

The conflict over the status of Catalonia: overview of 2019

Escola de Cultura de Pau
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Introduction

Tensions surrounding the dispute over the status of Catalonia increased, mainly due to the sentencing of pro-independence political and civil society leaders, which widened the divide between State institutions, the Government and political parties at national level, on the one hand, and a large political and social section of the population in Catalonia, on the other. The crisis in 2019 was felt in various areas, including the judiciary, civil society, politics and the media in both Catalonia and Spain and, as in previous years, also had an international impact. This document on the evolution of the conflict in 2019 is part of the *Alert! Report on conflicts, human rights and peacebuilding*. With its dissemination, the Escola de Cultura de Pau of the Autonomous University of Barcelona wants to contribute to the conversation on and the transformation of the conflict from an approach based on culture of peace. In the first part of the document, a synthesis of the conflict is presented and, in a second part, the evolution during 2019 is analysed, with attention to the elements of the conflict and dialogue initiatives.

Synthesis of the conflict: origins and evolution

In its current phase the conflict over the status of Catalonia centres around the clash between, on the one hand, the aspirations for Catalan independence held by a large section of population, including political and social actors, within Catalonia and, on the other hand, the defence by the Spanish State and another large section of population, including political and social actors, within both Spain and Catalonia of Spain's territorial integrity and –to varying degrees– their defence of national unity, Spanish national sovereignty and/or the interpretation that the current regulatory framework prohibits Catalonia from exercising self-determination. Accordingly, the conflict is active at various levels, mainly between actors in Catalonia and Spain and within Catalonia, and also has international ramifications.

There are different narratives and interpretations surrounding the origins and causes of the problem, as well as its evolution and possible solutions. Among other elements, the right to

self-determination and the defence of Spain's territorial integrity have been invoked, appeals have been made to long-standing grievances in areas such as resources, competencies and recognition of the identity and nation, as well as the diverse range of aspirations within Catalonia and the limits of legality. The independence movement grew in political and social strength from 2012 onwards, two years after the Constitutional Court's ruling that restricted Catalonia's new Statute of Autonomy –which had been approved in 2005 by all the political forces of the Catalan Parliament (except the Popular Party), was restricted by the Spanish Congress and subsequently ratified in a Catalan referendum (2006) where it received 74% of the vote (49% voter turnout)– all against a backdrop of economic crisis, cuts in rights and public spending, and social upheaval. This was the beginning of what has been called the “sovereignty process”, with political and social actions being undertaken by multiple actors with a view to exercising self-determination and achieving independence, who in turn were questioned and/or persecuted by other actors from political and judicial spheres in Catalonia and Spain.

These actions included a popular consultation held on 9 October 2014, in which 2.3 million people participated and 80.76% of them voted in favour of Catalonia becoming an independent state. In the Catalan parliamentary elections of 2015, which was taken to be a plebiscite by the proindependence parties, the latter obtained 47.74% of the votes and a parliamentary majority (72 of 135 seats). In 2017 tensions escalated following a succession of events, including the approval in the Catalan Parliament of the laws on the self-determination referendum and on the legal transition in an expedited procedure which the opposition denounced with claims that its rights and statutory and constitutional legality had been violated –leading to the majority of the opposition consequently abstaining from the vote; the holding of a referendum on 1 October (43% voter turnout, with 90% voting in favour of independence) which had previously been blocked by the Constitutional Court, and baton charges by police against peaceful participants, a thousand people injured and the closure of 14% of the polling stations, according to the Catalan government; the acceptance of the result in favour of independence and

the suspension of independence by the Catalan President himself on 10 October, and a declaration of the creation of an independent republic on the same day by the proindependence parties; the declaration of the creation of a Catalan republic and the start of a constitutional process approved by the Catalan Parliament on 27 October (70 votes in favour, 10 against, 2 abstentions and 53 absences); the application of article 155 of the Constitution, through which the State Government took control of the autonomous region of Catalonia; the preventive imprisonment and the commencement of a large-scale judicial process against Catalan social and political leaders, which culminated in October 2019 with heavy prison sentences.

In recent years, there have also been other legal proceedings brought against politicians, police officials and activists, in a trend that has seen the judicialisation of the political dispute in a context that has prompted some political leaders –including the then President of the Catalan government Carles Puigdemont– to leave Spain, many of whom have been living abroad ever since. Figures abroad, such as Puigdemont, have promoted the internationalisation of the conflict, including through the creation of the so-called Council for the Catalan Republic.

The conflict has led to political tensions and the paralysis of the government, the polarisation of society and the media, as well as protests of various kinds. On the other hand, between 2018 and 2019 the Spanish and Catalan governments attempted to hold talks, which included the Pedralbes Declaration (2018), although they faced many obstacles.

Evolution of the conflict: 2019

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In the legal sphere, the judicialisation of the dispute in previous years led to the handing down of a judgment

in the so-called “trial of the sovereignty process”, concerning the events that took place in Catalonia around the referendum date of 1 October, after the oral phase had been completed between February and June 2019. The Supreme Court handed down its judgment on 14 October, sentencing the two pro-independence civil society leaders Jordi Cuixart (President of Òmnium Cultural) and Jordi Sànchez (President of the Catalan National Assembly, ANC) as well as six members of the dismissed Catalangovernment who facilitated the consultation (Oriol Junqueras, Jordi Turull, Dolors Bassa, Raül Romeva, Joaquim Forn, Josep Rull) and the then President of the Parliament (Carme Forcadell) to between 9 and 13 years in prison and full disqualification from holding public office for the crimes of sedition –and in some cases also for embezzlement. Three former members of the Catalan government (Meritxell Borràs, Santi Vila and Carles Mundó) were issued fines for disobedience and were disqualified from holding public office for 1 year and 8 months.

The ruling caused a shockwave within the independence movement and other sections of society in Catalonia and Spain who opposed the judicialisation of the dispute,

which increased political and social tensions in the final quarter of the year. It triggered numerous protests in many Catalan towns, including a mass march to Barcelona airport on the same day of the ruling, organised by the Tsunami Democràtic platform –which caused the cancellation of 110 of the 780 flights scheduled that day, according to Aena– as well as mass marches lasting several days from various locations (Berga, Castelldefels, Girona, Tarragona, Tàrrrega and Vic), all of which converged on Barcelona on 18 October in a mass protest on a day when some unions also called for a general strike in Catalonia. There were also several nights of riots in the cities of Barcelona, Tarragona, Lleida and Girona, with participants claiming various motives, according to press reports. Human rights organisations reported

excessive use of force during police baton charges and other actions that contributed to increasing the tension, both by the National Police and the Mossos d'Esquadra (the regional police of Catalonia). The Ministry of the Interior put the number of people arrested in the first seven days of the protests at around 200, and the number of injured at 600, of whom –according to the same sources– 289 were Police officers. Several people were seriously injured, including a young man who was run over by a Mossos d'Esquadra van and several civilians who lost the sight in one eye. 70 journalists were injured, 69% of them as a

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result of police actions, according to the media observatory Mèdia.cat. The Council of Europe's Commissioner for Human Rights, Dunja Mijatović, expressed concern regarding numerous reports of attacks on journalists, by demonstrators and police officers, and regarding the insecurity faced by journalists covering the conflict, as well as the allegations of the disproportionate use of force and inappropriate use of riot gear. The Commissioner strongly condemned the violent attacks and acts of vandalism and at the same time urged the Spanish authorities to reconsider the use of rubber and foam bullets.

In the final months of the year, new protests were held. Among them, in November, several thousand demonstrators who had been called to protest by Tsunami Democràtic cut off the AP-7 motorway in La Jonquera and blocked the border crossing with France for 24 hours, in rejection of the ruling and appealing to the International community to pressure the Spanish government to enter talks regarding the conflict in Catalonia. 20 people were arrested –19 of them by the French Gendarmerie– and subsequently released, with some being charged and handed cautions. Tsunami Democràtic also called for protests before and during the football match between the Barcelona and Real Madrid football clubs on 18 December in defence of “rights, freedom and self-determination” and urged the Spanish government to engage in talks.

In a public statement on 19 November, the International human rights NGO Amnesty International expressed its concern regarding the definition of the crime of sedition in the Spanish Criminal Code, which it considered to be too general, as well as the loose interpretation of this crime by the Spanish Supreme Court, which according to Amnesty International entails a violation of the principle of legality –contained in the European Convention on Human Rights– because it allows for the criminalisation of acts arising from the exercise of freedom of expression and peaceful assembly. In the case of Sánchez and Cuixart, Amnesty International considered that the ruling excessively and disproportionately restricted their rights to freedom of expression and peaceful assembly, and urged the Spanish authorities to release them and provide guarantees that would allow them to overturn their convictions. With regard to the former members of the

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Government and Parliament, it pointed out that they may have committed a crime that is legitimately punishable due to the office they held, but that because of the vague definition of the crime with which they were charged and an overzealous interpretation, the ruling violated the principle of legality. It therefore urged the Spanish authorities to ensure that in the event that any legal appeals are filed by the convicted persons, the said authorities take due account of the breach of the principle of legality.

Other legal proceedings continued throughout the year. In this sense, the President of the Catalan government, Quim Torra, fought a trial against his disqualification from holding public office before the High Court of Justice of Catalonia, where he was accused of a crime of disobedience for not removing

a banner bearing yellow ribbons –a symbol representing demands for the freedom of pro-independence prisoners– from the Palau de la Generalitat during the pre-election campaign, in defiance of an order of the Central Electoral Board. In November, Torra attended the first hearing of the trial. Furthermore, the Spanish National High Court set the date of January 2020 for the commencement of the trial of the Commissioner of the Mossos d'Esquadra, Josep Lluís Traperó; the ex-director of the Mossos d'Esquadra, Pere Soler; the ex-secretary general of Catalan Internal department, César Puig (who were all accused of the crime of rebellion); and autonomous police mayor Teresa Laplana (accused of sedition, due to her failure to prevent the referendum of 1 October and the protests before the Ministry of Economy on 20 and 21 September 2017). In turn, among other legal proceedings under way, the trial against the former members of the Parliament's Bureau and the former Member of Parliament Mireia Boya (which was scheduled to begin that month) was suspended in November. They face charges of disobedience for allowing the parliamentary processing of the laws, of 6 and 7 September 2017, on the referendum and on the legal transition. Joan Josep Nuet's diplomatic status after he was elected to Congress led the High Court of Justice of Catalonia to refer his case to the Supreme Court, while the Court of Justice of Catalonia retained its jurisdiction to rule on the rest of the defendants and ordered a new trial to be held in 2020.

As regards the international legal impact, the EU Court of Justice ruled in December that Oriol Junqueras, the

pro-independence political leader and a candidate who was elected during the 2019 European Parliamentary elections in May (in pre-trial detention since November 2017) had immunity as an MEP from the date of the announcement of the results, therefore requiring his release. The Court noted, however, that it was the jurisdiction of the Supreme Court to assess the effects of the immunity in other proceedings (in reference to the case against Junqueras for the 1 October referendum), with a ruling being issued from 14 October. The Supreme Court will decide how to implement the EU Court of Justice's ruling, which was expected by the beginning of 2020. In turn, hours after the European Court's ruling, in December the European Parliament authorised the election of the former President of the Generalitat Carles Puigdemont and former regional Minister of Health Toni Comín, who were both elected as MEPs in the May elections (withdrawing the ban imposed on them since the reactivation of the Euro-order) and who will therefore take their seats in January 2020.

Negotiation attempts

In the political sphere, in the framework of the negotiations concerning the investiture of a new government in Spain following the parliamentary elections of November 2019, the year ended with the expectation of an investiture agreement being signed between the ERC and PSOE parties, to be ratified during the first few days of January 2020, which would include the creation of a dialogue table between the governments and a popular consultation in Catalonia on the agreements reached at that dialogue table, according to reports at the end of December. As part of the agreement, through its abstention, ERC would facilitate the investiture of a coalition government between the PSOE and Podemos. For its part, JxCAT warned that this party did not feel that it was bound by the agreement between the PSOE and Podemos and accused the ERC of undermining the struggle for independence. As regards the talks between the Catalan and Spanish governments, both executives considered the talks to have stalled in February 2019 and levelled mutual accusations. On 20 December 2018, after a brief meeting between the Presidents of the Spanish and Catalan governments, Pedro Sánchez and Quim Torra, at the Palau de Pedralbes, both governments issued

The Pedralbes Declaration (2018) defended an effective dialogue that would convey a political proposal with broad support within Catalan society and a framework of legal certainty, among other elements, but the Spanish and Catalan governments differed in their assessment of its scope and nuances

the so-called Pedralbes Declaration. According to the text, both governments agreed on the following: that there was a conflict over the future of Catalonia, that they both defended an effective dialogue that would convey a political proposal with broad support within Catalan society, that forums for dialogue should be promoted that would allow society's needs to be met and for progress to be made in providing a democratic answer to the demands of Catalonia's citizens (within the framework of legal certainty), and that the path of dialogue requires the effort of all institutions, political actors and citizens. The two governments differed in their assessment of the scope of the Declaration and its nuances.

The Declaration was preceded by months of rapprochements and disagreements between the two executives after the PSOE came to power in June 2018 following a vote of no-confidence against the Popular Party, supported by the pro-independence groups ERC and PDeCAT. In January 2019, several meetings took place at ministerial level, which were intended to move forward in the implementation of the Pedralbes Declaration, including the architecture of the talks themselves. The negotiations addressed the creation of a dialogue table involving political parties in order to tackle the most politicised issues, which would be complemented by the bilateral Generalitat-State Commission, enshrined in the Statute of Catalonia and reactivated on 1 August

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2018 (having been suspended since July 2011). Disagreements arose between the two governments over the make-up of the political parties' dialogue table that was to emerge from the Pedralbes Declaration. Even so, at the beginning of February the Spanish government accepted the inclusion of an intermediary to "faithfully report" the progress of the political parties' dialogue table, in reference to ERC and JxCAT's demand for a rapporteur. The discussions regarding this intermediary role and the talks between the governments as a whole, led to strong criticism from the Popular Party and the Citizens party, which described it as a betrayal of the unity of Spain and called for a demonstration against the talks to be held on Catalonia's future, which took place on 10 February and brought together 45,000 people, according to the police (200,000, according to the organisers).

In addition to pressure from political opposition parties, the talks were also influenced by the negotiations relating

to the approval of the state budget (and the position of ERC and PDeCAT that the entire budget should be amended), as well as the situation surrounding the preventive detention of Catalan political and civil society leaders and the commencement of the oral hearing phase of the trial against them. Even before the demonstration was held, the Catalan and Spanish governments considered the negotiations to have failed. Spain's PSOE Government blamed the Catalan government for the suspension of the talks due to the latter's rejection of the framework proposed for them which, according to the Spanish government, had from the outset excluded the self-determination of Catalonia and the holding of a referendum outside the framework of the Constitution. The Government did not definitively end the talks, but insisted that the only possible framework for dialogue was to do so within the rule of law and according to the Spanish Constitution. For its part, the Catalan government accused the Spanish government of abandoning the talks and attributed it to pressure from right-leaning political parties. The Catalan government reiterated its position

that the political parties' dialogue table should be held at the state level. It also accused the Spanish government of lacking the courage to put the mechanisms for talks into practice, and of rushing to close a deal that was not yet ready. It noted that they would continue to sit at the negotiating table. On the other hand, during the year there was only one meeting (in February) of the dialogue table of Catalan parties, which was called for the first time in November 2018 by the President of Catalonia as a parallel forum to the negotiations between the Spanish and Catalan governments—in which the PP, Ciutadans and the CUP refused to participate. At the February meeting of this forum for dialogue, the Catalan President made public the 21-point document that he had handed over to the Spanish President at the brief meeting between the two in December 2018. Among other points, the document called for the recognition of the right to self-determination of the people of Catalonia and its effective implementation, International mediation and an end to threats to apply Article 155 of the Spanish Constitution, among other matters.





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