



‘Unlike Brexit, the Catalan pro-independence demand has a democratising component’



CIVICUS speaks about the situation in Catalonia with Anaïs Franquesa Griso, a criminal lawyer specialising in human rights and social movements and the Director of Litigation at Irídia, Centre for the Defense of Human Rights. Irídia is a civil society organisation (CSO) from Catalonia that combines direct intervention in situations in which rights are violated with social and political advocacy aimed at promoting far-reaching change in public policies. Anaïs works at the organisation’s Service for Handling and Reporting

Cases of Institutional Violence, and her work focuses on human rights violations that take place within the framework of the exercise of the right to protest.

1. What does Irídia do, and what motivated its founding?

My organisation is young; it was introduced to the public just two years ago. My activist experience was forged in the anti-repressive social movements of Barcelona. Over time, social movements have created quite effective response mechanisms against the repression of protest. For instance, there used to be an emergency telephone number that changed all the time and was only known to activists, so it was difficult to access for those who lacked organisation. This started to change in 2011, as a result of the 15M movement, a citizen movement that was born in public squares throughout the country, first in Madrid’s Plaza del Sol and a day later in Barcelona. It took the form of camps that were set up following mass demonstrations held under the slogan “We are not merchandise in the hands of politicians and bankers.” For weeks, thousands of people gathered in the streets and took part in massive assemblies where not just the economic policies embraced by the government to deal with the financial crisis were questioned, but also the Spanish political system itself, given that it did not represent the interests of citizens. That was the reason why other popular slogans were “You don’t represent us!” and “They call this a democracy but it is not.” From then on, protests became more frequent and way more massive, and we understood that we needed to create some tool that was more useful to more people, and especially for those who were not organised.

In 2012 repression worsened in the face of general strikes and mass demonstrations held in protest against crisis and austerity measures, which were seen as putting at risk basic economic and social rights, such as the rights to work, education and health. In that context, and as repression increased, we created an anti-repressive platform to provide legal, psychosocial, financial and communications support in case of detention. Information was disseminated at demonstrations about what to do in case of arrest, along with contact numbers and instructions on how to act in the event of becoming a witness or a victim of human rights violations during demonstrations. This took hold to a point that we started receiving calls from people who wanted to let us know that they had just seen some kids being detained on their doorsteps, allowing us to triangulate information and obtain witnesses for judicial proceedings. As a result of this experience we detected a gap in the response to police abuse. In cases of detention a support group would be created or facilitated by an anti-repressive platform, but in cases of police mistreatment the burden of the process still fell on victims. This was true in the context not only of protests, but also in other public spaces and in penal institutions. Hence the founding of our organisation, one of the pillars of which is the Service for Handling and Reporting Cases of Institutional Violence (SAIDAVI). One of SAIDAVI's areas is focused precisely on protest situations.

The Spanish legislation that applies to protests has hardened since 2015. On 1 July 2015, the [Citizen Security Law](#), also known as the 'gag law,' came into force. A reform of the Criminal Code that was very regressive in terms of rights also took place and resulted in the introduction of life imprisonment (which was called "revisable permanent prison").

Both legislative changes were direct responses to the protest movements that had mushroomed since 15M. Among other things, the gag law punishes any "serious disturbance of citizen security" that occurs in front of the buildings of Congress, the Senate and regional legislatures. This reform was introduced in reaction to the emergence of movements such as [Rodea el Congreso](#) (Surround Congress). The law also punishes "the unauthorized use of images or personal or professional data" of police agents "which could endanger the personal or family security of the agents or protected facilities, or put at risk the success of an operation." This is occurring precisely in the wake of the boom in cell phone recordings and social media as tools to register and disseminate information and images of excessive use of force by the police, which in many cases have served as [evidence](#) in judicial proceedings.

The gag law also criminalised practices used to stop evictions, in a context in which, after the burst of the housing bubble, collectives such as the [Platform of the Affected by Mortgages](#) emerged. These groups were dedicated to empowering affected people, denouncing the real estate and financial systems and responding to the housing crisis, including by stopping evictions, negotiating with financial entities and staging protest actions. At that time the banks, which had been rescued from bankruptcy with public money, were leaving thousands of people on the streets who could not pay their mortgages. In the face of this, several groups adopted a strategy of civil disobedience, so that when court officials came to evict a family they found 50 or 60 people who would prevent it from happening. Before the gag law, there were ways to avoid criminal sanctions, since it could be argued that those people were

making legitimate use of their rights to the freedoms of expression and peaceful assembly. The anti-eviction groups also staged daytime occupations of bank branches. These actions were non-violent and festive; they included song and dance as a way of attracting public attention, and were meant to empower victims and make other bank customers realise that there were many others in their same situation. This kind of demonstration is at the core of the rights to the freedoms of expression and peaceful assembly; however, the new law included a specific chapter to deal with them to try to neutralise them.

Another behaviour that now carried penalties was the “climbing of buildings or monuments without authorisation when there is some risk of causing harm to people or property,” a provision that seems tailored to acts of protest such as those carried out by Greenpeace and [Ecologistas en Acción](#). Even the most common practices of peaceful resistance were put at risk by provisions of the gag law that penalised ‘resistance to authority’ (something also included in the Criminal Code with rather ambiguous wording) and enabled the police to fine those who refuse to dissolve demonstrations in public places.

In sum, rights were restricted through the codification of previously allowed behaviours as crimes or administrative misdemeanours, and more sanctioning powers were granted to the authorities. In the past, many behaviours were not covered by the Citizen Security Law, so if such actions had any consequence, it was through criminal proceedings that took place in a district court and under the guarantees provided by criminal legislation. In practice, that meant that there were many acquittals, because judges generally considered either that the conduct in question was not criminal, or who had done what had not been sufficiently proven. All this changed with the gag law, which eliminated these offences from the penal code and turned them into administrative infractions (or in some cases minor offences), conferred security agents with sanctioning powers and the presumption of veracity (which means that it is the person accused who needs to prove that what the agent says is not true), and allowed for disproportionately high penalties.

2. What role did your organisation play during the 2017 referendum?

In mid-September we grew concerned as we witnessed serious violations of civil and political rights, including the entry of security forces into media venues and warrantless searches of printing houses, aimed at preventing the 1 October Catalan independence referendum. For this reason, a group of organisations decided to create a human rights defence mechanism. Hence, together with [Novact](#), [Lafede](#) and other organisations, we launched the [#SomosDefensoras \(#WeAreDefenders\) Campaign](#).

First, we published a manifesto explaining that our campaign was a response to the human rights violations that were already taking place, especially regarding the freedoms of peaceful assembly, expression and information. At a press conference, we announced that we were preparing a human rights report: that we were monitoring violations in order to report them to international bodies. This was supposed to have a preventative function. We also announced that we were training grassroots activists from other organisations, not all of

them human rights organisations, to act as human rights observers. We trained more than 100 people, of whom we selected and placed 70 throughout the city on 1 October, so we could receive real-time information on events and thereby supplement our social media monitoring. If there were victims, we wanted to have witnesses, or at least to have people close by who were trained to collect testimonies, in addition to helping and advising people on their options. That's because we know well that when something happens, the main problem is obtaining evidence. Finally, we coordinated a group of 60 lawyers who were available, not only in Barcelona but also in the metro area, as well as 30 psychologists to deal with emergencies on the day of the referendum and the aftermath. We also published the telephone numbers that people could call if they were arrested or assaulted.

We did this over the weeks and days prior to 1 October. Unfortunately, on that day we realised early in the morning that our forecasts were right, because there was indeed a lot of violence. On 1 October, our organisation assisted about 130 victims, and in the following weeks we assisted an additional 294 either by phone, email or in person.

3. Was there a history of violent repression of protests? What was new about the repression of 1 October 2017?

In the context of the 15M demonstrations, Mossos d'Esquadra, the regional police with a public order role in Catalonia, [brutally evicted](#) protesters from Barcelona's Plaza de Catalunya on 27 May 2011. This took six hours of nonstop repression, throughout which they hit people who were sitting peacefully on the ground with their hands up. More than 100 people were injured. This was broadcast live and everybody saw it, and it therefore became a before/after hinge in terms of citizens' perceptions of police violence. Many people were surprised to see the kind of police mistreatment that those of us involved in protest movements had known for quite a while.

The interior secretariat's discourse of those years sought to delegitimise and criminalise protest movements, and was accompanied by changes in police armament, along with the legal reforms. A regression in the protection of the right to peaceful assembly took place between 2011 and 2015, as documented in a [report](#) we published recently.

So what happened on 1 October 2017 was not completely new. We were clear that there could be violence by the security forces, and we knew we had to do something about it. We might have been late in doing so. This process was unique, and we had reasonable doubts as to whether the 1 October referendum would take place. Therefore, along with other actors, human rights organisations did not realise early enough that the expertise we had in our field would be required. So instead of starting to organise in June, we did so only in September. If we had had more time, we would undoubtedly have done some things differently, or at least with more foresight.

But in any case, the type of violence that we saw on 1 October had novel characteristics. For one, it had a clear gender component, as we explained in a recent [report](#). We talked to many people, both victims and witnesses, and we saw lots of videos. Numerous stories, told by

men and women alike, coincided even in the expression they used: 'they went for the women' - that is, repression was harsher against women. The underlying sexist assumption was that while no one should have been involved, much less so should women, because that clearly was not their place to be. There were also cases of sexual harassment, which we had not seen before. And in any case, our generation had never witnessed such widespread repression against the civilian population - official figures speak of more than 1,000 people of all ages injured throughout Catalonia - and much less for something as basic as wanting to vote.

In addition, rubber bullets were used, although they had been [banned](#) in Catalonia in 2013 and had not been used since April 2014. The ban was made effective thanks to the work of many organisations and social movements such as Stop Balas de Goma and Rereguarda en moviment, helped by the high-profile [case of Ester Quintana](#), a woman who lost an eye in the context of the repression of a general strike on 14 November 2012. On top of prior efforts, the great communicative and legal work that was done in this case (the Ojo con tu Ojo, or 'careful with your eye' campaign) resulted in the use of this type of weapon eventually being questioned in the Parliament of Catalonia. Although the police officers that wounded Ester Quintana were not convicted, the use of rubber bullets by the Mossos d'Esquadra was then banned and victims were compensated.

Besides costing the vision of one eye to another person, Roger Español, the [use of rubber bullets](#) on 1 October 2017 had great symbolic importance, because it was a setback on an issue that we thought was an already-won battle. We are now clear that we need to keep working so that Roger is the last victim of rubber bullets in our country.

4. How was the situation of 1 October reached? How and when did the advances of the autonomist position leading to the referendum take place?

There has always been a certain percentage of the Catalan population that wanted independence. Around the year 2000 that percentage was placed at around 12 or 13 per cent. Beyond this, there was a clear consensus around certain issues, such as the use of the Catalan language in classrooms (obviously combined with the proper teaching of Spanish). According to the so-called process of linguistic normalisation, every person schooled in Catalonia must know both Catalan and Spanish upon finishing school. This was a vindication of the working class that had arrived from outside Catalonia in the 1960s and 1970s, because speaking Catalan conferred advantages in the job market that could not be accessed by those who were not exposed to the language in their homes; in that sense, teaching the language in schools was a kind of social equaliser. This is an aspect of the language claim that is hardly ever mentioned.

And then there is the idea of the Catalan people, which has existed for many years and has undergone various changes. When the Spanish Constitution was drafted in 1978, there was much discussion about whether to include the concept of nation regarding the historical territories - Catalonia, the Basque Country and Galicia. In the end, the choice was to speak of

'historical nationalities' rather than nations, on the basis of the idea that there is only one nation and it is indivisible. In addition, the recognition of some sort of special treatment of those historical nationalities, which had enjoyed a status of autonomy under the Republic (1921-1939), was left behind in favour of what became known as '[coffee for all](#)' – a homogenous policy for all regions, historical nationalities and mere geographic entities alike. Thus the division of the state into autonomies, each with its own executive and legislature, was born.

For years, demands for greater autonomy were responded to with a constant push and pull, combined with almost seamless support for state governments by the Catalan right, which held power in Catalonia for more than 20 years. Along this process, economic disparities between the various territories of Spain also increased, and this was made worse by the lack of transparency. The so-called 'fiscal balances,' that is, the amounts that each territory contributes to and receives from the Spanish state, were never made public. And on top of this, the Basque Country enjoys a different status, mostly for historical reasons such as the Carlist wars in the 19th century. As a result, it has retained the power to collect taxes and deliver an agreed percentage to the Spanish state. In contrast, most taxes in Catalonia are collected directly by the Spanish state, which then returns only a fraction of the money. Added to a quite palpable lack of investment in infrastructure - as seen, for example, in the state of the Catalan railway system - this has created a feeling of imbalance between what Catalonia contributes and what it receives. This has translated into the idea that 'Madrid is stealing from us', popularised by Jordi Pujol, the president of the Generalitat, the highest Executive position for 23 years - which in the rest of Spain has been perceived as a lack of solidarity. At the same time, established consensuses, such as the one around Catalan language in schools, have also been under attack.

Catalonia has historically claimed greater autonomy on several matters. Around 2002, debate began as a new statute of autonomy for Catalonia (that is, our internal Constitution) was drafted to replace the 1979 one. The statute must be approved by the Catalan parliament, then by the Spanish Congress, and finally submitted to a referendum. The new statute was approved in 2006, after a process that lasted several years. The president of the Spanish government at the time, socialist José Luis Rodríguez Zapatero, promised that he would support the statute that the Catalan people approved. The new Statute of Catalonia was not wonderful, but it represented some progress in terms of citizen rights and decentralised power.

But then the Popular Party, led by the current President of Spain, Mariano Rajoy, launched a ruthless campaign against the Catalan Statute. They collected signatures against it and appealed before the Constitutional Court against several articles of the Statute that were identical to those contained in the statutes of Andalusia and Valencia, which were being discussed at about the same time, but which were not questioned. Four years later, in 2010, the Constitutional Court suppressed some of those articles from the Catalan Statute, even though similar articles remained unquestioned in the statutes of Andalusia and Valencia. The Catalan public perceived this as a targeted attack against Catalonia.

The June 2010 ruling of the Constitutional Court was a turning point. In reaction to it, one of the most massive demonstrations in the history of Catalonia took place. According to various estimates, between 1 and 1.5 million people participated. Under the banner “We are a Nation, we decide,” it was held on 10 July 2010 and was supported by most of the political parties represented in the Catalan parliament, as well as by the trade union movement and hundreds of CSOs. It was then that the feeling began to spread that no coexistence was possible with the Spanish state in its present form. The November 2011 elections brought the Popular Party to the presidency of the Spanish government. At that time, the president of the Catalan Generalitat went to Madrid with the intention of negotiating a new fiscal agreement similar to that of the Basque Country, but was not even received.

Another massive demonstration took place on 11 September 2012, Catalonia’s national holiday. That year, a demonstration that usually gathers some tens of thousands of people turned into a protest of more than one million. The party that governed Catalonia, which had never been pro-independence, was overcome by the masses crying out for independence. Since then, each 11 September demonstration has been more massive than its predecessor, has had a clearly pro-independence tone, and has yielded innovations that have given it a [spectacular quality](#), well adapted to the contemporary audio-visual culture.

Grassroots social movements in Barcelona are quite autonomous, and a part of them did not identify with the pro-independence cause, because a very large portion of civil society is not nationalistic. In fact, many who are pro-independence claim themselves to be non-nationalists, and instead view independence as a strategy to achieve greater democracy and rights rather than as a nationalist issue. I really think Rajoy and his Popular Party are the ones who have done the most to favour the growth of the pro-independence movement in Catalonia: they have done nothing but antagonise the most reasonable demands for autonomy and rights, thereby generating a massive radicalisation that did not exist just a few years before. If a referendum on independence had been held in 2012, the ‘no’ option would most likely have won. But every attack by the Spanish government has inclined more citizens towards independence and strengthened the consensus regarding Catalonia’s right to decide on its territorial and political organisation. In fact, the repression that took place on 1 October also increased participation, since many indignant people took to the streets and to the polls that under different conditions might have not.

5. Do you think that what is happening in Catalonia is part of a broader process of rising nationalism, or does it follow a logic of its own?

As far as I know, the arguments used in favour of Brexit were of a kind of nationalism with rather xenophobic connotations - at least, that is what I’ve perceived through the media. Those have never been the arguments in favour of Catalonia’s independence. In fact, while massive demonstrations took place for Catalonia’s independence, Catalonia also hosted Europe’s largest [demonstration](#) in favour of welcoming refugees, which brought hundreds of thousands of people to the streets. The demand for independence has a democratising component, and that is why many social movements have joined in, even though

independence is still not a priority for them. Catalonia has undergone democratising processes that have not occurred in the rest of Spain, from the [annulment of the summary trials of the Franco regime](#) to the prohibition of rubber bullets and the demand for [closure of detention centres for foreigners](#). That does not mean that people in the rest of Spain are not putting pressure to achieve those same aims - in fact, our organisation, Irídia, has many links with social movements and organisations advocating for civil and political rights all over Spain. But it is still the case that as far as these sort of demands are concerned, we have achieved a lot more here than when advocating with the central government. This creates a different climate for the relationship between civil society and institutions.

If the Spanish government had agreed to negotiate the conditions of autonomy in the direction of a bilateral treatment that Catalonia could perceive as fair, surely the demand for independence would have receded. And it should be emphasised that fair treatment would also entail substantial contributions from the richest regions in favour of the most disadvantaged ones. But the Spanish government does not have a deep-rooted policy of negotiation or dialogue, but rather of winning and humiliating the losing side.

Even so, it is not certain that the pro-independence demand has majority support - although it has indeed grown a lot. Where there is overwhelming consensus among Catalans is around the conviction that any decision must result from a consultation with citizens. That is, that the ability of the Catalan people to decide must be recognised, and therefore a referendum must be held. This is also the reason why all parties participated in the regional elections on 21 December 2017, even though these were imposed by the Spanish government and took place with the Generalitat under intervention as a result of the controversial application of [Article 155](#) of the Spanish Constitution.

6. What will happen next; where is this process headed?

It is hard to say. On the one hand, the Supreme Court has issued worrying rulings that are difficult to understand from the point of view of the rule of law and the separation of powers. There are people who have been imprisoned on charges of sedition and rebellion, despite the fact that all mobilisations have been remarkably peaceful, something that all these rulings have recognised. Even so, the fact that the mobilisations were so massive was interpreted as implying 'intimidation,' and the violence of the state security forces on 1 October was deemed the responsibility of the Catalan political leaders. Their argument is that if they had not encouraged and organised an illegal referendum, the Spanish state would not have 'been forced' to use force. This type of argument that is currently being used (with doubtful results) to put an end to the pro-independence movement could also be used against any other type of claim in the future.

In any case, and for practical purposes, we are now worse off than when it all began, with civil society and political leaders preventatively detained, the Catalan government under intervention, and the rights to the freedoms of expression, information, assembly and protest in retreat. In addition, the Spanish government warned before the [21 December](#)

[elections](#) that if the pro-independence parties won, the administration would continue to be controlled from Madrid; that is, somehow they announced that they would not recognise the results if they did not favour them. During the pre-election period, the [Central Electoral Board](#) defined the words and concepts that could be used in the campaign, and numerous acts of censorship took place. Monica Terribas, one of best-known journalists in Catalonia, stated in her daily radio programme that an election held with half of the government in prison, the other half in exile, and the media and protesters under attack, could in no way be described as 'free.' The radio station was [sanctioned](#) as a result of her words.

Elections were held in these conditions because, after several politically intense months, people were tired and expectant, and because no one wanted to create excuses for more repression. At 81.9 per cent, voter turnout was the highest so far. And the independence movement won again: between them, pro-independence parties got more than 2 million votes (100,000 more than in the previous election) and obtained an absolute majority of parliamentary seats (70 out of 135). However, the party with the most votes (25.4 per cent, translating into 37 seats) and its best results so far, was the liberal Ciudadanos, a defender of Spain's unity.

Nevertheless, it will be very difficult to form a government because the candidate to the presidency is in exile in Brussels and cannot return without risking imprisonment. This also applies to other representatives elected in the past elections, such as Oriol Junqueras. It is therefore clear that an election does not suffice; getting out of this situation requires a genuine act of sovereignty, a lot of dialogue and, above all, respect for fundamental rights.

- **Civic space in Spain is rated as 'narrowed' by the [CIVICUS Monitor](#).**
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