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“The Prince should not be above the law but rather the law above the Prince”. Francesc Solanes on Catalan laws and Constitutions (1700)

Catalan nationalism or catalanism³¹ started off as a political movement in an attempt to build a federal state in Spain in the context of Spain's First Republic which took place during the short and highly convulsive period of 1873-74. Valentí Almirall and other Catalan intellectuals participated in this process to establish a new political ideology in the mid-19th century to modernise and regenerate Spain³² as a country and also to restore self-government, as the most effective tool to obtain recognition for the Catalan language, culture and identity and also to promote economic interests. This was done without attempting to disintegrate Spain as a united country. In fact Catalanism searched ways to reform Spain and become a more modern and progressive country in line with those of northern Europe. All these demands and its philosophy were summarized in the so-called *Bases de Manresa* of 1892. As a consequence of such perseverance and public mobilisation a low sort of autonomy was finally achieved in 1914 with the regrouping of the four Catalan provincial bodies in one single entity, called *La Mancomunitat* –the Commonwealth, led by the powerful and distinguished figure of Enric Prat de la Riba. The Mancomunitat created and implemented a number of cultural and scientific institutions in order to confer greater prestige to Catalan language and culture. Amongst them the Institut d'Estudis Catalans (Institute of Catalan Studies), the Biblioteca de Catalunya (Library of Catalonia), the Escola Industrial (Industrial School), the Escola Superior de Belles Arts (Higher College of Fine Arts), l'Escola Superior d'Estudis Comercials (the College of Higher Commercial Studies) or the Escola del Treball (College of Industry). Under the leadership of Prat de la Riba it was also created, the Escola de l'Administració Local (School of Local Administration), and required Catalan civil servants to have attended this institution. Many of these institutions, being inspired in the Anglo-Saxon world, were unique and had no counterpart in the rest of Spain.

31. Catalan nationalism or catalanism, are two names with a very similar or almost identical meaning, is a sort of (European) nationalism which asserts that Catalans are a distinctive European nation with their own political rights and promotes the cultural and linguistic unity of all Catalans. Some forms of nationalism are based in religion, ethnicity, race, or solely in economic matters. This is not the case of Catalonia, the core of this movement has to do, above all, with their own language and culture and foreigners residing in Catalonia are encouraged to integrate. Traditionally for the Catalans their sense of nationhood did not imply breaking-up with Spain as nationalism, as a political tool and in their objectives, in this part of the world has not been in origin a pro-independence type of national movement unlike other forms of nationalism that have been established in other parts of Europe or elsewhere. Now this notion is clearly being called into doubt by many in Catalonia since Spain's different Governments and institutions (judiciary, army, economic powers etc) are perceived by the people that have unilaterally breached the 1978 Constitutional consensual agreement.

32. In this period a Catalan minister of finance Mr. Laureano Figuerola introduced a Catalan currency “pesseta” –small piece in Catalan language- as the single currency for all Spain.

Another important landmark of the *Mancomunitat* was the promotion of the work of Dr. Pompeu Fabra, who was pioneer and responsible for the current Catalan Grammar and linguistic standard. Despite its remarkable success the *Mancomunitat* was first toned down and then outlawed during General Miguel Primo de Rivera's military dictatorship in 1925. The current autonomous institutions in Catalonia owed a great deal to the works, philosophy and sense of togetherness of *Mancomunitat*.

Origins of Catalonia's political system and its institutions

Catalonia began to develop its own legal and political order after it liberated itself in 987 from the authority of the Carolingian Empire. To the Catalans' view the Carolingians or Frankish, which the Catalan counties were under its direct sovereignty, were not properly defending the country –the so-called Hispanic March- against the Moorish razzias that were posing a big threat to the safety of the population and therefore count Borrell II opted for not renewing the sovereignty pact with the King of France and proclaim independence for his counties. Later on during the XI century *The Pau i Treva* Constitutions (Peace and Truce) and the *Usatges* (Customs) established the foundations for the civil charter of Catalonia, which was enhanced and updated in the centuries to come. The Parliament of 1283 (called "the General Court for the Catalans"), one of the oldest and most well suited parliaments of medieval Europe institutionalized the role of the assembly of estates and its legislative powers shared with the king. It also consolidated the monarchy, as the relationship with the king was based on pacts, a political doctrine establishing the sovereign's respect for the laws and the country's respect for the sovereign. In 1359 the *Diputació del General* (a sort of legislative chamber) was created initially for the purpose of tax collection but it almost immediately was credited as the country's government and the political body that implemented the law. Also in the governance of the city of Barcelona a council of One Hundred –*Consell de Cent*- representing the distinctive social groups it was established as the instrument to better channel the different and competing interests in that society. This period also saw the expansion and consolidation of a Catalan maritime empire that extended across the Mediterranean Sea following the conquest by the Catalans of Valencia, the Balearic Islands, Sardinia, the Kingdom of Naples and Sicily and the Duchies of Athens and Neopatria. As a result of it, a large increase of maritime trade took place in the Catalan ports, particularly in the Crown's preeminent city, Barcelona.

It is also during the Middle-Ages when the Catalan nation developed a fine literature in a variety of specialties that has lasted to this day. All these (institutional, cultural and national) features conferred to Catalonia the status of a nation already in the period which stems from the 13th and 14th centuries³³.

In 1422 the first compilation of Catalan laws was made by combining the *Usatges* of Barcelona, the Constitutions of Catalonia and the prevailing *capítols de cort* (laws proposed by Parliament). In 1589 this compilation became the official *Constitucions i altres drets de Catalunya* (Constitutions and other rights of Catalonia). This constitutional effort, understood as a development, not a national code but a national heritage aimed to place limits on the power of the king and organize the *public commonwealth*. The Customs of the Sea –*El Consulat de Mar*- was another relevant institution. This set of maritime

33. See Pierre Vilar, "Història de Catalunya", Editorial Base. 1989

customs and ordinances in Catalan language was compiled over the 13th century with its final writing in 1350. It was finally published in Barcelona at the end of the XV century. This sort of judicial body expanded its jurisdiction to administer maritime and commercial law throughout the Mediterranean geography and beyond and was not abolished until the second half of the nineteenth century when it was replaced by a new code of Spanish maritime law under French inspiration.

In 1640 the Catalans rebelled in the so-called Guerra dels Segadors –the Reapers War-, encouraged by some French intervention. There were two main reasons for the rebellion: 1) the Catalans were dissatisfied of Castilian continuous demands for troops and financial resources to fight in the war with the French, and secondly the Catalans feared their legal and political system being “reduced to the style and laws of Castile” as stated by Phillip’s the IV³⁴ first minister the not-much-beloved by the Catalans Count-Duke of Olivares. In that war which lasted for more than twelve years, Louis XIII was even made for a short while King of Catalonia, the Catalans lost their northern-most countries placed beyond the Pyrenees to France as stipulated by the Treaty of the Pyrenees of 1659. Nevertheless the Catalan legal and political system remained intact.

This system of self-government reached its maximum development when the Parliament of 1701-1702 and 1705-1706 elaborated laws granting the greatest possible limits on the power of the king and his government in order to maintain observance with the law. Just before it was abolished by the new Bourbon king Philip V³⁵ at the end of the Spanish War of Succession in 1714, the Constitutions proved to be an effective tool for adapting to the demands of society and greatly reconciling the often conflicting elements of order and liberty. In addition to respecting the privileges of the nobility in this *ancien régime*, it provided social benefits for most people in the areas of taxation, war, justice, the economy and individual rights. In turn, the institutions had achieved considerable political capacity in the context of European parliamentarianism. It was a system based on political representation of the estates that allowed a high degree of representation of common people in municipal government. During the War of Succession, a conflict that involved major European powers, a choice had to be made between a system of solid Catalan government with capacity of renovation, based on contractualism and parliamentarism, confronted with a centralised system of Bourbon authority, genuinely absolutist and unitary.

With the severe and incontestable defeat of the War of Succession in 1714 Catalonia and the rest of the Crown of Aragon³⁶ lost all the laws and rights that characterised those countries. Centralism was duly and ruthlessly implemented and political and identity differences were accordingly prosecuted.

From a reformist type of nationalism to the move towards Independence

Catalonia is one of Spain’s state historic nations. It has its own language with around 10 million speakers, part of the Romanesque family along with Italian, Spanish, Portuguese, French, Occitan, Romanian etc. Catalan is understood by the vast majority of the people and spoken by most people, and is used in the education system, in the public administration and in the private domain. In this respect it must be stated that all Catalans

34. Philip III in Catalonia’s regnal number and tradition

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36. Also called Confederation Catalan and Aragonese for its division of powers and laws.

–except for the French part of Catalonia- also speak Spanish, having some Catalans Spanish language as their own mother tongue. Historically, Catalonia was part of a larger entity called the Kingdom of Aragon, which was united with Castile in the late fifteenth century. However Catalonia kept its own governing institutions (the Generalitat) and its legal system as it also did the rest of the territories part of the Kingdom of Aragon. This name, the Kingdom of Aragon, was misleading as it was Catalonia with its maritime and trading power and military force the one leading this confederation of separate entities (Catalonia, Aragon, Valencia, Balearic Islands etc) but with a common King, a common faith and a common foreign policy as the only equal elements with Castile.

The first serious attempts to curtail the Catalan self-government can be encountered during the seventeenth century when “valido” count-duke of Olivares –prime minister of Habsburg Phillip IV- attempted to imitate and expand the rules of Castile to the entire Crown of Aragon and thus reducing the existing principles of confederation, in favour of centralism. This, together with the existence of a Castilian military contingent occupying Catalonia facing the French army and draining the resources of the people, provoked very serious unrest in Catalonia and led to the proclamation of independence by Pau Claris and the subsequent alliance with France and with the French King.

Only in 1714, after the Catalans sided with the losing coalition – UK, The Netherlands, Austria etc- in the War of Spanish Succession, were these civic and legal rights abolished. The Catalans supported the Austrian pretender – Charles III- and embraced the Anglo-Dutch mercantile and productivity model combined with the relatively decentralized and tolerant Austrian attitude towards the nationalities, as opposed to the politically centralized and economically Colbertian–mercantilist and therefore interventionist- French model. The outcome was, as we know, the suppression of the Catalan constitutions and liberties. It took more than 150 years for the Catalans to envisage a political program for the cause of autonomy and 200 years for achieving a small degree of self-governance with the already mentioned *Mancomunitat*.

Emergence of Catalan nationalism as a political tool

Catalan nationalist and federalist movements arose in the nineteenth century, and when the Second Republic was declared in 1931, Catalonia became an autonomous region within Spain. First attempts to proclaim independence led to a more restrained view in the face of political autonomy. Following the fall of the Second Republic after the Spanish Civil War of 1936–39, the dictatorship of General Francisco Franco annulled Catalonia’s autonomy and prohibited any public usage, official promotion or recognition of the Catalan language amongst many other things regarding Catalan culture and identity.

The broad movement known as Catalanism, like other European national movements, is a product of the second half of the nineteenth century, the product of a cultural revival – known as *la Renaixença*- and the industrial take-off –Industrial Revolution- that made Catalonia the most dynamic territory in Spain and in the Iberian Peninsula as a whole. Historically,

Catalanism has sought the transformation of Spain into a pluri-national, modern state with less influence by Church and by the backward noble oligarchy, with Catalonia playing a full part in Spanish politics, although from the early twentieth century there has also been a movement in favour of an independent state of Catalonia. Early Catalanists called themselves regionalists but gradually the term nation gained ground and acceptance, coming into conflict with Spanish nationalists, for whom the only possible nation was Spain. Catalan nationalism is the stronger version of Catalanism, prioritizing Catalonia over Spain but not making a straight move towards separation. The early twentieth century and the 1960s and 1970s saw a massive movement into Catalonia of migrants from other parts of Spain and the Catalanist movement has, ever since, sought to incorporate them into the community, notably by encouraging them to learn the Catalan language and adapt to a common set of values.

Under the Second Republic (1931-1939), the self-governance body of *Generalitat* was restored but it was again abolished after Spanish Civil War resulted in the victory of the far right nationalist side under General Francisco Franco, who lasted for nearly forty years of dictatorship. Needless to say, the Franco regime suppressed the Catalan language and other symbols of Catalan national identity like the autonomous status in the name of a single Spanish nation. During the years of the Franco regime, propelling a radically anti-Catalan, anti-Europeanist and anti-democratic climate, Catalonia struggled to lead Spain in its move for the European model, - namely, democracy, recognition of human rights, economic growth, social capitalism and the welfare state - and spearheaded the struggle for the recognition of a more pluralist vision of Spain and the right for autonomy. Since the emergence of the so-called *transition to democracy* -roughly from Franco's death to the approval of the Constitution in late 1978- to the present day, Catalanian mainstream parties have shown full and unrepentant support to Europeanist initiatives of the various Spanish governments.

Restoration of self-government was among the major and historical demands of Catalan democratic forces in the wake of the death of Franco in November 1975. The *Generalitat*, prior to the approval of the new Constitution, was re-established, along with self-governing institutions in the Basque Country -the two territories that had enjoyed autonomous institutions during the Second Republic and the Civil War-. The 1978 Constitution also allowed other regions to gain autonomy, in order to water down the whole process, and soon the whole of Spain was divided into seventeen autonomous communities plus two autonomous cities -Ceuta and Melilla, Spanish enclaves within Morocco-. Since then, the big questions have been whether all seventeen communities should be treated the same or whether special recognition should be given only to the three so-called historic nationalities -including also Galicia-.

However, the Spanish constitution stipulates that there is only one Spanish nation but then ambiguously refers to 'nationalities and regions'. This is written without specifying which territories qualify as such. There is hence an ambiguity, which partially explains different interpretations and conflicting attitudes with the legal text.

For more than thirty years, Catalans accepted their statute of autonomy, the instrument to regulate relations with the state and the functioning of

Catalonia's institutions of self-government, as a reasonable compromise between historical Catalan autonomous demands and Spanish centralism/unionism, while gradually enhancing self-government in socio-political and economic/fiscal areas. Opinion polls showed, for many years, between 25-30 per cent in favour of independence, very few wanting to return to the old centralist system, and a larger support for a federal model for Spain, never properly specified but implying a large degree of autonomy, where Catalonia would have a distinctive –bilateral- relationship with the Spanish government. In the last five years –although the trend was already noticeable before the turn of the century-, however, there has been a dramatic rise in support for independence, which now gains a majority in most opinion polls. A series of unofficial referenda in towns and cities ³⁷, following the great unrest caused by the verdict on the Estatut by the Spain's Constitutional Court, have shown sound majorities for independence – although in the large cities turnout has been low as opponents of independence abstain. A big number of groups, think tanks and associations have sprung up to support or to study the idea of independence and as a result a series of demonstrations in July 2010 , September 2011/12/13/14 gathered each one more than a million people on to the streets of Barcelona and other cities and towns in Catalonia. A massive human chain, resembling the one held in the Baltic countries prior to independence from the Soviet Union, was organised in 2013 linking Catalonia from North to South with the participation of 1.6 million people. Finally 9 November 2014 an unofficial consultation, held by the Catalan government though, mobilised almost 2.4 million people with almost 2 million voting for independence. The citizen participation process, as it was finally, branded on the political future of Catalonia was a non-binding vote on the political future of Catalonia that was held by the Government of Catalonia on 9 November 2014. While also known as the Catalan independence referendum, the vote was rebranded as a "participation process" by the Government of Catalonia, after a "non-referendum popular consultation" on the same topic and for the same date was suspended by the Constitutional Court of Spain. The ballot consisted of two questions: "Do you want Catalonia to become a State?" and "Do you want this State to be independent?". The second question could only be answered by those who had answered Yes to the first one. The Catalan government indicated that 2,344,828 votes were cast overall, but did not provide a turnout percentage figure. Turnout estimates published by media outlets range between 37.0% and 41.6% and 80.8% of the cast votes supported the Yes-Yes option, 10.1% the Yes-No, 4.5% the No option.

In September 27th 2015 elections are scheduled and the two main nationalist parties will run their own lists with the inclusion of independents in the lists. Also despite early criticism a left-from-the-centre ERC agreed to support the government's 2015 budget. 2015 is expected to be a confrontational one with tremendous electoral and political implications. Once this cycle is over perhaps a new momentum will start with a better opportunity for understanding and compromise.

Should a referendum be given a date with a question on independence it remains to be seen whether Spain proceeds to suspend Catalan self-government, as some voices have pointed out, or accepts, in a brand-new exercise of pragmatism, to perform the referendum and accept the final outcome.

37. Between the years 2009 to 2011.