuto de silencio convocado en memoria de las víctimas de los atentados en Cataluña"). Intentionally or unintentionally, Rajoy was emphasized as the head of the government.

Later that day Puigdemont thanked and encouraged the Mossos d'Esquadra, the Catalan regional police force. He reminded them of their collective resolve to vanquish terrorism and that it is possible to do so. Embracing the lofty ideals of society, Puigdemont charged the officers to approach their tasks “with the best weapon our society has: solidarity, coexistence, freedom, and respect” (Generalitat de Catalunya, Puigdemont: "Ens hem aixecat consternats però determinats a guanyar la batalla contra el terrorisme"). Puigdemont takes the opportunity to promote the Catalonia he envisions using language reminiscent of the statements he made while announcing the 1-O referendum.

### **August 30, 2017- Rajoy Addresses Parliament to Discuss Homeland Security and Unity**

After surviving a vote of no confidence in June, Rajoy came to parliament with something to prove. His country was facing an identity crisis, rocked by corruption, and still healing its wounds from a terror attack at home. He began the session with a moment of introspection to pay homage to the victims of the terrorist attacks earlier that month and contemplated “they [jihadists] have done us harm, but they have not vanquished us nor will they vanquish us” because we will be “united in our resolve to defeat the worst danger that threatens the west today.” In a clever exercise of oration, Rajoy likened the threat of terrorism to the dangers posed by division and discord. He committed the executive branch of the Spanish government to preserving Spanish unity, the constitution, and the system of democracy (La Moncloa, Rajoy: En España no hay impunidad para los corruptos porque es un país de controles y ahora son más estrictos que nunca).

Rajoy concluded by reaffirming his dedication to combating jihadist terrorism and safeguarding Spanish unity “from those that would violate it with disdain for the rules of law and most basic elements of democracy.” He vowed the “government will react proportionally to

provocations brought against the rule of law, the constitution, and the autonomous region of Catalonia” (La Moncloa, Rajoy: En España no hay impunidad).

Rajoy astutely aligns himself with the Catalanian people while alluding to the possible consequences of escalating separatist sentiment. He asserts the law and his power as president. Interestingly, Rajoy subtly raises the stakes while making a public case for a détente.

### **September 6, 2017- Generalitat Approves Law 19/2017**

The Generalitat of Catalonia passes Law 19/2017 entitled “Referendum on Self-determination,” a 20-page document. Largely, it represents the legal and procedural manifestation of Puigdemont’s referendum announcement of June, 9 2017. The first three pages form an explanatory memorandum underlining self-determination as a widely acknowledged “first human right”. Citing United Nation agreements, Spanish constitutional law in accordance with international agreements, and Catalanian legislation they built a case supporting the law inscribed in the document. Later, the text states such an exercise of self-determination would be the pinnacle of democracy and an affirmation of the will of the people (Catalunya, “Law 19/2017 on the Referendum on Self-Determination”).

Chapter II of the law is titled “On the Sovereignty of Catalonia and its Parliament.” The articles contained in the chapter contend the Catalanian people are sovereign and that laws of sovereignty should supersede all other laws:

#### Article 3

1. The Parliament of Catalonia acts as the representative of the sovereignty of the people of Catalonia.
2. This Law establishes an exceptional legal regime aimed at governing and guaranteeing the self-determination referendum of Catalonia. It has hierarchical

prevalence over any other regulations that may come into conflict with it, in that it govern the exercising of a fundamental and inalienable right of the people of Catalonia.

3. All and any authorities, natural or legal persons participating directly or indirectly in the preparation, holding and/or implementation of the result of the referendum shall be covered by this law, which implements the right to self-determination that is part of the current legal system. (Catalunya, “Law 19/2017”)

Most notable is the law’s insistence in Article 3.2 that because the law pertains to an individual’s right to self-determination it takes precedence over other laws and norms.

Chapter VII, entitled “On the electoral administration,” establishes the Electoral Commission of Catalonia as the polling authority in the region and grants it powers to “validate the electoral register,” “carry out the general ballot count,” and “to certify official results and order their official publication.” The body is to be a permanent fixture and will have its headquarters in the Parliament of Catalonia.

Departing from the idealistic descriptions of democracy contained in the memo, the law arrives at that which seems precarious and quizzical. The law as written asserts Catalonian people are a sovereign entity, and the natural representative of the Catalonian people is the Generalitat (Catalunya, “Law 19/2017). The line of reasoning initiates circular logic- in effect we are sovereign, so we have the ability to choose to be sovereign, so we can be sovereign, which we already are. It is a bold attempt to circumvent the national law, but overall it seems poorly developed. The legislation continues to elaborate the processes and provisions that would be required to administer an unlawful regional referendum.

### **September 6, 2017- Rajoy's Government intends to contest Law 19/2017**

Sáenz de Santamaría, the Spanish Vice President, announced Mariano Rajoy had ordered the Attorney General to file a case against the Catalanian legislation approved earlier that day regarding its intentions to hold a referendum. Santamaría insisted, “the government will not consent to the breakdown of Spanish law” (La Moncloa, “Miércoles 6 de septiembre de 2017”). The case would be brought before the Constitutional Court and claim the bill was unconstitutional.

### **September 7, 2017- Catalonia adopts Resolution 807/XI**

The Parliament of Catalonia adopted Resolution 807/XI to appoint members of the Electoral Commission of Catalonia in accordance with Law 19/2017 (Catalunya, “Núm. 7450A - 7.9.2017 Diari Oficial de la Generalitat de Catalunya”).

### **September 7, 2017- The Constitutional Court Issues Three Press Releases**

The first determination they made on September 7, 2017 was to dismiss a recusal petition lodged by Carme Forcadell, the President of the Catalanian Parliament. It is important to note the Constitutional Court is made up of 12 magistrates. Evidently, Forcadell thought the 12 magistrates were biased because of their prior involvement with earlier court decisions pertaining to Catalonia. The court found Forcadell's request unreasonable as the magistrates believe it was “lodged generically” at the institution itself rather than the individuals who make up the court. In an almost biting summary the release states ““wherein, in truth, the magistrate judges are not recused, but rather the Constitutional Court itself”. Such a recusal, ‘lacks legal substantively and is not worth a pronouncement on a question of law’” (Tribunal Constitucional, “Nota Informativa N<sup>o</sup> 60/2017”).

Next, the court announced it would refer the appropriate information to the Public Prosecutor's Office to consider the initiation of sentence enforcements relating to the policies adopted by the Catalanian Parliament on September 6, 2017 (Tribunal Constitucional, "Nota Informativa N<sup>o</sup> 61/2017").

Lastly, in a more robust press release, the court announced the precautionary suspension of four provisions previously approved by the Generalitat and the Catalanian Parliament using the precedent set forth by Article 161 of the Spanish Constitution. Effectively, the court temporarily nullified Law 19/2017, reversed the provisions designed to hold a referendum, prohibited Catalonia from establishing norms to regulate an independence vote, and challenged Catalonia's call for a referendum (Tribunal Constitucional, "Nota Informativa N<sup>o</sup> 62/2017"). The court ordered the newly appointed Electoral Commission of Catalonia to cease their efforts, and Catalonia's activities were not initially found to be lawful.

### **September 8, 2017- Two Complaints are filed against Separatist Leaders**

The Public Prosecutor's Office filed two complaints against pro-independence leaders. One complaint was against Carme Forcadell, the President of the Catalanian Parliament, and four representatives. The complaint alleged they engaged in "disobedience, the perversion of justice, and the misappropriation of public funds." The other complaint was directed at Puigdemont and 12 members of the Generalitat with the same charges- "disobedience, perversion of justice, and the misappropriation of public funds" (Poder Judicial, "El TSJ de Cataluña registra dos querellas de la Fiscalía contra Govern y Mesa Parlament"). The charges are logical as the independence leaders have disobeyed the law, opposed the justice system, and likely directed the state's finances in support of their unlawful goal.

**September 8, 2017- Generalitat Approves Law 20/2017**

The Parliament of Catalonia approved Law 20/2017, entitled “Legal and Foundational Transition of the Republic.” The piece of legislation consists of 12 titles and is 28-pages long. The document defined the processes Catalonia would follow if the 1-O referendum indicated Catalonians wanted to secede from Spain. It detailed matters of judicial process, human rights, forming a new nation, and the expected norms to be associated with the possible nascent state. The text is taken to be a stop-gap measure that would carry over the government until a Catalanian Constitution could be ratified. The preamble of the document begins:

Although the definitive configuration of the new state corresponds to the constitution that the Constitutional Assembly must develop and that the citizens must ratify, once Catalanian independence is declared it is essential to give temporary legal form to the basic constitutional elements of the new state so that the immediate arrangement can begin to function with the maximum efficacy, at the same time it must regulate the transition of the prevailing legal system that the republic is going to create, guaranteeing that they will not produce legal shortcomings, that the transition will realize itself in an orderly and gradual process, and the full security of the legal system; assuring, in sum, that from the initiation of the new state it will be subject to the law; that in every moment it will be a state composed of laws. (Catalunya, “LEY 20/2017, de 8 de septiembre, de transitoriedad jurídica y fundacional de la República.”)

Order and stability are emphasized as the legislature describes the potential steps necessary to successfully establish Catalonia’s independence.

Some notable provisions in the bill assure public employees in the region will be able to carry on in their roles and receive the same compensation; define who will be eligible for

citizenship in the new state, vow to honor international law and observe its agreements; establish a region wide voting commission to oversee impartial votes, and promise the continuity of law and order.

Title VII “Constitutional Process” explains the process in which Catalonia would formulate its norms of governance after declaring its independence. Article 85 “Activation and Fundamental Characteristics” states if the referendum gives results favorable to independence, the government will activate the steps necessary to write and approve the Constitution of the Republic. Article 86 “Phases of the Process” specifies three stages of the constitutional process- participatory process, the Constitutional Assembly, and the ratification of the constitutional by referendum. The participatory process would create an exploratory committee to begin deliberations regarding the text of the new constitution. It would take place during the six months after the announcement of the referendum results.

Article 87 “The Constitutional Assembly” mandates the Catalonian parliament be dissolved with the conclusion of the participatory process and for new elections to be held to form a Constitutional Assembly. The Constitutional Assembly was to be made up of the same number of delegates as the number of members in the Catalonian parliament. Delegates would be chosen by election. The Constitutional Assembly would vote on proposed drafts of the constitution and a draft would be approved by a 3/5 majority during the first vote or a simple majority during the second vote.

Article 88 “Ratification by Referendum” stipulates that an approved constitutional draft will be subject to a referendum by the citizens of Catalonia. Pending the referendum results, the constitution would be ratified, new elections would be planned, and the institutions of

government conceptualized by the constitution would begin to be enacted (Catalunya, “LEY 20/2017”).

### **September 12, 2017- The Constitutional Court Suspends the Law of Legal Transition**

The Constitutional Court unanimously suspended Catalan Law 20/2017 in accordance with Article 161 of the Spanish Constitution. The respondents, Catalan leaders, were notified in person of the court’s decision and that the Catalan government is not allowed to pursue the provisions established in Law 20/2017. Any attempt to see the legislation to fruition would be unlawful. As is standard with these types of announcements, the release stated:

The Court advises all of them [Catalan Leaders] “of their duty to prevent or halt any initiative that might entail the disregarding or circumventing of the ordered suspension”

In particular, the judgement points out, they are advised of their duty to refrain from “instigating, informing or dictating any agreement in order to execute the norms contained in the suspended law in-question. (Tribunal Constitucional, “Nota Informativa N° 63/2017”)

Compliance with the court’s ruling is mandatory and disobedience would likely invite criminal charges.

### **September 13, 2017- The Constitutional Court issues two press releases**

The Constitutional Court focused on the Electoral Commission of Catalonia, which had been suspended on September 7, 2017. The court ordered the group’s members to report what steps they had taken to comply with the court’s ruling. The court suspected their directive was being largely ignored, citing the appointment of commission designees in Arán, Barcelona, Girona, Lleida, and Tarragona. The court wanted assurances that the commission was abiding by the ruling, stating “within a period of 48 hours, they inform the court of the measures taken to

comply with the suspension” of Law 19/2017 (Tribunal Constitucional, “Nota Informativa N° 64/2017”).

Later, the Constitutional Court rejected an appeal filed by Carme Forcadell regarding her recusal petition (Tribunal Constitucional, “Nota Informativa N° 65/2017”). The 12 magistrates were fit to decide constitutional matters brought before them.

### **September 20, 2017- The Constitutional Court Annuls Catalonia’s Law 19/2017**

The Constitutional Court of Spain annulled Law 19/2017 citing its passage as disregard for the parliamentary procedures and ruling the law’s provisions as unconstitutional. The court iterates the bill was introduced using the illegal process of amending the day’s agenda established by earlier parliamentary procedures. The same modifications that had been suspended by the order of the Constitutional Court (Tribunal Constitucional, “Nota Informativa N° 66/2017”).

When addressing the constitutionality of Law 19/2017, the court adamantly disagrees with the Catalanian Parliament’s interpretation of the implications of laws regarding self-determination. The release details:

By adopting the contested agreements, the Parliament of Catalonia "claims inherent attributions to sovereignty, superior to those derived from and recognized by the Constitution and insists on introducing their assertions into the legal system in the guise of a specific and valid object- the presumed 'constitutional process' in Catalonia- whose unconstitutionality " has been repeatedly declared by the Court. (Tribunal Constitucional, “N° 66/2017”)

The court observes that Catalonia has repeatedly tried to usurp constitutional powers that the autonomous community is not legally entitled to. Finally, the court concludes:

“[Catalonia’s] unlawful will to continue with the 'constitutional process in Catalonia' outside the constitutional order" and trying to “carry forward its political project of disconnection from the Spanish state and creation of an independent Catalanian state in the form of a republic, what the court supposes to be an unacceptable attempt (incompatible with the social and democratic state of law that is proclaimed in Article 1.1 of the Spanish Constitution) in order to reform the constitution outside of it [the constitution].” (Tribunal Constitucional, “Nº 66/2017”)

The court sees Catalonia’s efforts as a perverse ploy to distort the law and the established order to explore its self-serving interests. As such, the magistrates unanimously rule Law 19/2017 is unconstitutional and void. Furthermore, the court refers the Catalanian leaders’ actions to the Public Prosecutor’s Office to consider possible charges.

### **September 20, 2017- Spain’s Internal Minister Cancels Civil Guard’s Personal Leave**

The Spanish Minister of the Interior canceled vacation permits and modified work schedules for the Spanish National Police and the Civil Guard who were serving in Catalonia. The changes would take effect on September 20 and end on October 5, 2017. Members of the National Police and the Civil Guard will help enforce the Constitutional Court’s ruling voiding the 1-O referendum. The press release suggested the time may be extended as necessary (Ministerio del Interior, 20/09/17). They feared the Mossos d’Esquadra’s response would be insufficient to adequately oversee compliance with the law.

### **September 21, 2017- Constitutional Court Imposes Coercive Fines**

The Constitutional Court unanimously agreed to impose coercive fines of €12,000 on 7 members of the Electoral Commission of Catalonia and fines of €6,000 on fifteen members of local electoral commissions. The fines were issued in response to the commissions’ failure to

observe the court rulings announced on September 7, September 12, and September 13. The release specifies:

Fines- whose purpose is not to punish, but to enforce compliance with the court's resolutions- will only begin to be imposed, in the case of persisting noncompliance starting at ten in the morning the day after this resolution is published in the Official State Bulletin. (Tribunal Constitucional, "Nota Informativa N° 67/2017").

The court went on to cite the electoral commissions' resolutions that determined ballot size and established electoral deadlines to support the allegations of the commission's noncompliance.

Later, describing specifics regarding the fines' amount, the court explained members of the Electoral Commission of Catalonia incurred larger fines because they were actively disregarding the court's suspension; the members of the local electoral commission incurred lesser fines because their lack of compliance stemmed from the less prominent role in disobeying the court. The minimum legal coercive fine the court could have imposed was €3,000. It chose to levy more extensive fines because of the possible ramifications of carrying out the referendum, the urgency of stopping the referendum preparations, and to reinforce the coercive fine's deterrence effect (Tribunal Constitucional, "N° 67/2017").

The release continued to admit the fines would likely do little to ensure the various parties complied with the court's directives, "in this specific case, the court understands that the coercive fines are of doubtful effectiveness as a measure to compel compliance with the precautionary suspension of Resolution 807/XI of the Parliament of Catalonia" (Tribunal Constitucional, "N° 66/2017"). The coercive fines were in fact ineffective.

### **September 22, 2017- Rajoy's government implores Catalonia to cease its extralegal efforts**

Spanish Vice President Sáenz de Santamaría, before attending a breakfast event, gave remarks regarding Catalonia. According to the central government, she asserted: “‘Puigdemont understands the strength of the rule of law’ and for this reason ‘he knows Spain is a democratic state’ that has ‘all the strength required to prevent their continuing commission of illegal acts and to react to all of them’” (La Moncloa, “Viernes 22 de septiembre de 2017”) Her introduction serves as an official condemnation of Puigdemont.

The statement continues to emphasize Spanish and the majority's contempt towards Catalonia's attempt to subvert government. She said “‘the majority of the nation’ has made called for a return to ‘the law’ and ‘democracy’ because ‘dialogue is possible within the law,’ and ‘outside of the law, any understanding is impossible’” (La Moncloa, “Viernes 22 de septiembre de 2017”).

### **September 26, 2017- President Trump and President Rajoy hold press conference**

President Rajoy made a state visit to the White House. After meeting with President Trump, the two gave a joint press conference in the Rose Garden. The topic of their prepared remarks ranged from the two countries' economic relationship to their cooperative efforts to tackle global problems including radical terrorism and North Korean instability. The visit was less than a week before the planned Catalanian referendum, and it is interesting Rajoy chose to move forward with the meeting given the uncertainty surrounding Spain in that moment. The Spanish government might have been striving to maintain a sense of normalcy and to reassert the head of government's role as a leading diplomat.

The issue of Catalanian independence seemed to be a poignant topic for the reporters in attendance. When a reporter asked Trump if he supported Spain's approach to the Catalanian

independence problem, Trump responded superficially by praising Spain's legacy as a great country and speaking about the importance of national unity. He went on to describe the old and timeless nature of the Catalonian dilemma and briefly commented on each side of the issue. He explained, "And I think that nobody knows if they're going to have a vote. I think the President would say they're not going to have a vote. But I think that the [Catalonian] people would be very much opposed to that." He concluded his response by urging the Spanish people to remain united (White House).

The same reporter asked Rajoy if he feared the possibility of Catalonia unilaterally declaring independence and how the central government might respond to such a declaration. Rajoy diplomatically explained, the idea of Catalonia declaring independence was not a decision he would support if he were in the position to decide. He pointed out that many of the institutions necessary to hold a proper voting were lacking in Catalonia and claimed that the region's insistence to pursue an extralegal vote would only produce frivolous commotion. He implored the Catalonians to end their illegal push for independence and embrace the rule of law while asserting Catalonia's current attempts were only creating discord and tension. Rajoy's final response to the prompt was an appeal to Catalonia to return to what he described as "the rule of law, dialogue, and common sense" (White House).

At the end of the press conference, a reporter asked Trump if he advised the Spanish president and if he thought the referendum conflict could be resolved through dialogue. Trump evaded the question and, instead, promoted the merits of a unified Spain:

Well, I think the people of Catalonia have been talking about this for a long time. But I bet you if you had accurate numbers and accurate polling, you'd find that they love their country, they love Spain, and they wouldn't leave. So I'm just for united Spain.

I speak as the President of the United States, as somebody that has great respect for your President, and also has really great respect for your country. I really think the people of Catalonia would stay with Spain. I think it would be foolish not to. Because you're talking about staying with a truly great, beautiful, and very historic country.

(White House)

It was evident the United States of America was inclined to side with the Spanish government and was not ready to empathize with Catalonia's ploy for an independence referendum.

Lastly, a reporter asked Rajoy if uncertainty would affect his ability to govern and if the political turmoil in Spain would motivate him to call for early elections. Rajoy assured the reporter the government was continuing its work and emphasized "I'm not thinking at all about calling early elections as a result of what we were saying" (White House). The Spanish government seemed minimally phased by Catalonia's plotting and imminent referendum.

### October 1, 2017- 1-O Referendum is Held

The 1-O referendum was held on October 1, 2017 and the results were complicated. The census indicated that 5,313,564 people were eligible to vote in the referendum. In total 2,286,217 votes were counted, while 19,719 of those votes were invalidated. Of the remaining 2,266,498 votes 90.18% supported Catalonian independence, 7.83% opposed Catalonian independence, and 1.98% votes were submitted blank (Generalitat de Catalunya, October 1 referendum results). The

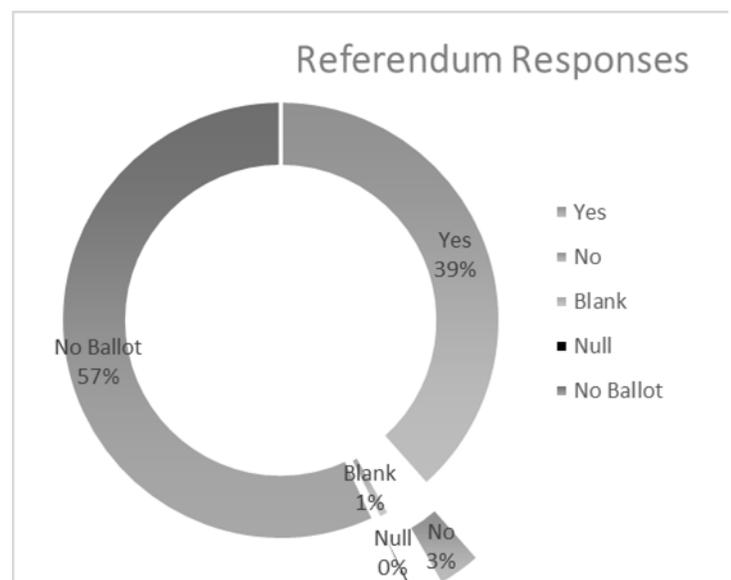
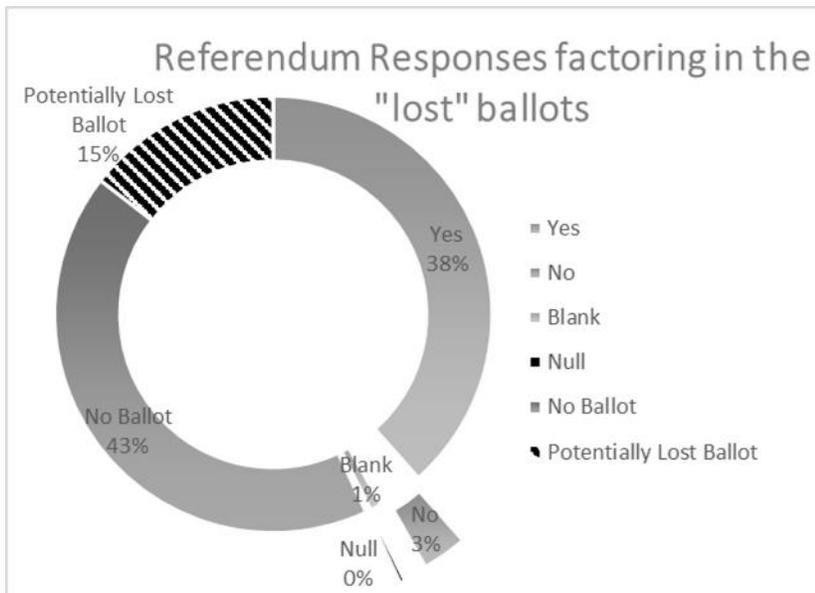


Figure 1- Percentages of referendum respondents by response vs. non-respondents in comparison to the total voting population.

number of votes submitted represents 43.03% of the voting population. *Figure 1* shows that only a fraction of Catalonians voted for their independence, 39% of the electorate.



*Figure 2 Percentages of referendum respondents by response vs. non-respondents in comparison to the total voting population allowing for the uncertainty of 770,000 lost ballots.*

It is important to note that the Catalanian government alleges up to 770,000 votes were unaccounted for. There were polling station closures and ballot box seizures in police raids (Generalitat de Catalunya, October 1). *Figure 2* shows that the 770,000 votes could have made a drastic impact on the total

percentage of voters in favor of independence.

The referendum numbers are hard to interpret because multiple degrees of uncertainty skew the results and the poll's confidence. The vote's extralegal status, unstandardized polling administration, and reports of irregularities mar the validity of the referendum's results.

## Conclusion

The issue of Catalanian independence is marked by a struggle with the central Spanish government to realize the supposed rights of Catalonians, while preserving the rights due to all Spanish citizens. The Catalonians rely on political theories of self-determination and assert their interpretations of the law to promote their efforts to attain independence, while the central government refutes Catalonia's advances by citing the constitution and the statute of autonomy.

The two seem to be entrenched in their positions by a mixture of commitment to their beliefs and charged emotions.

It's apparent the political game between the autonomous region and central government is complicated and has no clear solution nor conclusion in sight. The animosity between the two is likely to continue and only serve to exacerbate the situation. It will be interesting to see what political maneuvers will be employed to strengthen each side's position and dispute the other's as they continue in their climate of political chess- Catalonia enacts a law, Spain nullifies the law, Catalonia enacts a different law or ignores Spain's directive, and Spain responds as it sees fit.

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