

Developments in the Field

How the Business Debate Influenced (or not) the Conflict Between Catalonia and Spain

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I. INTRODUCTION

The reality of today's world is that businesses are relevant political actors at local, national and international levels. They are able to frame and define states' policy agendas and public issues in their favour through lobbying, political campaign contributions, promoting particular ideas and trends, setting social norms and expectations, and even shaping identities.¹ Moreover, it has historically shown that businesses may have an impact on certain regimes by using their economic power to exercise an influence on political and economic controversial issues.

In this regard, the role of businesses as key players in conflict settings is a question that has been the subject of intense study and controversy in recent decades. Much of the literature regards businesses as the engine or key factor in generating or perpetuating conflicts worldwide.² Yet other more recent currents of thinking describe companies' potential role in building peace, promoting development and fostering human rights within their area of influence.³

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¹ John Gerard Ruggie, 'Multinationals as global institution: power, authority and relative autonomy' (2017) *Regulation & Governance* 1–17.

² See Philippe Le Billon, *Fuelling War: Natural resources and armed conflict* (London: IISS & Routledge, 2005).

³ See Jane Nelson, *The Business of Peace: The Private Sector as a Partner in Conflict Prevention and Resolution* (London: International Alert, Council on Economic Priorities and the Prince of Wales Business Leaders Forum, 2000); Virginia Haufler, 'Is There a Role for Business in Conflict Management?' in *Turbulent Peace: The Challenges of Managing International Conflict* (Washington DC: USIP, 2001) 659–676; John Bray, 'The Role of Private Sector Actors in Post-conflict Recovery' (2009) 9:1 *Conflict, Security & Development* 1–26; Human Rights Council, 'Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' (Guiding Principles), A/HRC/17/31 (21 March 2011).

In fact, in recent years, the private sector has even participated in formal peace processes⁴ by promoting them from the inside as part of the negotiating team or from the outside by mobilizing public opinion, serving as a bridge between clashing parties or offering logistical support.⁵ Recent studies indicate that in contexts in which the private sector is viewed as having a high degree of credibility (even higher than some formal players in the conflict), direct access to the parties in the conflict and a strategic interest in resolving the conflict, it can become a direct actor and make a significant impact in the peace process.⁶ However, in many cases, company motivations – which are as diverse as the conflicts in the world – seem to have reflected the need for peace as the only means to conduct larger-scale economic activity that leads to the consequent rise in profits and a drop in the costs associated with the conflict. This was particularly the case in Northern Ireland where the Northern Ireland Confederation of British Industry (CBI) changed the terms of the political debates by introducing the term ‘peace dividend’. It succeeded in showing the parts in conflict that the economic rationale was an area of agreement.⁷

This piece aims to analyse the intense debate between different business positions amidst the economic and political conflict between Catalonia and Spain. It describes the different positions that companies and business associations adopted and how this influenced, or not, the conflict in a context where the fear of an economic crisis within Catalonia would also affect Spain and even European indicators. The elections on 21 December 2017 showed that, despite this tension, pro-independence parties renewed their majority in the Catalan Parliament while business actors reflected the polarization of the political and legal arguments of both sides.

II. THE CONFLICT: POLITICAL BACKGROUND

The Siege of Barcelona during the War of Spanish Succession (25 July 1713–11 September 1714) was a breaking point in the tumultuous history of Catalonia. It represented the defeat of the Catalan resistance by Bourbon troops, and Catalonia consequently became a province of the Spanish Monarchy. Thus, Catalonia lost its own currency as well as its political and legal institutions, including its social and economic model based on a powerful maritime commercial activity. Since then, Catalonia has repeatedly attempted to reach full recognition of its sovereign rights and freedoms. Historically, some political parties have claimed full independence from the Spanish state while others have defended a self-determined political subject option within a Federal state.

Even though Catalonia has witnessed periods of political stability, there have also been periods of repression. During the Franco regime, for example, the use of Catalan language in

⁴ See Angelika Rettberg, ‘Business and Peace in El Salvador, Guatemala, and Colombia’ (2007) 39:3 *Journal of Latin American Studies* 463–494; Allan Gerson, ‘Peace Building: The Private Sector’s Role’ (2001) 95:1 *American Journal of International Law* 102–119; International Alert, *Conflict-Sensitive Business Practice: Guidance for Extractive Industries* (London: International Alert, 2006).

⁵ This has taken place in countries with different kinds of conflicts such as Colombia, El Salvador, Guatemala, Northern Ireland, Mozambique, South Africa, DR Congo and Sri Lanka. See Salil Tripathi and Canan Gündüz, *A Role for the Private Sector in Peace Processes? Examples, and Implications for Third-Party Mediation* (Centre for Humanitarian Dialogue, Oslo Forum, 2008).

⁶ Ibid.

⁷ See Confederation of British Industry, Northern Ireland (CBI NI), *Peace: A Challenging New Era* (Belfast: CBI NI, 1994).

public was banned. Moreover, attempts to recognize some kind of self-government to Catalonia was suppressed by a military putsch. After the Franco regime (1939–1975) when the democracy was re-established in 1977, the process of decentralization in Spain has made it possible to acknowledge the Catalan institutions of self-government through the first Catalan Statute of Autonomy (1979),⁸ according to Article 151 of the Spanish Constitution of 1978. However, in recent years the central institutions of the Spanish government have extensively used their competences in basic legislation, with strong support of the Constitutional Court, to significantly reduce the room for self-government of the Catalan Parliament. Thus, the model of self-government fought for by some Catalans and backed by historical financial grievances has not yet been reached and after years of claims, the path towards the declaration of a unilateral independence is, according to almost half of the population, the most effective way to achieve the full recognition of sovereign rights.

For several centuries, the world has witnessed prolonged tension between the people of Catalonia and its government and the Spanish government and parliament. However, these tensions increased in 2010 with a ruling from the Constitutional Court, STC 31/2010, on the revised Catalan Statute of Autonomy of 2006.⁹ The 2006 Statute was intended to reform the 1979 Statute of Autonomy in order to reverse the erosion of self-government fostered by the central Spanish state. In this decision, the Tribunal ruled that the 2006 Statute was unconstitutional and dismissed many of the proposed reviewed articles. This, together with the argument of a historical tax deficit against Catalonia and a strong feeling regarding the Catalan particularities, including its own culture, traditions and language, has led to civil and political pacific mass movements aimed at achieving the independence of Catalonia from Spain.¹⁰

This decision by the Constitutional Court in 2010 helped fan the flames of the popular support for political independence. In its aftermath, the Catalans have attempted to exercise their right to decide about the Catalonia political status within Spain. In 2014, the Catalan Parliament passed the Consultations Act, which contributes to convoke an informal referendum to determine the opinion of Catalans about this issue. The informal referendum was contested by the Spanish government. Even though it was suspended by the Constitutional Court, the informal referendum took place on 9 November 2014. This led to court proceedings against former members of the Catalan government, including the former President of the autonomous community, Artur Mas.

In 2015, a coalition of pro-independence parties, *Junts pel Si* (Together for Yes), took control of Catalonia's regional government after its victory in the parliamentary elections of September. The Catalan Parliament, with the pro-independence majority, started the process of the secession of Catalonia from Spain as part of what was called a 'democratic mandate'.¹¹ In June 2017, the former President of Catalonia, Carles Puigdemont,

⁸ Ley Orgánica 4/1979, de 18 de diciembre, de Estatuto de Autonomía de Cataluña, www.boe.es/buscar/doc.php?id=BOE-A-1979-30178 (accessed 14 March 2018).

⁹ Ley Orgánica 6/2006, de 19 de julio, de reforma del Estatuto de Autonomía de Cataluña, www.boe.es/buscar/act.php?id=BOE-A-2006-13087 (accessed 14 March 2018).

¹⁰ Antonio Bar Cendón, 'El proceso independentista de Cataluña y la doctrina jurisprudencial: Una visión sistemática' (2016) 37 *UNED. Teoría y Realidad Constitucional* 187–220.

¹¹ Resolució 1/XI del Parlament de Catalunya, sobre l'inici del procés polític a Catalunya com a conseqüència dels resultats electorals del 27 de setembre de 2015, www.parlament.cat/document/activitat/153122.pdf (accessed 26 March 2018).

announced plans to hold an independence referendum on 1 October 2017,¹² in which 90 per cent of voters were in favour of independence from Spain.¹³ This led to a symbolic unilateral declaration of independence made by the Catalan Parliament¹⁴ that triggered Article 155 of the Spanish Constitution for the first time in the history of Spain. This allowed the central Spanish government to take control of Catalan institutions and finances, dissolve its parliament, intervene bodies and services and call for elections within six months. In particular, this mechanism, approved by the Spanish Senate, enabled the Spanish government to take full control over the Catalan institutions and companies in charge of issues such as security and public order, financial management, taxation, the budget and telecommunications.

The application of Article 155 and the measures adopted in Catalonia by the Spanish government have been considered by pro-independence parties as excessive, with further claims made that they undermine the enjoyment of fundamental civil and political rights.

III. THE (ALLEGED) ECONOMIC IMPLICATIONS OF THE CONFLICT

Besides the question of Catalan freedoms and rights, the conflict also has an economic component. Catalonia has a strong and diversified economy within the Spanish state, with a gross domestic product (GDP) higher than the Spanish and EU-28 average, per capita. The region has a long-standing industrial sector that accounts for about 20 per cent of Spanish industrial gross value added since 2014.¹⁵ Moreover, Catalonia has a ratio of 7,700 euros of exports per inhabitant per year.¹⁶ It has traditionally exported more than a quarter of the total for Spain. Thus, there is a high rate of business density and of entrepreneurial activity from different sectors including electrical goods and equipment manufacturing, electronics and optics, paper and graphic art and textiles, leather and footwear, chemicals, pharmaceuticals and service (mainly tourism).

Undoubtedly, the Catalan economy is attractive to Spanish and foreign businesses. Catalonia is the autonomous community with the most businesses in Spain. At the beginning of 2016, the region boasted a total of 606,512 companies.¹⁷ As Catalonia has a large stock of foreign investment, a high portion of these businesses are subsidiaries of foreign companies, which mainly come from France, Germany, Italy, the United States, the Netherlands and Japan.¹⁸ Additionally, above 3,000 of these businesses are Catalan private companies with more than 7,000 subsidiaries operating in 131 countries. Also, the largest Spanish companies have a relevant presence in the

¹² Official Statement by President Puigdemont on the Catalan Referendum, 9 June 2017, http://premsa.gencat.cat/pres_fs/vp/docs/2017/06/09/16/07/0be082b5-b0e5-43e9-9eae-6a54f07c57b2.pdf (accessed 26 March 2018).

¹³ Resultats del referèndum de l'1 d'octubre, http://premsa.gencat.cat/pres_fs/vp/docs/2017/10/06/16/58/c68d229e-508a-4f27-a9b2-9b4762b4a6fa.pdf (accessed 26 March 2018).

¹⁴ Declaració dels Representants de Catalunya, www.ara.cat/2017/10/10/Declaracio_Independencia_amb_logo_-1.pdf (accessed 26 March 2018).

¹⁵ Catalonia's share of Spanish gross value added (GVA) 2006–2016, www.statista.com/statistics/327257/catalonia-s-share-of-spanish-gross-value-added-gva/ (accessed 15 March 2018).

¹⁶ Oriol Martínez Alòs-Moner and Vicent Pastor, 'The Position of an Independent Catalonia in the International Context' in *The Economy of Catalonia Questions and Answers on the Economic Impact of Independence* (Barcelona: Col·legi d'Economistes de Catalunya – Profit Editorial, 2014) 16.

¹⁷ Generalitat de Catalunya, *Nota de Conjuntura Econòmica. Analysis of the Evolution of the Catalan. Annual Report 2016* (Barcelona: Directorate General for Economic Analysis, 2017) 68.

¹⁸ *Ibid.*, 24.

Catalan market. In addition, Catalonia is home to 200 public companies, some of them with significant transnational operations, mainly in Portugal, France, the United States, Mexico and Brazil.¹⁹

According to pro-independence political parties, Catalan economic power clashes with the Spanish centralized progressive tax system, which means that richer regions pay more taxes, and wealth is redistributed among Spanish regions with lower incomes. Spain's treasury published in September 2017 that Catalonia's fiscal deficit, the difference between the money it sends to Madrid and the money it receives back, reached 9.892 billion euros in 2014. According to the System of Territorialized Public Accounts, the 2014 total equals 5.02 per cent of the GDP, or, 5.02 per cent of the gross domestic product (PIB). Thus, this economic component of the conflict has strongly fuelled pro-independence support. Despite these numbers, in recent years, Madrid and the Balearic Islands have had even larger fiscal deficits than Catalonia.

IV. THE BUSINESS DEBATE REFLECTS THE POLITICAL POLARIZATION

The possibility of Catalonia becoming an independent state generated much controversy regarding the economic consequences that the political move might have on the economies of Catalonia, Spain and Europe. Spain's historical budget deficit has long been of concern at the European level and Catalonia is a net contributor to state coffers.

Even though businesses had mainly managed to stay apart from the Catalan independence process by keeping a low public profile at the beginning of the current conflict, some of them adopted a clear position as the conflict escalated. A few businesses even adopted an active role by implementing some of the Spanish government measures in application of Article 155.

The position of businesses based in Catalonia has mainly reflected the political polarization within the political system: some business sectors have openly supported 'unionism' while others have publicly defended independence. Hence, business associations, such as the Spanish Confederation of Employers' Organizations (CEOE), the Spanish Confederation of Small and Medium-Size Enterprises (CEPYME) and the *Empresaris de Catalunya*, supported the application of Article 155 as a positive response to return investment and business confidence, and ensure businesses stay in Catalonia.²⁰ On the other hand, some companies have jointly funded business associations aimed at defending the economic interests of Catalan companies. Finally, foreign multinationals based in Catalonia have in general adopted a neutral position, thus reflecting the majority of foreign governments discourse that this was an internal conflict.

Some businesses have used their political influence to ensure that their profitability was not affected, either during the transition process to an independent state or as a result

¹⁹ Antoni Pigrau Solé et al, 'Proposta d'un codi ètic de respecte dels drets humans i de la igualtat de gènere per a la internacionalització responsable de les empreses catalanes', http://cooperaciocatalana.gencat.cat/web/.content/Documents/20161121_Proposta-de-Codi-etic.pdf (accessed 15 March 2018), 71–72.

²⁰ See 'Los grandes empresarios apoyan el 155 con elecciones', *EDeconomíaDigital* (19 October 2017), www.economiadigital.es/directivos-y-empresas/ceoe-1155-elecciones-catalanas_514596_102.html (accessed 5 May 2018); *Empresaris de Catalunya pide la continuidad del 155 si Puigdemont es investido*, *ABC* (18 January 2018), http://www.abc.es/espana/catalunya/abci-empresaris-catalunya-pide-continuidad-155-si-puigdemont-investido-201801181218_noticia.html (accessed 5 May 2018).

of the process itself, by moving their assets outside the Catalan territory.²¹ In this regard, and as a financial strategy intended to block the independence process, the Spanish government made it easier for businesses to relocate through an emergency Royal Decree-Law that removed some of the red tape around shifting corporate headquarters out of Catalonia.²² This political move paved the way for the exodus of businesses from the autonomous community, putting further pressure on the Catalan government to abandon their intentions to become an independent state outside of Spain.

The Spanish government declared that more than 3,000 businesses reacted by moving their headquarters out of Catalonia to other parts of Spain. Banks and some large businesses from different sectors decided to move as a strategy to continue free-market access to the rest of Spain and the European Union while small and medium-size businesses mostly remained based in Catalonia.²³ The cases of *Caixabank*, *Gas Natural Fenosa*, *Sociedad General Aguas de Barcelona*, *Abertis*, *Torras Papel*, *Planeta*, *Pastas Gallo*, *Laboratorios Ordesa*, *Oryzon Genomics* or *Banc Sabadell* deserve particular attention as these companies founded in Catalonia were amongst the first to move their headquarters out of the region. Other businesses, such as *Grupo Axel*, *Volotea*, *Grupo Zurich*, *Codorníu*, *Axa Seguros* and *eDreams*, later followed. Among those that decided to stay are *Freixenet*, *Grifols* and *Cuatrecasas*.²⁴

On the other side, medium-sized companies, which have a strong presence in Catalonia,²⁵ and some of their associations generally took the position that a period of economic loss during the transition to independence, would be preferable than remaining in Spain: independence, in the end, would finally stop the so-called unbalanced flow of money from Catalonia to the rest of Spain. This would, in the mid-term, consequently rebalance the money flow to new investments in infrastructures and other strategic assets that would ensure a stronger economic development of this type of company in the territory. Finally, most of the foreign businesses in Catalonia have substantial fixed assets there (like the automotive industry) and, therefore, they would need very powerful motives to move away.²⁶ This would be, for example, the case for some Canadian companies based in Catalonia, including *CAE Inc.*, *Magna International Inc.* and *Solium Capital Inc.*, which declared not to be affected by the political instability.²⁷

²¹ Oriol Martínez Alòs-Moner and Vicent Pastor, note 15, 15.

²² Royal Decree-Law 15/2017 of 6 October 2017 on urgent measures regarding mobility of economic operators within the national territory (*Real Decreto-ley 15/2017, de 6 de octubre, de medidas urgentes en materia de movilidad de operadores económicos dentro del territorio nacional*).

²³ According to PIMEC, only 1 per cent of the Catalan SMEs moved outside Catalonia. See '80% of small and medium businesses have no plans to leave Catalonia', *El Nacional* (20 October 2017), www.elnacional.cat/en/news/smes-catalonia-registered-offices_204135_102.html (accessed 5 May 2018).

²⁴ For further companies that have moved their headquarters out of Catalonia, see 'Lista de compañías que han abandonado Cataluña debido al proceso independentista', *20 minutos* (28 December 2017), www.20minutos.es/noticia/3162078/0/fuga-empresas-cataluna-lista-companias-dejan-region-proceso-soberanista/#xtor=AD-15&xts=467263 (accessed 05 April 2018).

²⁵ Generalitat de Catalunya, note 17, 70.

²⁶ Francesc Raventós, 'Impact on the Number of Companies and Multinationals' in *The Economy of Catalonia Questions and Answers on the Economic Impact of Independence* (Barcelona: Col·legi d'Economistes de Catalunya – Profit Editorial, 2014) 198.

²⁷ 'Canadian businesses ponder future as Spain moves to impose direct rule over Catalonia', *The Globe and Mail* (19 October 2017), www.theglobeandmail.com/news/world/canadian-businesses-ponder-future-as-spain-moves-to-impose-direct-rule-over-catalonia/article36668582/ (accessed 5 May 2018).

Overall, the political situation created an uncertain economic climate for businesses and investors as well as for a large portion of the population, who took action to transfer part of their savings to banks outside the Catalan territory and some key indicators showed a slight decrease of economic activity during the last trimester of 2017.

The political position of some businesses was also reflected before the conflict escalated. For example, information and communication technology (ICT) companies were crucial to hold the referendum on 1 October 2017. Many different websites, apps and tools belonging to the Catalan government were closed. The same happened to many others from private individuals or civil society associations basically reflecting their political opinion. On 13 September 2017, the *Juzgado de Instrucción no. 13* of Barcelona ordered the shutting down of the website *referendum.cat*.²⁸ Alternative websites based outside Spain were then also made available by the Catalan government. These mirrors of blocked websites were run by volunteers using other top-level domains. A few days later, on 23 September 2017, the High Court of Justice of Catalonia ordered the blocking of websites and domains of any of the members of the Catalan government which gave information on how to access other websites whose contents were also related to the referendum.²⁹ This carrying out of the court order also extended to *Google*, which was forced to withdraw the app allowing people to find information about where to vote.³⁰

V. CONCLUSION

Despite the key role of businesses in the Catalan economy, its political position was not crucial in determining the support that unionists and pro-independence circles gave to the process in the long term. At the beginning, the position and intervention of businesses in the process seemed to shape the public opinion. Businesses in favour of the process strengthened the feasibility of an independent Catalan nation with strong economic and financial assets. Meanwhile, those against it warned about an economic collapse of both Catalonia and Spain generating among many a sense of rejection and fear regarding the process.

Nevertheless, the weight of the economic arguments slowly decreased on both sides leading to an identity-driven conflict where a steady number of Catalans maintained their rejection to be a region of Spain and unionists defended their interests linked to an economic and strong unified Spain. While the economic approach became a means for the Spanish government to block Catalan independence, both sides in conflict seemed to increasingly focus on a sense of belonging.

²⁸ 'Un juez cierra la web de la Generalitat sobre el referéndum de Cataluña', *El País* (14 September 2017), https://elpais.com/ccaa/2017/09/13/catalunya/1505324341_709098.html (accessed 5 May 2018).

²⁹ 'El TSCJ ordena a la Guardia Civil inhabilitar todas las webs y sus réplicas relacionadas con el referéndum ilegal', *Catalunya Express* (23 September 2017), www.catalunyapress.es/texto-diario/mostrar/849289/tscj-ordena-guardia-civil-inhabilitar-todas-webs-replicas-relacionadas-referendum-ilegal (accessed 5 May 2018).

³⁰ 'Spanish court orders Google to delete app used for Catalan independence vote', *Reuters* (20 September 2017), www.reuters.com/article/us-spain-politics-catalonia-google/spanish-court-orders-google-to-delete-app-used-for-catalan-independence-vote-idUSKCNIC42JZ?il=0 (accessed 5 May 2018).

The Catalan independence process is nevertheless an example of how a business sector with a strong identity feeling might sacrifice the economic welfare and growth to change the terms of political power in a particular territory in the midterm.

Moreover, the foreseen economic crisis did not influence the political positions of many businesses despite the significant movement of capital and companies out of Catalonia. The elections on 21 December 2017 showed that, despite this tension, pro-independence parties renewed their majority in the Catalan Parliament.

In this regard, the role that businesses had played in other conflicts such as Northern Ireland was non-viable in Catalonia. The possibility of becoming a ‘connector’ to enable a safe space for a primary dialogue was unworkable. Polarized positions had led to a dialogue of the deaf where the different business sectors were not even able to establish a renewed conversation on the economical dispute that could have benefited both Catalonia and Spain.