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ABSTRACT

Referendums on independence in liberal democracies are rare, even more so when held without the agreement of the central government. On 1 October 2017, a referendum on independence took place in Catalonia despite the opposition of Spanish central authorities and the lack of Constitutional support. This article analyses and attempts to explain this case of a de facto referendum in the international context of independence referendums. We consider both strategic culture and rationality as relevant factors for explaining the political actors' behaviour. Although the political use of popular mobilisation through a referendum to strengthen legitimacy is common among this type of referendums, the Catalan case presents relevant peculiarities since it occurred in a liberal democracy, the civil society were instrumental in making the vote possible, and central authorities repressed both the organisation of the vote and the voters themselves. Our case study analysis can be used in future research on self-determination conflicts and independence referendums.

The recent independence referendums that have taken place in Scotland, Kurdistan, New Caledonia, Bougainville and Catalonia – with forthcoming nonbinding referendums announced in the Chuuk Islands, and again in New Caledonia– bear witness that we are currently living in an age of secessionism (Griffiths, 2016). Current independence movements choose to challenge states' territorial integrity mostly through peaceful means rather than by the force of arms, using popular votes to foster their legitimacy (Griffiths & Wasser, 2019). Former armed European pro-independence groups are no longer active or have declared a permanent cease-fire.[1]

This article is a case study of the referendum that took place on 1 October 2017 in Catalonia. Why is the 1 October 2017 referendum in Catalonia an interesting case study? Why should we care about its characteristics and implications? How can we explain the decisions of the political actors involved to hold a referendum and of others to repress it? Was this referendum comparable to other cases?

In this article, we describe how this referendum unfolded, the demands of the different political actors involved and the eventual implications for the study of referendums of

independence and secessionist conflicts. We discuss different types of referendums of independence and their political uses. In addition, we search for explanations for the political participants' behaviour. We apply a rationality model (Qvortrup, 2014b) to the Catalan case, and we also explore to what extent strategic culture has been crucial in this case (Coppieters, 2010) through a qualitative analysis of the quest for Catalan self-determination and the Spanish authorities' response to this demand. We conclude by pointing out some peculiarities and commonalities of the 2017 referendum in Catalonia when compared to other unilateral referendums.

1. Two Explanatory Approaches to Independence Referendums and Parent State Responses

Referendums on territorial borders can be traced back to the eighteenth century, the time of the Atlantic revolutions.[2] Since then, more than six-hundred referendums have been held on sovereignty issues around the world including territorial transfers, autonomy arrangements and the creation of new states (Mendez & Germann, 2018). If we focus on secession as the 'process of the withdrawal of a territory and its population from an existing state and the creation of a new state on that territory' (Pavković & Radan, 2007, p. 1), the list of referendums must be restricted to roughly two-hundred. Almost a hundred of them have taken place since World War II, becoming far more common since the fall of the Berlin Wall and the disintegration of the USSR (Qvortrup, 2014a).[3]

In spite of the spread of independence referendums and direct democracy, this type of vote is not usually politically or legally granted by states. On the contrary, most existing states have been extremely reluctant to allow their territories to vote on independence. This is not only the case of self-determination referendums but of secession in general. According to Coggins 'historically only around half of the states emerging from secession had their home state's consent by the time they entered the system' (2011, p. 446). In many cases referendums have been preceded by violent conflicts, such as in Algeria (1962), or both violent conflicts and international mediation such as in East Timor (1999) or in South Sudan (2011).[4]

From a legal point of view, constitutional provisions and/or constitutional doctrines open to this type of vote are extremely rare. Few states or unions regulate the use of referendums for self-determination. The most well-known exceptions are Liechtenstein, Saint Kitts and Nevis (for the island of Nevis), Ethiopia, Uzbekistan, the former union of Serbia and Montenegro or the European Union (Weill, 2018). Beyond pure constitutional law, the UK regarding Scotland and Canada on the Quebec case have developed relevant jurisprudence on this matter allowing for independence referendums in these territories. Generally, most constitutions include unity or indivisibility clauses *a priori* precluding the possibility of external self-determination.[5]

Empirically, referendums of independence occurring in liberal democracies are extremely rare as well. Since the fall of the Berlin Wall there have been only a handful including those in continental territories like Quebec (1995), Montenegro (2006), and Scotland (2014), whereas in islands they have been more frequent, probably because of the postcolonial status of most of these insular territories.[6] When the independence option is on the ballot in a liberal democracy, the electorate generally rejects it (Dion, 1996). Montenegro (2006) is the only case in which the Yes side won by a narrow margin (55,5%), only 0,5%

(2300 votes) more than the unusually high —and controversial— threshold of 55% demanded by domestic and international actors (Oklopcic, 2012).[7]

State responses to self-determination demands range from repression to tolerance or political dialogue with many possible combinations between these two extreme options. Both rationality and *strategic culture* are factors that shape the variability of responses to secession demands across countries. Likewise, these two kinds of factors shape the odds of holding a referendum of independence.

1.1. Rationality: Qvortrup's Competition Proximity Model

Comparing the UK and Spain, Cetrà and Harvey (2019) found that the specific constitutional setting and institutional historical factors are relevant to explaining their reactions to the Scottish and Catalan cases respectively, but, ultimately, the political opportunity, and the costs and benefits to the relevant actors were the key factors in explaining the behaviour of state authorities. Furthermore, the loss (or decrease) of the degree of political autonomy is also a key factor in explaining the emergence of secessionist movements. Reverse devolution and recentralization weaken the central government's ability to make future autonomy agreements credible to the substate unit's population (Siroky & Cuffe, 2015).

Rational-choice intuitions on the use of referendums might be formalised through a rationality model on the use of referendums like the one proposed by Qvortrup (2014b) called the *competition proximity model*. We use this model to better describe the Catalan referendum, although we do not operationalise its variables. Instead, we just talk about the kind of dynamics that these variables involve.

Qvortrup suggests that 'the decision to hold a referendum on an ethnic or national issue, ceteris paribus, follows the *competition proximity model*' (2014b, p. 32). In this model, the probability of submitting a referendum proposal (P_{ref}) depends on the relationship between the competition the initiator of the referendum is facing (C) and the square distance between the initiator's preference point (P_i) and the position of the median voter (I_m).

$$P_{ref} = \sum_{i=1}^{n} \frac{C}{(I_m - P_i)^2}$$

Qvortrup finds that in general ethnonational referendums follow the rationality described above and occur when (1) the initiator faces competition (military, electoral or political)[8] and (2) the initiator feels that their policy is more or less similar to the preferences of the majority of voters (2014b, pp. 145–46). So, the highest probability of holding an independence referendum would be in a context with strong competition between the possible referendum organiser and other political actors and a great closeness between this option and the preferences of the median voter.

The *competition proximity model* seems to be a good predictor of holding a referendum on independence, more than geopolitical change, although Qvortrup (2014b) acknowledges the difficulties when measuring and operationalising the variables, especially C (political and/or military competition). This is why the *competition proximity model* mainly remains as a formal approach to explain independence referendums.

However, it gives us a good approach for assessing the relevant factors from a rational-choice point of view.

In parallel to the application of the model, Qvortrup argues that correlation between independence referendums and peace is statistically significant. More precisely, independence referendums lead to peace when they are preceded by negotiations and there is internal supervision (2014b, p. 66). However, responses to self-determination demands don't only depend on a rational approach to the potential costs or benefits (legitimacy) of holding a referendum as perceived by involved actors. Democratic governments rarely face referendums on independence and, when they do (and tolerate them), independence options have, to date, not been very successful (Dion, 1996). Holding an independence referendum or not, and the central government responses, might not only be a result of rational-choice calculations but also a product of cultural constraints (what Coppieters, 2010 calls *strategic culture*).

1.2. Strategic Culture

Many existing states are the result of a secession and have, at the same time, experienced secession processes or regional demands within their borders (Coppieters, 2010). The diversity of 'strategic cultures' in different countries when dealing with self-determination demands is somehow related to these experiences. Coppieters defines the term 'strategic culture' as choices in policies of secession that

> are made not on the basis of formalized doctrines of past secessionist conflicts but with the help of individual historical experiences. Institutional memories of past secessionist conflicts and their outcomes will guide a nation's selection of policy options from among various alternatives. (2010, p. 239)

For example, the United States did not allow the Confederate states to secede and since then has followed a strict policy against secession in its continental territory. But, paradoxically, the US was probably one of the first states to use independence referendums as a tool of governance in oversees domains such as in Micronesia (1975) or Puerto Rico (Qvortrup 2014a).

Together with strategic culture, historical experiences that shape national cultures and influence actors' rationality, elements such as internal and external constraints must be considered as well in order to properly analyze states' responses to secessionism (Coggins, 2014). These findings are less relevant in democratic and peaceful contexts since the costs of violence are clearly higher for everyone involved. In fact, in liberal democracies, traditional responses to autonomy and self-determination demands have led to a variety of accommodation models ranging from regional autonomy, such as in Italy, Spain or the UK, to full-fledged federations as in Belgium or Canada. Whether these institutional designs have precluded or fostered pro-independence movements in the long-term remains an open question (Stjepanovic, 2018). In any case, when self-determination came to the fore, especially during the revival of regionalism in the 1970s, many regional movements adopted both violent and electoral strategies to achieve their objectives (Swenden, 2006; Winter & Tursan, 2003). Later on, electoral success and democratisation led to more demands for self-determination expressed in regional parliaments and civil society campaigns.

2. The 2017 Referendum on the Independence of Catalonia

On the morning of 1 October 2017, thousands of Spanish police officers mobilised in Catalonia to physically impede a referendum on independence called by the Catalan Government. These extra police forces had been housed in cruise ships over the preceding weeks, docked in the harbours of Barcelona and Tarragona. The question printed on the ballots was: 'Do you want Catalonia to become an independent state in the form of a republic?'.[9]

More than five million Catalans were called to a vote that had been declared unconstitutional by central state authorities and the Constitutional Court. Despite the violent police actions during the day, which involved hundreds of injuries and the closing of 319 polling stations (14% of the total number of 2,300), the final turnout amounted to 2,286,217 people, a turnout of 43.03%. Of the 2,266,498 valid votes, 2,044,038 (90%) were cast in favour of independence, 177,547 against (8%) and 44,913 (2%) were blank ballots.[10]

Given these results, the Catalan President, Carles Puigdemont, presented the referendum results as a mandate to declare independence in the Parliament on 10 October, but then immediately suspended this declaration as a gesture to initiate negotiations with the central government. The central government Executive, led by the conservative PM Mariano Rajoy, refused to attribute any validity to the vote. When the pro-independence MPs signed a parliamentary resolution which contained a Declaration of Independence on 27 October, central state authorities activated the suspension of Catalan autonomy, dismissed the Catalan Executive and dissolved the autonomous legislative parliament.[11] The central government called new elections on 21 December—even as the Catalan governmental institutions remained suspended—in which the pro-independence parties won a majority of MPs.[12] What steps led to this unilateral referendum of self-determination and political turmoil?

2.1. The Catalan Way Towards the Referendum

These events reflected the existence of a strong social movement and grassroots mobilisation to demand the celebration of a self-determination referendum in Catalonia that had been present for a decade, which originated from a historical demand for self-rule (Elliott, 2018; Guinjoan & Rodon, 2014; Muñoz & Tormos, 2015; Serrano, 2013).[13] In fact, the right to self-determination had always been an issue in Catalan politics, but it became central in parliamentary politics when a majority of regionalist political actors and elites declared their support for independence beginning in 2012 (Barrio & Rodríguez-Teruel, 2017).

This demand had been expressed in civil society mobilizations in the framework of the 'right to decide' (Barceló, 2015; Ferreres, 2014; López, 2015), widely used in mass demonstrations, institutional declarations and civic platforms for more than a decade. The beginning of this popular public demand can be traced back to 2005 when the *Platform for the right to decide*, formed by around 700 civic associations, was created. At that time, this collective actor claimed that the will of the Catalan parliament should be respected in the process of negotiation for a new Statute (home rule) in the Spanish Congress, that is to say, those in favour of the 'right to decide' first defended it by equating it with the respect of the will of the Catalan Parliament. They defended the proposal of the Statute

of Autonomy as it had been approved by the Catalan Parliament with 89% in favour, but which then underwent significant revisions during the approval process required by the Spanish Parliament.

Soon the right to decide was supported by different political parties with parliamentary representation, although with different meanings. It also experienced an evolution in its meaning in the social movement. For some it implied the possibility of the Catalan government to call referendums on devolved matters. For others the demand for the right to decide meant a demand for a referendum on self-determination (Barceló, 2015; Requejo & Sanjaume-Calvet, 2015). This last interpretation gained ground after the ruling of the Constitutional Court on the Catalan Statute of Autonomy (2010) which declared that some substantial parts of the new Statute which had been ratified in a legal and mandatory referendum by the Catalan citizens four years before were unconstitutional (Guinjoan & Rodon, 2016).

In parallel, a grassroots pro-self-determination social movement began to organise unofficial votes on independence starting in 2009. These local polls took place in different waves between 2009 and 2011 in a total of 551 municipalities (60% of the Catalan towns) with an absolute turnout of 885,000 citizens (15% of the population over 16 years of age, which was the minimum age to participate) and a total percentage in favour of independence of 91% (Muñoz & Guinjoan, 2013).[14] Since the 2012 regional elections, there has been a parliamentary majority supporting a self-determination referendum in Catalonia (Martí, 2013). In January 2013, the Catalan parliament adopted a resolution entitled 'Declaration of sovereignty and right to decide of the Catalan people', supported by 85 out of 135 deputies.[15] Several initiatives were attempted to legally organise a referendum (Cuadras-Morató, 2016). The last Catalan presidents, during the last three Catalan and Spanish legislatures, had repeatedly asked the conservative Government of Mariano Rajoy for permission to hold a referendum in Catalonia. In 2014, the Catalan Parliament presented a proposal for a law to the Spanish Congress for the devolution of the power to authorise, call and organise a referendum. This proposition was rejected by 299 out of 350 Spanish MPs. The Catalan Government and the Catalan Parliament have repeatedly approved and voted on resolutions in favour of the right to hold a referendum that have systematically been revoked by the Constitutional Court. In 2014, the Catalan Parliament passed a law on nonbinding popular referendums that was also appealed, suspended and declared unconstitutional by the Constitutional Court (Bossacoma & López-Bofill, 2016).

On November 9, 2014, a participatory process was held on the political future of Catalonia organised by the Catalan government, the Generalitat de Catalunya. In this case the question had two parts, including an option for the status-quo, one for a federal or confederal state and another for independence: 'Do you want Catalonia to be a State?' And 'If yes, do you want this State be independent?'. This vote was initially organised according to the nonbinding referendum law. However, due to the suspension of both the law and the decree calling for the nonbinding referendum by the Constitutional Court, it was finally organised by the Catalan government as a *participatory process* promoted, initially, by the government but in the end carried out by volunteers.[16]

One year later, the electoral platform of the party coalition that won the 2015 regional elections, *Junts pel sí*[17], contained a plan to achieve independence without holding a referendum during their first mandate that was also supported by the far-left party, CUP[18]

(Martí & Cetrà, 2016). A parliamentary resolution was adopted after the elections by the Catalan Parliament entitled 'On the start of the political process in Catalonia as a consequence of the electoral results of the 27 September'.[19] However, the independence mandate derived from the 2015 regional elections was unclear since pro-independence forces had secured a majority of seats in the regional parliament but not a majority of votes. As a consequence, pro-independence forces and civil society leaders agreed to organise a self-determination referendum in October 2017. The referendum was included in the plan as a consequence of political instability and negotiations between pro-independence parties and civil society. Pro-independence political parties were looking for the legitimacy that the elections did not provide due to the fact of not winning a majority of votes, although they produced a pro-independence majority in Parliament. These parties were, at the same time, competing between them to be the main leader of the pro-independence cause. While the *Junts pel sí* coalition led the regional government, the CUP remained in the opposition and was initially critical with the government.

On 7 September 2017 the 'Law of the Referendum on the Self-determination of Catalonia', which intended to provide legal coverage to the holding of the referendum, was approved with the support of pro-independence parliamentary groups (72 MPs out of 135 of the Catalan parliament). The next day, on 8 September, a law on a new legal framework called the 'Law of legal transition and foundation of the Republic' was also passed by the Catalan chamber. Immediately, the Spanish government appealed these laws to the Constitutional Court, as it had been done with the previous resolutions and laws, which temporarily suspended them to examine their constitutionality. The law was finally declared void on 17 October. Opposition MPs denounced the procedures used to approve these laws since they were passed by an absolute but not qualified majority, the amendment possibilities were limited because of the single reading procedure, and the usual nonbinding advice of the *Consell de Garanties Estatutàries* (a regional Advisory body on Constitutional Law) was not requested, despite the insistence of the opposition parties.[20]

In spite of this, the Catalan Government announced that the preparations for the referendum would proceed since they reflected the will of the Catalan Parliament, which enjoyed a popular mandate of the citizenry. The announcement led the Spanish Government to initiate a police operation with the aim of preventing the referendum which involved the confiscation of material for holding the referendum and the sending of thousands of policemen to the city of Barcelona. For months, the Spanish government had stated that there would be no referendum at all and all necessary measures would be taken to prevent its organisation and seise any material related to it.

The Spanish Government used several legal and coercive measures to stop the 1 October referendum. These measures included the arrests of civil servants and politicians, the deployment of more than 10,000 extra police from the rest of Spain in Catalan territory, opening criminal law cases against MP's, government officials and 700 mayors, police searches in various Catalan ministries and private businesses, the censorship of web-sites including official sites and apps, bans of public events on the referendum, and the infringement of postal privacy by the public mail service in order to block the distribution of electoral propaganda, among other actions.[21]

The police operation forced the preparations for the referendum to become almost completely clandestine. This involved citizen volunteer organisations that hid the ballot

boxes before the referendum even though it was called and lead by the Catalan Government. The referendum finally took place thanks to the existence of this clandestine network. More than 4,000 volunteers transported and guarded the ballot boxes, and thousands of citizens occupied polling stations, organising cultural activities in them during the previous day and night all throughout Catalonia so that the boxes could not be seised and to prevent the closure of polling stations by the police.

2.2. The Answer of the Spanish State to the Pursuit of a Self-determination Referendum in Catalonia

The possibility of organising a self-determination referendum in Catalonia has been denied by the Spanish government, the Constitutional Court and the main state-wide political parties by basically invoking the Spanish Constitution and the constitutional doctrine derived from the Basque case through two related arguments.

Firstly, that a vote on independence equates to the right to secede and the Spanish Constitution does not allow this right since sovereignty belongs to all Spaniards. According to this argument, allowing for this right would require constitutional reform. Secondly, it has been argued that the right to self-determination is specifically regulated in international law and reserved to colonial territories. Since the Spanish region of Catalonia is not a colony, but an autonomous community in a decentralised liberal democracy, this right cannot be applied to the territory. These two arguments would be applicable even if a majority of Catalans express their desire to form a new independent state, since the last word must be had by all Spaniards. This basic view on the issue has been shared by the main state-wide parties – PP, PSOE and Cs – except Podemos. This leftist party considers Spain to be a plurinational country and defends the right to decide of its regions.

The Constitutional Court began ruling on the right to decide before hundreds of thousands of Catalans proclaimed their right to decide on the streets of Barcelona. In 2003 the president of the autonomous government of the Basque Country, Juan José Ibarretxe, proposed a reform of the Basque Statute incorporating the term 'right to decide'. This right meant that the Basque people could, ultimately, decide through a referendum on a reform of the political status of the Basque Country, including the possibility of becoming a free associated state. This proposal, together with a second one on a peace process to end the terrorist violence of ETA, were declared unconstitutional. It was argued that, in the first place, an autonomous community cannot organise referendums beyond those expressly contemplated in its Statute (in the Basque case, the integration of territories and municipalities, or the reform of the Statute itself). The holding of any other referendum must be authorised by the central government. However, the most central argument used by the Constitutional Court was that only the whole Spanish population, and not just the Basques, could decide on the kind of issues that affect the constitutional design of the state. In the Court's words this referendum 'affects the foundation of the identity of the sole holder of sovereignty' which is 'the Spanish people, exclusive holder of national sovereignty, foundation of the Constitution and origin of any political power '.[22]

In this early ruling one can already see the key interpretation methods employed by the Court throughout the entire Catalan process (Bossacoma & López-Bofill, 2016). In the various judgments that led to the 2015 ruling that the consultation on the political future of Catalonia was unconstitutional (on the decree of convocation, on its organisation

in accordance with the *Law of nonbinding referendums and other forms of participation*, and on its impulse as a participative process), the Constitutional Court repeated the argument of the 2008 Sentence on the referendum in the Basque Country. The Court reiterated that no type of poll or referendum is possible on these matters because, from the Court's perspective, it equates to a constitutional reform.[23] From this moment, the Spanish legal view begins to associate a referendum of self-determination with constitutional reform, which implies two assumptions. On the one hand, that an eventual referendum on independence could only take place following the very restrictive procedures[24] for a fundamental change in the Constitution (a constitutional reform), since it affects a decision of the constituent power and, on the other hand, that this constituent power is the only legitimate actor to be queried in a referendum, namely the Spanish people as a whole.

This very restrictive interpretation of the possibility of organising a referendum on self-determination has meant that there is no likelihood of politicians reaching an agreement on it. Before the 2008 ruling and those that followed it, it had been possible to defend, for example, that a consultative nonbinding referendum fit perfectly within the constitutional framework, but the constitutional doctrine since then has made it impossible. According to the current constitutional doctrine, not even the Spanish government would be authorised to call for a referendum in accordance with its constitutional powers as it is now considered a matter subject to constitutional reform. Since the 2008 ruling on the Basque case, the Constitutional Court has repeatedly stated that a unilateral referendum cannot be held under the current constitutional order. In its Ruling 42/2014 the Constitutional Court referred to the right to decide as a 'legitimate political aspiration' if defended through adequate constitutional means but not as a right. Since the 'right to decide' would require a constitutional reform, the court suggested that some preparatory acts, not the effective achievement, would be acceptable but did not define which acts. Furthermore, in Ruling 31/2015 the court excluded the possibility of considering a referendum a preparatory act of a constitutional reform (Castellà, 2018, p. 411).[25] This doctrine has been criticised by several legal scholars supporting an alternative view based on different principles and legal possibilities. These range from a state-wide referendum on the issue to a nonbinding referendum as a first step to test the necessity of a constitutional reform.[26] Some legal scholars have suggested the inclusion of a secession clause in the Constitution (Aláez, 2015; Vírgala, 2017).

3. Explaining the 2017 Referendum: Ballot Boxes to What End?

The 2017 referendum that took place in Catalonia was a *rara avis* and explaining its political use was (and remains) a highly disputed matter. It was a unilateral independence referendum but the succession of events that occurred right after the vote suggests that its function was not a legitimation of a *de facto* independent state.

Independence was declared in some fashion after the referendum through a symbolic resolution signed by a majority of MP's in the Catalan Parliament on 27 October 2018.[27] Nonetheless, no actions were taken by Catalan authorities to effectively exercise territorial control either with public security forces or popular mobilisation. In fact, no official actions on independence were taken after the vote by the Catalan authorities. Explaining the 2017 decision of the Catalan Government to hold a unilateral referendum and understanding its consequences remains an open debate. Even if this referendum was presented

to the public as a unilateral mechanism to legitimize independence, other interpretations may also be suggested.

The referendum could be strategically called as a mean to reach a bilateral negotiation with the Spanish authorities on independence, on the right to self-determination (e.g an agreed referendum in the future) as in the Kurdish case, or even a new accommodation of Catalonia within the Spanish state as in the Quebec 1980 referendum. This hypothesis would be consistent with rational approaches to democratic secessionism developed in other studies (Siroky, Mueller, and Hechter 2016).

However, the interpretation of the referendum as a bargaining tool for a new constitutional accommodation has to be nuanced by contextual factors. Firstly, the question used in the Catalan referendum was clearly about independence and not other political scenarios.[28] Since at least the 2015 elections, Catalan secessionism has not included a third scenario in its political strategy. Moreover, the Catalan Parliament and Government had previously presented the referendum within the framework of an independence process. Secondly, regardless of public discourse, the composition of the Spanish Parliament gave few incentives to strategic bargaining on a federal constitutional reform which would have limited support. Finally, the costs of holding the referendum were already perceived as very high by public officials in Catalonia to engage in such a strategic move, since the Constitutional Court had banned it. Nevertheless, some commentators have seen this referendum as part of a bargaining process on the Spanish territorial model.[29]

In order to grasp the rationality of calling for a unilateral referendum, one can apply Qvortrup's model (presented in the first section) to the Catalan case. According to Qvortrup's model (2014b) independence referendums are called when (1) the initiator faces competition (military, electoral or political) and the initiator feels that his policy is more or less similar to the preferences of the majority of voters. Qvortrup argues that, in some cases, there are high probabilities of holding a referendum regardless of the consequences such as in Bosnia. That is when C is big (military or/and political) and the difference between elites and voters preferences on independence is small; whereas in other cases the C is small and $(I_m - P_i)^2$ is large, for example the Slovakian case in which a referendum was not held (2014b, p. 61).

In 2017, the Catalan Government faced the challenge of promoting its own independence plan, competing against the state and pro-union parties (external competition). There was also notable competition among pro-independence forces composing the ruling platform (Junts pel Sí) and the pro-independence parliamentary majority (internal competition). In a nutshell, C was large both in its external and internal dimensions. Likewise, a majority of Catalan public opinion (median voter) supported the so-called 'right to decide' (the distance $(I_m - P_i)^2$ was small) although independence was not that popular and roughly half of the population supported pro-independence parties in 2015 regional elections, which obtained 47,8% of the votes. Therefore, the referendum might have an explanation from this rational-choice framework.

From the point of view of the Catalan Government the referendum implied delivering 'the right to decide' and legitimising independence vis-à-vis the central state and international actors. The main alternative to holding a unilateral referendum was calling for regional elections, a power within the regional government's jurisdiction. However, the pro-independence parties had already obtained a parliamentary majority in the last

regional elections without any change in the attitude of the central government regarding self-determination, and Madrid remained against the possibility of a negotiation on independence or on the right to decide based on the Catalan democratic mandate. Moreover, internal competition within the pro-independence forces did not allow for moderation. In this case, the competition proximity model worked both externally with the central government and internally within the pro-independence actors (parties and social movement).

From the point of view of the central government, the situation was the reverse case. On the one hand, there was little competition on this issue since the main opposition party (PSOE) supported the anti-secessionist policies of the conservative Government, that is C was small. On the other hand, the Spanish median voter would have been far from accepting an agreement on an independence referendum, and thus $(I_m - P_i)^2$ was large. In any case, despite widespread rejection of Catalan independence, popular support for a referendum on this issue in Catalonia had some support (but still a minority) among the Spanish population.[30]

In both cases, however, both actors miscalculated the long-term consequences of their decisions since the unilateral referendum had (and still has) important costs for Catalan leaders[31], while repressing it did not decrease support for independence in Catalonia. Moreover, pro-independence parties once again won the regional elections called by the central government after the Catalan autonomy suspension in October 2017.

Beyond this rationality approach, strategic culture may have played an important role in the Spanish authorities' decision to not allow for a referendum on independence in Catalonia and to repress the 2017 referendum. The Basque conflict precedent and the importance of Spanish unity for both left and right parties did not allow for a lot of maneuvering room. Strategic culture also played a crucial role among Catalan secessionists whose grassroots mobilizations had always been in favour of a peaceful and democratic application of the so-called 'right to decide'.

4. A Comparative View of the 2017 Referendum in Catalonia

The Catalan case presents some similarities with other experiences of unilateral referendums organised by pro-independence movements in the past but also important differences. This direct democracy mechanism is used by political actors involved in territorial crisis for various purposes in different institutional and legal contexts, even without a clear legal framework: as a mechanism to implement an electoral mandate on sovereignty issues through political agreements (e.g Scotland, 2014; Quebec 1980, 1995); as a way to reinforce the legitimacy of unilateral independence demands (e.g Kurdistan, 2014), as a legitimation of a *de facto* status quo (e.g Crimea 2014) or as a combination of objectives. Moreover, the 1 October referendum reinforces the rationality thesis developed by Qvortrup (2014b), in the sense that the actors' rationality might explain the occurrence of independence referendums better than international upheaval.

Unilateral referendums held by secessionist groups[32] are common in the history of independence referendums (Gökhan Şen, 2015). These referendums have not been very successful in achieving an independent state, except in the case of the USSR and Yugoslavian republics, when the *uti possidetis* principle was applied by the international

community given the dissolution of these former communist federations. Unilateral referendums generally fall into two categories: *de facto* and *de jure* (Gökhan Şen, 2015, p. 66).

Both during the USSR and Yugoslavian dissolutions, *de facto* referendums were used as legitimation mechanisms to declare independence. In the case of the USSR, in a process initiated by the Baltic Republics, the referendums dissolved the federation without opposition and even enjoyed the consensus of the federated members including the Russian Federation. In the Yugoslavian case the central state reaction was different, and the declarations of independence that followed the Slovenian and Croatian referendums were opposed by Belgrade. In cases such as Somaliland (2001), Transnistria (2006) and Crimea (2014), the function of popular votes was a type of validation of a political status change that had occurred previously in order to obtain recognition.[33] *De jure* unilateral independence referendums may occur under international agreements or constitutional provisions that do not require parent state consent (i.e Quebec and Puerto Rico).[34]

The use of unilateral referendums, either *de jure* or *de facto*, might not lead to independence, but can have political and legal consequences and do not end up as a zero-sum game (Gökhan Şen, 2015, p. 43). The 1980 and 1995 referendums in Quebec explicitly looked for sovereignty-association or *partenariat* agreements with the rest of Canada (Young, 1995, 1999). However, the Canadian province had the legal right to hold a referendum according to a provincial law, therefore these cases qualify as *de jure* referendums. The political and legal consequences of both consultations, especially the 1980 referendum, shaped the Canadian federation. In other contexts, one can observe various cases of *de facto* unilateral referendums organised by secessionist governments. When Finland gained its independence from Russia, the Aaland Islands organised two petitions known as plebiscites (Gökhan Şen, 2015, p. 43) in order to join Sweden, since a majority of islanders wished to do so. The Aaland Islands finally did not achieve their objective and remained under Finland's jurisdiction but this case was a crucial precedent in international law (Crawford, 2007) at the time of the League of Nations. Finland ended up granting a special autonomy to the islands (Coppieters, 2010). Kosovo secessionist leaders organised a clandestine referendum on sovereignty and independence in 1991 as a response to the centralisation policies of Slobodan Milosevic that had removed their autonomous institutions. In this case, the referendum led to fierce repression from Belgrade and a radicalisation of the conflict until the 1998–1999 war and international intervention. Kosovo finally declared independence in 1998 but Serbia still refuses to recognise the Kosovo Republic (Dietrich, 2010; Rodt & Wolff, 2015). More recently, in 2014, the Kurdish autonomous region organised a unilateral referendum. It was refused by Iraq's Parliament and the Constitutional Court considered the vote unconstitutional. Still Kurdish leaders carried out the referendum with the explicit objective of negotiating the self-determination of the region (Sumer & Joseph, 2018).

The Catalan 2017 referendum bears resemblance to all these cases in one way or another. That is, a *de facto* referendum was used to advance a secessionist cause and gain legitimacy *vis-à-vis* the parent state (and the international community) through the expression of popular sovereignty. Moreover, this political decision fits with the explanation of the *competition proximity model* in these kind of contexts as we argue. However, the execution of a *de facto* referendum in a liberal democracy makes the Catalan case a *rara avis*.

First, as we stated earlier, unilateral *de facto* referendums are extraordinary in liberal democracies (the Aland and Faroe islands cases might be precedents although in totally different contexts). Unilateral *de facto* referendums generally occur in conflict and post-conflict contexts. Recent and past examples such as Crimea (2014), Kurdistan (2014) and the former USSR and Yugoslavian republics are mentioned earlier in this article. Spain is a third wave democracy and has been a democratic country since 1978. Its democracy according to Polity IV data scores a 10 (on a scale from –10 to 10). Both the 2017 unilateral referendum and its repression were extremely unusual events in a liberal democracy. In fact, there is no record of similar cases in this context. In the most similar situations in which secessionist parties obtained a regional parliamentary majority and a mandate to hold an independence referendum, Quebec and Scotland, the parent state allowed for *de jure* referendums to occur and secessionist leaders did not call for a *de facto* referendum. In Catalonia there has been a pro-independence parliamentary majority in the last three regional elections and, as a response to the parent state authorities' refusal to negotiate the 'right to decide', Catalan leaders executed a unilateral *de facto* referendum.

We offer two compatible explanations for this anomaly. On the one hand, strategic culture keeps the Spanish state main actors from negotiating issues related to sovereignty and unity.[35] On the other hand, rationality plays a crucial role on both sides with both internal and external competition. Beyond grassroots mobilisation and popular demands, political elites competing on pro-independence strategies might partially explain the final outcome of a *de facto* referendum (Barrio & Rodríguez-Teruel, 2017).

It's clear that the celebration of a *de facto* referendum was peculiar in a liberal democracy. In the Catalan case, the civil society network's ability to provide ballot-boxes and ballot papers across the Catalan territory can be seen as an accomplishment of the social movement in favour of the right to decide. This repertory of mobilisation (Tarrow, 1998) had previously been tested during the 2009–2011 local consultations (Medir, 2015; Muñoz & Guinjoan, 2013). This could be seen as another explanatory factor of the elements that fuelled this *de facto* strategy.

Likewise, the referendum was presented by pro-independence leaders both as a turning point and as a mobilisation with intrinsic value as a challenge to the constitutional order and the parent state's political majority. Therefore, it was not only an institutional device but also a specific action in the repertory of mobilisation within the pro-independence social movement.

However, the turnout recorded for this *de facto* consultation (43.03%) and the low mobilisation of the 'No' option (8%) show the limits of this direct democracy mechanism to provide a popular mandate as intended by the pro-independence leaders.[36] The lack of a cross-party common view on the referendum, together with the lack of a constitutional framework and police repression, made this referendum less successful in terms of turnout when compared to other unilateral independence referendums such as the cases of Kurdistan (*de facto*) or Quebec (*de jure*).[37]

5. Concluding Remarks

In this article, we analyze a case of a unilateral referendum, which had and is still having a great impact on Catalonia and Spain. The analysis of this very singular case allows us to

know more about the characteristics, explanations, consequences and rationality of *de facto* unilateral independence referendums and secession conflicts in general.

We consider both rationality and strategic culture as relevant factors to explain the political actors' behaviour. The Catalan *de facto* unilateral referendum shares important features with other unilateral referendums, namely the political use of a popular vote to reinforce pro-independence positions *vis-à-vis* the central government. However, it also presented some relevant peculiarities that make this case a *rara avis*: it occurred in a consolidated liberal democracy and the pro-independence movement massively mobilised to hold the consultation in spite of the Constitutional Court's explicit prohibition and the harsh response from the parent state.

This referendum confirms Qvortrup's (2014b) hypothesis on independence referendums. Namely, that even in the absence of an international major upheaval (such as the fall of the Berlin Wall) actors' rationality, explained by the *competition proximity model*, might lead to calling an independence referendum.

The consequences of the referendum are still ongoing. In spite of the overwhelming support for independence, with a low turnout the referendum did not produce an independent state. This is not surprising, since even consensual secessions in liberal democracies rarely occur. However, the effects of the vote loom large in Catalan and Spanish politics. After the suspension of Catalan autonomy and the prosecution and imprisonment of pro-independence civic and political leaders the central government called for regional elections. The result of these elections was, again, a pro-independence majority in the regional Parliament that produced a secessionist Executive in Catalonia. Support for Catalan independence has not changed in the two last years. Somehow, the referendum reinforced the existing positions on both sides and produced a stalemate situation with clear costs for the Catalan leaders but also for Spanish democracy.

The implications of the referendum for Catalan politics are not clear. On the one hand, the cause for self-determination and independence crystalised in a broad mobilisation for disobedience. The issue of independence remains at the centre of the political debate, now in a context of confrontation with the central state institutions. On the other hand, the central state governmental institutions have severely repressed Catalan leaders and the political conflict increases tension and polarises Catalan society. Further research will include more elements and perspective to assess the impact of this unilateral referendum.

Notes

1. In Northern Ireland, Corsica and the Basque Country, former armed groups are now dissolved or inactive. The IRA declared a cease-fire in 2005, ETA announced a final cease-fire in 2011, and FLNC announced in 2014 that they had abandoned armed struggle. For a complete database on self-determination movements see: Sambanis, Germann, and Schädel (2018)
2. During the American Revolution, Massachusetts' city councils voted on the former British colony's Declaration of independence in 1776; around the same time, the citizens of Avignon, France, in 1791 voted on their separation from Papal domains and to be annexed to the newborn French Republic (Mendez & Germann, 2018).
3. Beyond territorial issues, direct democracy mechanisms became gradually more prevalent in Western representative democracies during the last years of the last century as well (Qvortrup, 2014c).

4. For example, In Indonesia, President Suharto repeatedly rejected holding a referendum in East Timor although the former Portuguese colony had been militarily annexed to Indonesia in 1976. Indonesian authorities only accepted a referendum after long negotiations with UN and Portuguese authorities in New York. In Sudan, the 2011 South Sudan referendum was held after a long peace process and US threats of sanctions to Sudan government asking for stability in the region.

5. In federations such as Switzerland and India, there are specific mechanisms for internal enlargement.

6. In some cases these territories have voted more than once: Puerto Rico (1993, 1998, 2012, 2017), Nevis (1998) and many other overseas territories, most of them in various postcolonial regimes, belonging to the US – American Virgin Islands (1993), Palau (1993) –; Netherlands – Saint Marteen (2000), Bonaire (2004), Saba (2004), Curaçao (1993, 2005), Saint Eustatius (2005, 2014); UK – Bermuda (1995) –; and France – New Caledonia (2018) –.

7. However, this was probably the least consolidated democracy of all the cases and, in fact, the vote resulted in the dissolution of the Union of Serbia and Montenegro, the remaining part of Yugoslavia after its previous violent dissolution in 1992. According to Polity IV Index, Serbia and Montenegro had been a democracy for 6 years in 2006.

8. As we show in our analysis of the Catalan case, 'competition' (C) might be external or internal. That is, competition faced by the actor calling the referendum from a) the Central State or state-wide parties or b) the other parties supporting independence or the referendum.

9. The question was printed in Catalan, Spanish and Occitan (Aranès), the three official languages in Catalonia. The respective original formulations were: 'Voleu que Catalunya sigui un estat independent en forma de República?'; '¿Quiere que Cataluña sea un estado independiente en forma de república?' and 'Voletz que Catalonha vengue un estat independent en forma de república?'. 'Sí/Òc – No/Non'.

10. Source: Generalitat de Catalunya (https://govern.cat/salapremsa/notes-premsa/303482/catalan-referendum-results, accessed on 9 January 2020).

11. Previously, the main leaders of the activist associations had been imprisoned with charges of rebellion and sedition. A few days after 27 October, the entire Catalan Executive was summoned to testify at the National Supreme Court accused of sedition, rebellion and other serious crimes. Some Catalan ministers had fled into exile, refusing to appear in court in Madrid, while the rest were imprisoned in pre-trial detention by the judge. Two years later, the Supreme Court has sentenced most of them to prison, with terms totaling around 100 years in prison.

12. 70 MPs out of 135.

13. On the Catalan process of self-determination also see: Nagel & Rixen, 2015; Amat, 2017; García, 2018; Jordana, 2019; Sánchez-Cuenca, 2018; Elliott, 2018; Kraus & Vergés, 2017.

14. The last nonbinding referendum took place in the Catalan capital city, Barcelona, on 10 April 2011, where more than 250,000 cast their vote (21% of turnout). Muñoz and Guinjoan (2013) found a strong statistical association between civil society pre-existing networks in towns and villages and the turnout in local referendums.

15. See: Resolution 5/X (https://www.parlament.cat/document/intrade/7176, accessed on 9 January 2020).

16. In the participatory process on 9 November 2014, 2,305,290 Catalans participated, of which 1,897,274 voted yes-yes, 234,848 yes-no, 22,755 yes-blank, and 105,245 no. One of the consequences of this event was that their political leaders, including the Catalan President and Vice-President, and the Catalan Presidency's and Education Ministers, were accused of disobedience and misuse of public funds. In 2017 and 2018 they were sentenced to a fine of 5 million euros for misuse of public funds and barred from holding political office although they had been declared innocent in a previous trial.

17. *Junts pel sí*, 'Together for Yes', was formed by two parties and several independent representatives from diverse professional backgrounds, from university professors to activists and singers. The two parties were *Convergència i Unió*, the former party in government, and

Esquerra Republicana de Catalunya, the oldest pro-independence party in the Catalan Parliament.

18. *Candidatures d'Unitat Popular* (CUP), 'Popular Unity Candidacies'.
19. See: Resolution 1/XI (https://www.parlament.cat/document/intrade/153127, accessed on 9 January 2020).
20. The referendum rules and development did not fulfil the criteria established by the Venice Commission, since it was not called according to Spanish constitutional procedures (Castellà, 2018).
21. See: BBC, 'Spain plays cat and mouse as Catalan vote looms' [https://www.bbc.com/news/world-europe-41268845, accessed on 9 January 2020]; OHCHR, Opinion 6/2019 [Available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session84/A_HRC_WGAD_2019_6.pdf, accessed on 9 January 2020].
22. See: STC, 103/2008 (https://www.boe.es/diario_boe/txt.php?id=BOE-T-2008-16292, accessed on 9 January 2020).
23. Íbid FJ3.
24. In order to change the Constitution on this matter, which would allegedly imply the modification of the second article of the Constitution in which the 'indissoluble unity of the Spanish nation' is established, it would be necessary to obtain the approval of a two-thirds majority of the Parliament, its dissolution and the calling of new elections, the approval of two thirds of the new Parliament and, finally, popular approval through a referendum for all Spaniards according to Article 167. In spite of this dominant constitutional doctrine, other scholars and the Catalan Government defend that a referendum on the constitutional status of Catalonia would not require such constitutional change (see footnote 26).
25. See also: Ferreres, 2014.
26. See: Francesc de Carreras, 'Consultar no es decidir', La Vanguardia, 09/18/2013, (https://www.lavanguardia.com/opinion/articulos/20130918/54385698277/consultar-no-es-decidir.html, Accessed on 9 January 2020); Francisco Rubio Llorente, 'Un referéndum para Cataluña', EL PAIS, 10/03/2012 (https://elpais.com/elpais/2012/10/03/opinion/1349256731_659435.html, Accessed on 9 January 2020); or Javier Pérez Royo, 'Romper el tabú', El PAIS, 05/22/2012 (https://elpais.com/elpais/2012/05/22/opinion/1337682470_110273.html, Accessed on 9 January 2020).
27. A previous attempt to declare independence had been suspended by the Catalan President on 10 October 2017 just after the referendum in order to seek negotiation with the Spanish Government and EU mediation.
28. The 2014 participatory process explicitly included in the question a new accommodation within Spain as we have seen.
29. Carboni considers the Catalan referendum as ineffective in opening a negotiation, but she frames this attempt of exercising direct democracy within the Spanish territorial model crisis and the necessity of a constitutional reform (Carboni, 2018, pp. 78–79).
30. In September 2017 a poll published by El País found that 82% of the Catalans supported a legal and agreed referendum. Later on, several polls found a consistent majority of Catalans supporting a referendum on independence (between 70 and 75%). In the rest of Spain this option is less popular and does not amount to 50% of Spaniards. See: EL PAIS [https://elpais.com/elpais/2017/09/22/media/1506106430_606062.html, Accessed on 9 January 2020].
31. In October 2019, a unanimous verdict of the Supreme Court found 11 former members of the Catalan Government and the former Speaker of the Catalan Parliament guilty. They were convicted to between 9 and 13 years jail for various crimes including sedition, misuse of public funds and disobedience which had taken place, according to the Court, during the organization of the referendum. Several other public officials, politicians and citizens are under trial or being investigated for the same reasons.
32. Unilateral 'unionist' (rather than independence) referendums can be held by the parent state as well. The USSR (1991) referendum on the preservation of the Union of Soviet Socialist Republics as a renewed federation of equal sovereign republics and France's (1958) referendum on a new constitution are examples of this practice.

33. For example, in Crimea, the 16 March 2014 referendum on Crimean independence and annexation to the Russian Federation was preceded by the decision of the Crimean Supreme Council to separate from Ukraine taken on 6 March 2014. It was also preceded by a military operation supported by Russian forces that took direct control of the peninsula. See: 'Crimea Votes to Secede From Ukraine as Russian Troops Keep Watch', NYT 16 March 2014, (https://www.nytimes.com/2014/03/17/world/europe/crimea-ukraine-secession-vote-referendum.html, accessed on 9 January 2020).

34. In non-colonial contexts, de jure referendums are generally non-unilateral and the result of constitutional provisions, such as in Montenegro (2006), supervised and agreed not only by the parent state but also by international actors (Oklopcic, 2012). In other cases, such as the Scottish referendum on independence (2014) (Cetrà & Harvey, 2019), these referendums are held through domestic ad hoc agreements between the parent state and regional authorities. International agreements can also provide de jure referendums such as the case of South Sudan (2011). As we mentioned earlier, in liberal democratic contexts independence referendums rarely result in secessions, Montenegro (2006) is the only counterexample.

35. Moreover, there is a prevalent majority culture as Mueller (2019) has suggested that does not include the use of referendums to solve territorial issues and makes national unity principle prevail.

36. Obviously, unilateral de facto referendums do not offer the same scrutiny guarantees as other electoral events.

37. In the 2017 Kurdistan referendum the turnout was 72.2%. In Quebec the turnout was 84.3% in 1980 and 93.5% in 1995. See: http://c2d.ch/database for more information.

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