

# Sovereignty and consent

Being neither a Spaniard nor a Catalan I do not take sides in the current political dispute over the future of the Spanish Union. I am interested, because it goes to the heart of the identity politics that have come to play a more prominent role in recent years throughout the EU area and in bordering states like Ukraine. The EU itself where we remain members until 2019 has expressed a view, supporting the rule of law of the Spanish Union against the subordinated democratic Parliament of Catalonia and its wishes.

If the Spanish state had approached the Catalan independence movement as the UK Parliament did the Scottish independence movement, there may well have been a referendum in Catalonia that gave a victory to the Union. Instead the Spanish state denied Catalans a legal referendum under the Spanish constitution, and tried to prevent by force the referendum organised by the government of Catalonia which did not enjoy the legal backing of the Spanish Parliament. The use of force to close polling stations and to prevent people voting created bad scenes for world television, and has led to adverse comment when the Spanish Prime Minister claimed the force shown was proportionate. It seems likely that more Catalans would now vote for independence than before recent events.

This week the world waits with bated breath as the two sides plan their next move. The Spanish state could use the national constitution to close the Catalan Parliament and demand new elections, or could seek to close down devolved government altogether. The Catalan government might declare independence based on the results of its recent referendum even though this would be illegal under the national constitution. The Catalan nationalists might claim they had a popular mandate from their own elections and from the referendum, and were forced to act against the rules of the Spanish state owing to the unwillingness of Madrid to offer them legal means to pursue their democratic objectives. Would the Spanish state then seek to arrest the Catalan politicians? Would the Spanish state seek to displace police and officials loyal to the Catalan government, with police and officials loyal to the Union government? We all hope this can be handled peacefully without large demonstrations getting out of hand. It looks today as if both sides want the other to make the next big move, as they are engaged in a battle for support from those not strongly committed to either side.

Opinion is now split three ways in Spain. In Catalonia itself there is a strong movement for independence, though there is no definitive vote to tell us the true balance of opinion for or against. In Spain outside Catalonia and the Basque country there is a strong block of opinion behind the proposition that the state should enforce Spanish law against the Catalan government. There is then an emerging third force throughout Spain that wants the two sides to talk, to try to find a legal and democratic way through. The Spanish government does not welcome this, as it wishes to take a tough line to what it sees as a simple matter of law enforcement.

The Spanish government has facilitated businesses who want to take the

precaution of switching HQ from Catalonia to somewhere else in Spain. This may be just to increase pressure on the Catalan government, as it is otherwise a sign that the Spanish state thinks secession possible. The Spanish state needs Catalonia, as the region contributes around 20% of Spanish national income whilst receiving around 11% of public spending.

This conflict evokes memories for some Spaniards of troubled twentieth century conflicts between Catalonia and the Spanish state. It highlights how the rule of law is the important underpinning of free societies and prosperous democracies.

The rule of law is a necessity for a flourishing commerce and for the safe enjoyment of people's property and family lives. This rule of law depends on the consent of most of the people most of the time to the origins of that law in Parliament, and to the special powers of police and the courts to uphold it. These deep disputes about identity threaten that framework. If enough people in a democracy say they no longer accept a given Parliament, backed by a police force and court system, as the originators and enforcers of their rule of law, the politicians do have to work out how they can design a new framework which does command respect. If a small minority break laws they find inconvenient the state has an enforcement problem and the support of the people to enforce the law. If a majority of people no longer accept the law of a democratic state the state has to think again.