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The situation of the right to self-determination in Spain

Right to Autonomy and collective rights at stake

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Introduction

The Coppieters Foundation (www.ideasforeurope.eu), based in Brussels, promotes policy research at the European International Level, focusing primarily on the management of cultural and linguistic diversity in complex societies, multilevel governance, decentralization, state and constitutional reform, the secession of states and self-determination.

CIEMEN (www.ciemen.cat) is an NGO based in Barcelona, founded in 1974 which promotes the recognition of national minorities from around the world in general and Europeans in particular. As a documentation centre specializing in ethnic minorities and nations, it organizes conferences and symposiums both at the national and international levels.

The coincidence in the subjects of study of the two organizations and on occasion of Spain's Universal Periodic Review allows us to present the following study about the situation of the right to self-determination in Spain.

During the last Universal Periodic Review of Spain (2015) there was no recommendation from NGO's or other private or public bodies on the treatment of the right to self-determination in the Kingdom of Spain. Nevertheless, this right is fully recognised by International Public Law and it goes beyond the condition of a current state or a former colony. Who is entitled to become a new state? What is the general procedure to follow in case you pursue these political goals through democratic means? International Law provides one answer: "all peoples have a right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". The International Covenant on Civil and Political Rights states, in its first article, that all peoples, without exception, can exercise the right to self-determination.

Executive summary

Right to self-determination should be a way to solve political problems through democratic means and political agreements. There are different examples of good practice, such as in Scotland or Quebec, where the right to self-determination has been respected while the state's unity has been reinforced after the democratic vote. International Law recognises that all peoples have a right to self-determination - not only current states or former colonial territories.

The main problem with the right to self-determination is to clarify what exactly constitutes a 'people'. A 'people' cannot only be a current state. Therefore, it can be accepted that the right to self-determination can be controversial; however, it should be understood as an example of good practice and used as an opportunity to solve political problems peacefully, through dialogue and under the umbrella of International Law.

The Spanish Judicial system protects the Constitution and precludes the possibility of meaningful constitutional reform. This excessive constitutional rigidity means national minorities are unable to propose reform or start a constitutional debate on major decisions on the vertical division of powers in Spain.

In 1977, Spain adopted the International Covenant on Civil and Political Rights. However, the Kingdom of Spain is not an example of good practice in promoting and defending the right to self-determination. Moreover, the Spanish state has acted against the right to autonomy proclaimed in the

Spanish Constitution (Article 2) and the principle of subsidiarity - one of the fundamental principles of the European Union. In 2017, Spain invoked Article 155 - a constitutional provision that has not been further developed in law - in order to suspend Catalonia's regional government and impose direct rule.

In conclusion, The Kingdom of Spain violates the Covenant on Civil and Political Rights by acting against the recognition of the right to self-determination for its national minorities. Furthermore, Spain failed to respect the right to autonomy (recognised in Article 2 of the Spanish Constitution) when a region tried to organise a democratic vote on self-determination. The imposition of direct rule and the use of police force are two examples of bad practice in this regard.

Constitutional Rigidity and Constitutional Reform

Spain's main political parties (PSOE, PP and C's) describe themselves as defenders of the Constitution. What does it mean to defend the Spanish Constitution, within the framework of the debate about the right to self-determination?

There is no explicit provision regarding the right to self-determination in the Spanish Constitution. Nevertheless, there are two important ideas: the unity of the Spanish Nation, and the right to autonomy of nationalities and regions. These are mentioned in Article 2 of the Preliminary Title of the Constitution and afforded the same hierarchical level. The conclusion is interesting: to be pro-Constitution means being in favour of the territorial status quo. Parties or factions that are seen to be constitutional reformers or against the Constitutional text in its current form, are forced to seek new paths to reform the law.

a. The Constitution as a tool to protect fundamental rights.

First, it's important to highlight that the main feature of the 1978 Spanish Constitution is its difficulty to be reformed. The procedure for approval of the 1978 Spanish Constitution has to be understood as a result of the specific difficulties related to that political moment. The Spanish transition from dictatorship to democracy was a political reform that started and finished under the threat of military power. This meant that the final text that was approved included special provisions to avoid future constitutional reform. From a formal point of view, the constitution restricts legal and constitutional progress. The goal in 1978 was to protect the democratic system, nowadays this kind of closure has a deeper impact on the political system.

The Constitution, as the Constitutional Spanish Court affirms (STC 259/2015, de 2 de diciembre), is the result of the people's sovereignty. This Supreme Law is considered the document in which the most crucial defining values, normative commitments and

principles the society wants to protect must be entrenched. As Article 16 of the French Declaration of the Rights of Man and the Citizen put it: “Any society in which no provision is made guaranteeing rights or for the separation of powers, has no Constitution”.

The Spanish Constitution tries to establish a social and democratic state, subject to the rule of law, which advocates freedom, justice, equality and political pluralism as the highest values of its legal system, as the Constitutional Court stated in its sentence STC 259/2015.

Those who want to reform the current constitutional text would need huge political majorities and major consensus in order to try to put the regional debate to the public through a referendum. The Spanish Constitution (Article 168) declares that in cases where actors want to reform anything related to defining the elements of the Kingdom the process requires a political majority of two thirds of both Chambers (Congress and Senate) , a call for elections, the new text must then be approved again with the support of two thirds of both Chambers and then, must be further ratified by the people through a referendum.

The Constitution has to be a tool to protect political and social rights (as the Constitutional Court stated) not a self-serving rule that blocks any possibility of meaningful reform.

b. Shared Governance and the State of Autonomies.

The Spanish Constitution defines a vertical separation of powers. Nevertheless, the constitutional text does not define which “autonomous communities” will be created after the Supreme Law has entered into force. The Spanish Constitution outlines the legal process to build the new regional system, but in the end this process lasted for years and was driven by the approval of the Statutes of Autonomy.

The Statutes of Autonomy have the legal condition of Organic Laws, the second most important legal text after the Constitution. In addition, these laws develop the territorial division of powers of the Kingdom of Spain, including the distribution of regional powers, the creation of legislative assemblies, or the role of regional presidents and governments.

The Spanish Constitution does not directly attribute authority to the Communities, leaving this task to the Organic Laws. The Constitution and these Statutes of Autonomy combined define the structure of the Spanish shared governance system and vertical separation of powers.

Therefore, The Statutes of Autonomy are part of the legal bloc of constitutionality. The idea of <<bloc of constitutionnalité>> is recognised in the Organic Law of the Constitutional Court (LOTC 02/1979) Article28. This provision affirms that *the Court shall consider, in addition to the constitutional precepts, the Laws that, within the constitutional framework,*
would have been issued to delimit the powers of the State and the different Autonomous Communities or to regulate or harmonize the exercise of competencies of these. Article 27 also includes international treaties in the list of legal texts to be taken into account when analysing the constitutionality of new law proposals.

In conclusion, the Spanish Constitution has a bloc of constitutionality where part of the vertical division of powers is entrenched through the Statutes of Autonomy. Although the Statutes of Autonomy have been reformed several times, constitutional rigidity has precluded starting a procedure to reform the main law in regard to this bloc of constitutionality.

The Kingdom of Spain recognizes the right to self-determination.

a. The International Covenant on Civil and Political Rights – United Nations Charter: Spain as a signatory country.

The Kingdom of Spain is a signatory country to the International Covenant on Civil and Political Rights. The text was adopted by the General Assembly resolution 2200A (XXI) of 16th December 1966 and entered into force on 23rd March 1976, in accordance with Article 49. The Kingdom of Spain published the final text of the resolution in its Official Bulletin 30th April of 1977[1]. Finally, the International Covenant on Civil and Political Rights entered into force on 27th July 1977.

It's interesting to underline that in January 1977, Spain submitted the Political Reform Act to a public referendum. This paved the way for constituent Assembly elections on 15th June 1977.

The International Covenant on Civil and Political Rights was approved regarding an important issue in global geopolitics during the 60s and 70s: the decolonisation process. Spain adopted it before the approval of its new Constitution as proof of its commitment to the democratic and political reform started by the government[2].

"With this event, the Spanish Government wants to express its commitment to the respect of Human Rights and fundamental liberties as a key element of our foreign and domestic policies" Spanish Foreign Minister said in the Spanish Congress during the official signing of the text.[3]

[1] Boletín Oficial del Estado núm. 103, April 30th 1977. https://www.boe.es/buscar/doc.php?id=BOE-A-1977-10733

[2] "La ratificación de los pactos de derechos civiles, publicada en el "BOE". EL PAÍS, 1st May 1977. https://elpais.com/diario/1977/05/01/espana/231285601_850215.html

[3] Vid. Boletín Oficial de las Cortes Españolas, n.° 1.543, 14 de diciembre de 1976, pág. 37.281

Spain must guarantee the full accomplishment of the International Covenant on Civil and Political Rights, in terms of domestic law. It also has to be considered that this International Covenant was one of the main jurisdictional tools used to reform the Spanish francoist political system into a democratic one.

The International Charter of Human Rights (CNU 1945), a foundational treaty of the United Nations, was adopted on 26th June 1945. All 193 State Members of the United Nations have ratified the Charter. Article 1.2 of CNU 1945 also states that the principles of equal rights and self-determination of nations are necessary to develop friendly relations among nations.

Following these two important legal texts, self-determination is a legally binding right applicable to all United Nations Member States, including Spain. The respect of these legal provisions binds all state institutions, including the three powers (legislative, executive and judicial). In conclusion, from a formal point of view, the Kingdom of Spain committed itself to the application of the right to self-determination by adopting the International Covenant on Civil and Political Rights and by becoming a member of the United Nations.

As Professor De Zayas states on his reports as UN Independent Expert on the promotion of a democratic and equitable international order[4], right to self-determination is *ius cogens*, *fundamental norm of superior hierarchical rank, recognized by the United Nations founding treaty, compulsory on national and international judicial and administrative instances, and superior to any national constitution or law that may conflict with it*.[5]

[4] DE ZAYAS, UN Independent Expert on the Promotion of a Democratic and Equitable International Order. https://www.ohchr.org/EN/Issues/IntOrder/Pages/Reports.aspx

[5] DE ZAYAS, Alfred Maurice. Self-determination and Catalonia. https://dezayasalfred.wordpress.com/2018/06/09/self-determination-and-catalonia/

In conclusion, from a legal point of view, Spain, as a signatory country of several legal texts, should promote, accept and develop the right to self-determination. The right to self-determination is not an abstract idea or principle, it generates real obligations for states in national law.

b. Self-determination in the 21st century: a peaceful option for solving political conflicts.

The right to self-determination was an important achievement in the making of a new global era. This right was applicable to old colonial countries and the two new global actors born after the First World War supported it: the USSR and the United States. Both Wilson and Lenin wrote books defending self-determination as a tool to rebuild international relations - not only to promote decolonisation.

After the end of the Cold War, a huge number of new states became members of the United Nations. Sadly, violence was an important element in this kind of political process; expressly we can highlight the case of the Balkan War.

Violence and force should not be the way to solve a political conflict. The right to self-determination refers to the peoples' right to choose their future as a collective. This right is able to work in two directions: to compose a new state from two former states and to split part of state.

The innovation for addressing the right to self-determination is to solve political conflicts through democratic procedures. Peoples should have the right to exercise self-determination in a democratic and peaceful manner. The Kingdom of Spain composed of nationalities and regions - as stated in the Constitution - should guarantee a peaceful way to solve these political conflicts. Countries that have different political communities or nationalities should accept this debate and act according to good practice purposed by International Law.

Historically, the principle of territorial integrity was the reason to block the right to self-determination. This principle as laid down in the UN Charter is intended for external application and only applies to cases of invasion of one sovereign state by another. In case of conflict between territorial integrity and right to self-determination, the principle that should prevail would be the latter.

Right to self-determination in the framework of the EU and International Order.

a. Is there a legal impediment to International Law?

Some political and legal analysts affirm that Catalonia has no right to self-determination. This kind of analysis is linked to a restrictive way to understand the Spanish Constitutionality Bloc and a misinterpretation of the provisions of International Laws on the right to self-determination. The international community should accept the UN Charter and the International Covenant on Political and Civil Rights as a starting point to build a peaceful and a democratic procedure if a people wants to exercise its right to self-determination.

The controversy about right to self-determination could be solved through multilateralism and within the UN institutions. The Code of Good Practices on Referendums of Venice Commission[6] could act as a White Paper to organise this kind of political votes, under the regulation and observation of international authorities.

We can assume that this approximation can be naive in the context of multiple threats to the international status quo and the multilateral international organisations. The international liberal order is coming to an end - and not exactly to history's end

[6] VENICE COMMISSION, Code of Good Practices on Referendums. Council of Europe. https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2007)008rev-cor-e

preconized during the 90s - regarding three main threats: the trajectory of China's ascent, Russia as an actor of destabilisation, and the boom of authoritarianism.

Due to this, and assuming that provisions of International Law are not being followed in the Spanish state, we need to take a look outside the box. How does this apply in other countries of the European Union? Are there other examples or similar situations to the Spanish one?

b. European Union. United Kingdom: the case of Scotland.

The European Union does not oppose the right to self-determination. In some points, the European Union as a political international subject has adopted, during its history, different political views and legal interpretations of this right. In fact, the EU is based on three pillars: democracy, fundamental rights, and the rule of law. Self-determination is definitely a protected fundamental right regarding International Law. The European Union only recognises the right to self-determination for its member states, as can be considered regarding Articles 49 and 50 of the Treaty of European Union[7]. Although the EU has been "founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights" (Article 2 TEU). Historically, the European Union had not mentioned Human Rights within its treaties, due to the Council of Europe and European Charter of Human Rights covering this area. Nevertheless, the Lisbon Treaty and the progressive political integration has put more importance on the common protection of Human Rights.

There are three important facts to know more about the EU position on self-determination. First, is the acceptance of new states born after the disaggregation of the USSR and Yugoslavia (Latvia, Estonia, Croatia, Slovenia...). Second, is the accession to the EU institutions of Eastern Germany - through the German Federal Republic - after

[7] Treaty of European Union. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012M%2FTXT

the fall of the Berlin Wall. Third, is the case of Scotland and the United Kingdom. All three cases confirm one policy: the EU tends to respect self-determination in most political scenarios.

In European law, everything which is not forbidden is allowed. The right to self-determination does not contravenes European treaties. At the same time the EU affirms that these cases should be solved regarding the constitutional legal framework of each state.

The United Kingdom - as an EU member during the Scottish referendum - respected Scotland's right to self-determination by achieving an agreement with the regional Edinburgh government and permitting the vote. The UK Government never accepted this referendum as an exercise on the right to self-determination, they said instead, that Scotland has the right to independence on the basis of the electoral win of the SNP, therefore a democratic reason. This was in respect to the historical recognition of Scotland as a country-member of the Kingdom. In the end, the UK protected its right to accept the Scottish political initiative, the UK Government does not block Scotland's rights, but is also able to decide when it is acceptable to organize another vote on secession.

The case between the United Kingdom and Scotland is an example on how, under certain conditions, a state can admit and engage in dialogue on the formation of a vote on independence in certain parts of its territory. The UK's government accepted this possibility under the umbrella of the Edinburgh Agreement[8]. Both governments agreed on the necessity of a clear legal base, legislated by the Scottish Parliament; and also, on

[8] Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland.
https://www2.gov.scot/Resource/0040/00404789.pdf

the date for it to be held (2014) and the content of the question of the referendum (*to permit a single-question referendum on Scottish independence*).

We can call this agreement a punctual transfer of powers from the UK Parliament and government to the Scottish government and Parliament based on a political agreement in order to respect the electoral manifesto of the SNP.

It would be easy to underline the important differences between the Spanish legal system and its UK counterpart. An uncodified constitution and the British rule of law does not forbid -but does not explicitly allow- a referendum as a tool to solve this kind of political conflict.

In conclusion, the UK's example serves as a role-model for western countries because it protects the original state - the UK's government always has to accept the transfer of powers to the Scottish Government- but at the same time finds a legal way to respect the right to self-determination.

c. Canada: Supreme Court and the Clarity Act.

Outside of the European Union there is an interesting case of respectful treatment of right to self-determination. In the end, Québec province organized two referendums to decide on independence; in 1980 and 1995. After the 1995 vote was held, the sentence of the Constitutional Court of Canada and the approval of Canadian Clarity Act clearly tried to put an end to Quebec's pro-secession aspirations.

In the end, the Constitutional Court of Canada recognised something crucial within the respect and the promotion of the right to self-determination. The court affirms that Quebec has the constitutional right to pursue independence. The Opinion of the Constitutional Court also adds another important point of view: negotiations would be necessary to address the interests of the federal government. Bilateral talks and agreements are the engine of this kind of conflict, rather than rigid constitutionalism or repressive reactions.

> *The continued existence and operation of the Canadian constitutional order cannot remain indifferent to the clear expression of a clear majority of Quebecers that they no longer wish to remain in Canada. This would amount to the assertion that other constitutionally recognized principles necessarily trump the clearly expressed democratic will of the people of Quebec. Such a proposition fails to give sufficient weight to the underlying constitutional principles that must inform the amendment process, including the principles of democracy and federalism. The rights of other provinces and the*
>
> *federal government cannot deny the right of the government of Quebec to pursue secession, should a clear majority of the people of Quebec choose that goal, so long as in doing so, Quebec respects the rights of others. Negotiations would be necessary to address the interests of the federal government, of Quebec and the*

other provinces, and other participants, as well as the rights of all Canadians both within and outside Quebec.[9]

Canada establishes a new take on this kind of conflicts. On one hand, Canada does not recognise Quebec's right to self-determination and the Constitutional Court thinks International Law is not applicable to Canadians provinces. On the other hand, the Canadian Constitutional Court understands that negotiation and bilateral political agreements have to respect Quebec's right to pursue secession.

This "*right to pursue secession*" can be understood as the Canadian way to recognise self-determination, in the case of the existence of an important majority of *quebecoise* population claiming for it. Canada's Constitutional Court also adds political dialogue and negotiation as an obligation for the existing State.

[9] **Reference re Secession of Quebec, [1998] 2 SCR 217, 1998 CanLII 793 (SCC).** https://www.canlii.org/en/ca/scc/doc/1998/1998canlii793/1998canlii793.html

Right to autonomy in the framework of Spanish law.

a. Spanish constitutional provision to suspend autonomy: Article 155.

The Spanish State didn't respect the provisions of International Law on self-determination. Also, the Spanish Government position was not following a (non-existent) EU policy on secession, because the Scottish referendum happened inside of the European Union. The United Kingdom accepted a political dialogue and the possibility of Scottish secession by transferring exceptional -and provisional powers- to Scotland. The Kingdom of Spain does not recognise the Catalan Government's right to pursue secession as Canada did in Quebec's case; and the Spanish Constitutional Court does not observe political negotiations as a major tool to drive the possible solution between both parts. Spain did not act under the umbrella of International Law -nor under the umbrella of EU institutions- and also Spanish governments did not follow the good practices of other similar cases.

The Kingdom of Spain has a frozen bloc of constitutionality; extremely rigid and impossible to reform or amend in fundamental territorial issues; Spanish governments, and the status quo, also denies reaching political agreements with Catalan Government.

As far as we can see, Spain did not respect the right to self-determination and proclaims its territorial integrity as a supreme value of its constitutional framework, even over Human Rights.

b. Use of Article 155 of the Spanish Constitution.

In addition, the Kingdom of Spain suspended Catalonia's autonomy by invoking Article 155 of Constitution in October 2017. This behaviour implies an aggressive and repressive reaction to political events that took place in Catalonia after popular vote on independence that took place on October 1st, 2017.

Moreover, the Spanish state has acted against the right to autonomy proclaimed in the Spanish Constitution (Article 2) and the principle of subsidiarity -one of the fundamental principles of the European Union-. In 2017, Spain invoked Article 155 -a constitutional provision without legal development- in order to suspend Catalonia's regional government and impose direct rule.

Also, Spain did not respect the right to autonomy (recognised in Article 2 of the Spanish Constitution) when a region tried to organise a democratic vote on self-determination. The imposition of direct rule and the use of police force are two examples of bad practice in this regard.

In terms of legal hierarchy, the invocation of Article 155 generates a conflict with Article 2 of the Constitution, where the right to autonomy is proclaimed. Article 2 of the Spanish Constitution was developed by the other Acts in charge of the territorial organisation of the state. As we mentioned before, Statutes of Autonomy are part of the constitutionality bloc, as Organic Laws, and define the vertical division of powers in the Kingdom of Spain.

c. Lack of jurisprudence on how to suspend the autonomy of a region.

Article 2 is only a provision, largely developed by Statutes of Autonomy and also the whole regional legal system, with a key role for the Catalan institutions, including Parliament and government.

As with Article 2, Article 155 is only a constitutional provision. The Spanish legislature did not develop this article through any further legal instrument. Article 155 is only two short paragraphs, which serve as a nuclear option to reinforce central government powers in case a regional government "does not comply with the obligations of the

Constitution". This text is largely ambiguous and does not describe the exact procedure to follow after the imposition of direct rule.

The use of Article 155 is legal, as far as it's a Constitutional provision, but generates some jurisdictional problems for the Spanish legal system. First, the Catalan Government was immediately shut down and its administration was not able to appeal the decision in Court. This is a clear situation of legal helplessness. Second, only an absolute majority in the Senate was needed to abolish an Organic Law (approved by a majority in Congress) and the suspension, without an end date, of the effectiveness of the right to autonomy. Third, the Spanish Government needed a whole legal pack composed by 21 Royal Decrees and Orders to guarantee the legal success of the suspension of Catalan's autonomy.

Catalan Institutions were not able to go to the Spanish Constitutional Court to appeal the Senate's decision since they were immediately under the control of the Spanish Government. Is this procedure the best way to guarantee legal security for each part?

The application of Article 155 lacks democratic legitimacy, and implies problems for the Constitutional system, because it permits the Senate to abolish an Organic Law temporarily approved by both Chambers. It should be remembered that in Spanish bicameralism Congress' role is more important than that of the Senate.
The legal pack approved[10] to take into force the autonomy's suspension included the assumption of responsibilities by Spanish High-ranked officials, inside of the Catalan Government. For example, Juan Antonio Puigserver Martínez[11] was appointed as

[10] Legal Pack Article 155. https://www.servidorscat.cat/normativa/pack-article-155/

[11] Real Decreto 965/2017, de 3 de noviembre, por el que se designa al Secretario General Técnico del Ministerio del Interior, don Juan Antonio Puigserver Martínez, para ejercer determinadas funciones correspondientes a la Secretaría General del Departamento de Interior de la Generalitat de Cataluña y al Área de Procesos Electorales y Consultas Populares del Departamento de la Vicepresidencia y de Economía y Hacienda. https://www.boe.es/diario_boe/txt.php?id=BOE-A-2017-12677

Secretary General for Security Ministry of Catalan Government, while he was the Deputy Secretary of Spanish Security Ministry.

Spain's main institutions did not react following the principle of proportionality, insofar as the Catalan situation was not a rebellion. There was no violence in the streets and there was no opposition to the suspension of the autonomy.

More than 250 Catalan Government officials were removed after Article 155 entered into force. Direct rule lasted 6 months; the extraordinary circumstances that justified its application had finished, but direct rule was imposed even after new Catalan elections. The consequence of this disproportionate reaction was the paralysis of the Catalan Administration, which manages healthcare services, the education system, and work subsides and programmes.

A report drafted[12] by the Catalan Government analysed the effects of direct rule in the regional administration. There was a significant general economic effect: more than €1.8bn; and a direct impact of more than €130 million.

The Spanish Government understood that the situation was a threat to its integrity and disregarded the constitutional right to autonomy and also the European principle of subsidiarity. The EU recognises in its Article 5 of the Treaty of the European Union that powers are exercised as close to the citizen as possible.

[12] Els efectes de la intervenció de l'Administració General de l'Estat mitjançant l'aplicació de l'article 155CE a la Generalitat de Catalunya https://govern.cat/govern/docs/2018/11/15/15/18/92e930fd-2b0f-4dc3-8ea3-c5b89dcfdd9d.pdf

Conclusions.

Spain's interpretation of the right to self-determination is restrictive and based on constitutional rigidity. Democratic principle has not even been taken into consideration, alleging a threat to territorial integrity.

There are so many different interpretations of the right to self-determination and interesting examples to follow in order to find good practices. Political solutions can be found through democratic dialogue, as the Canadian Constitutional Court stated.

Application of Article 155 is an aggression to the right to autonomy contained in the Spanish Constitution. The imposition of direct rule was conducted by political reasons and not procedurally previewed in the Spanish legal system. Also, its use implied legitimacy conflicts and legal defenselessness for the Catalan Administration.

Recommendations.

1. Promote legal changes in order to allow new procedures to reform or amend the Spanish Constitution taking into account plurality and regarding the key role of the Autonomous Communities.

2. Consider clarifying how the right to self-determination is respected in the framework of the Spanish legal system. The Spanish Constitution should be a tool to respect individual and collective rights and not the main threat to new legal approaches or interpretations on that issue.

3. Regarding Article 1 of the International Covenant on Civil and Political Rights, the States Parties recognise that "all peoples" have the right to self-determination and "they freely determine their political status.'' All States Parties, also Spain, should "promote" the realization of the right to self-determination, as stated on the text of the Covenant.

4. The Kingdom of Spain should respect the International Covenant on Civil and Political Rights and develop the country's legal way to respect the right to self-determination.

5. Regarding the implementation of Article 155 of the Constitution, the Kingdom of Spain:

5.1. Should approve a law developing the concrete consequences of the invocation of this Constitutional provision, taking into account the clash of this provision with the Autonomous Statutes (Organic Laws of the State).

5.2 Should respect the right to autonomy, proclaimed in the Spanish Constitution in Article 137.

5.3 Should reform and clarify by law the procedure of approval of Article 155.

5.4. This new law must include the procedure for how the suspension of autonomy works and how direct rule has to enter into force. This new law should guarantee rights for the autonomies; and its capacity to appeal the decision to the Constitutional Court.