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CSSR came out in 2012 as a yearly publication on the popularization of science. Its aim is to publish scientifically relevant articles which originally came out in Catalan translated into English. By doing so, CSSR addresses academicians, professionals and students around the world interested in social sciences subjects and Catalan research. The articles relate to social sciences subjects such as Philosophy, Pedagogy, Psychology, Sociology, Demography, Geography, Law, Economics, Anthropology, Communication and Political Science. Each subject constitutes a section of the review.

The objectives of CSSR are:

1. To promote, foster and spur on Catalan academic scientific production related to Philosophy and Social Sciences
2. To coordinate an international diffusion platform on Catalan scientific production related to the various disciplines under the generic category of "social sciences"
3. To participate in the initiatives for the international diffusion of Catalan science in English through the IEC on line publications catalog
4. To guarantee the access to Catalan high quality research on social sciences to the world scientific community, emphasizing the fact that the results have been originally drawn in Catalan
5. To contribute to create a shared supportive cultural membership feeling among philosophy and social sciences researchers from all Catalan speaking countries and territories

Catalan is a language spoken mainly in four Autonomous Regions of East Spain (Catalonia, Valencian Country, Balearic Islands and part of Aragon) and also in Andorra, Rosselló (South East France) and the city of l'Alguer (Sardinia, Italy).



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sfcs@iec.cat

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Catalan-ness(es) in the Catalan Countries

Mariona Lladonosa Latorre*

Universitat de Lleida

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Abstract

This is an overview of the discourses, practices, changes and continuities in the ideas of Catalan-ness in the Catalan Countries from the 1960s until today after the turn of the century. The 1960s played a crucial role in the construction of new identity discourses influenced the sociopolitical situation in the Catalan Countries at the same time that the national identity markers have undergone transformations. Both of these can be examined under a joint perspective.

Key words: 1960s, globalisation, identity, Catalan-ness, Catalan Countries

1. Introduction

National identity in the Catalan Countries can be described from multiple frontiers of thought, first because from the 1960s until today the play between the imagined community and the real community has never ceased to spark political and social conflicts all throughout the land, and secondly because, as Joan Fuster said, what we call the identity in this particular area has been and continues to be a “question of names”. We are starting with the assumption that writing about Catalan-ness in the Catalan Countries implies an initial, specific ideological position, because if we understand ‘the Catalan Countries’ to be a general coronym – the name of a country – and frame of reference, ‘Catalan’ is the corresponding adjective that defines a person who lives there, and ‘Catalan-ness’ is thus the noun version of this adjective. If we refer to the Catalan-language *Diccionari de l’Institut d’Estudis Catalans* (DIEC), ‘Catalan-ness’ (*catalanitat*) is described as the quality or fact of being Catalan. And one of the most important political conflicts in the 20th and 21st centuries in Spain lies particularly in this subtle transformation from adjective to noun.

The conception of the modern Catalan Countries as we understand them today, and their associated Catalan-ness, is unquestionably based on Joan Fuster’s contribution in the 1960s. It is true that he did not invent it himself, and in fact Fuster somehow was just harking back to a pan-Catalanist

* Contact address: Mariona Lladonosa. Office 3.09, [Departament de Geografia i Sociologia](#), Universitat de Lleida. Avinguda Estudi General, 4. 25001 Lleida, EU. E-mail: mlladonosa@geosoc.udl.cat.

movement whose first expressions were during the Second Republic but was interrupted by the Spanish Civil War. In the 1930s, the pan-Catalanist push was divided into three strands, namely territoriality, language and shared history, all under the values of civic, voluntary nationalism but with a clear ethno-symbolic value. In the 1960s, the ideological construction of the Catalan Countries and the defining markers of their identity were revisited bearing these three strands in mind, with language at the fore as a mechanism of social cohesion. Unlike in the 1930s, in the 1960s the Catalan Countries were projected through a symbolic use of the term, which because it was imagined and diffused in a context of transition, strove to generate a “reality” upon which to support a new political project for the future. The hopes deposited in the transition and the end of the Franco regime were greater than the reality, and the fact is that the recovery of democracy and the process of institutional transformation allowed for the recognition of self-governance via the autonomous communities, yet at the same time it clearly generated a constitutional framework aimed at neutralising any joint political project in the Catalan Countries and thereby national secession.

The ideological construction of the Catalan Countries has never again had a discursive presence or political centrality such as it had in the period from 1962 to 1977. However, it is a crucial factor in understanding the recent evolution in Catalan-ness and anti-Catalanism at the same time. The national identity in the Catalan Countries has taken on various guises which are strictly associated with the political conflict with the Spanish state and the shaping of national subordination. In other words, there is a symbolic and material dependence when our community is envisioned. Spain’s national identity features have been constructed as a space of power, control and domination over different political stories, hence the conflict between identities viewed as national or regional. Calling oneself Spanish, Valencian or Catalan is not just using an innocent adjective to describe where one lives; it is also a specific story of one’s social life and therefore reflects specific power dynamics. Generating regional identities of subordination or national identities of power is a way of creating dependence and hierarchy; it is a form of domination, and it occurs based on the affective appropriation of certain symbols by individuals and groups. For this reason, the symbols that shape identities are a battlefield for the hegemonisation of stories of power. Thus, speaking about Catalan-ness in the Catalan Countries is one way of understanding national identity: within specific coordinates, and within a story that has been at odds with the story of the state from the 1960s until today, the specific period we are examining.

2. The 1960s as the point of departure: The times they are a-changin’¹

Contextually, the 1960s were years of major changes around the world and the dawn of the age of the global world. Earlier, in the 1950s, the development of the European economy was exceptionally fast-paced, and this extended into the next decade. This economic growth was linked to a rise in consumption and to the new social models of the consumer society and mass culture, which also had effects in Catalonia in the 1960s. On the other hand, these changes primarily affected the younger generation, who felt themselves to be the interpreters of

¹ Dylan, Bob, “The Times They Are A-Changin’”, *The Times They Are A-Changin’*, Columbia Studios, 1964.

the processes of moral change and a shift in values. The effects of these changes were projected in music bands, the media, fashion and innovations, which were their direct expressions. They were years of social and political unrest when, for example, the universities played a prominent role as a venue for gatherings of groups of young people who were experiencing a progression in social changes and collective consciousness. As wellbeing was rising in Western societies and political parties were becoming more pragmatic and less ideological, a new culture emerged made of revisions of values and codes and a progressive, radical ideology that penetrated youths in the capitalist world.

Even though Spain was mired in a social and economic post-war period in the 1950s, the 1960s were years of supposed openness aimed at generating growth, tourism and new industry. The context of the 1960s should be understood as the emergence of a new mass and consumer society which influenced the changes in the country and its discourses and cultural products. Even though those years were also equally characterised by the Franco regime's censorship, repression and indiscriminate actions against Catalan culture, the social reality was transforming the post-war climate. Socially and culturally, it was being replaced by an appeal to social issues, the influence of sociology and the economy in analyses of the reality, and openness to Marxist thinking, with an important influence from Europe. The 1960s was a decade of ferment and of cultural and political expansion. On the one hand, the Catalan culture adopted the characteristics of high culture and became intellectualised, while also generating the first signs of mass culture. On the other hand, the direct influences from European and North American culture could also clearly be seen, as well as the fact that behind the changes underway was the individual and collective motivation to push for cultural and political freedom. All around the Catalan Countries, this change was experienced through numerous efforts by cultural groups, historians and the Catalan literati, as well as through the effort to reconstruct the educational system, revive the publishing system, spur a new civic society and restore Catalan national history from a new scholarly and historiographic perspective. The mobilisation against the dictatorship became common in working-class, intellectual and university milieus around the country, and it made even further headway in the 1970s. All of this made it possible for Catalonia's own cultural activity to gradually be revived, and a new representation and codification of identity emerged with the cultural recovery and impact of these new times.

3. Valencia: Catalan-ness and decolonisation

Speaking about identity in the region of Valencia means speaking about the Fuster effect. Until Fuster, political Valencianism had exclusively been framed in terms of a regionalist project, and the construction of the Valencian identity had been framed as a regional identity within Spain. Regional Valencianism was broadly accepted in society, and it had lived through the Franco regime as an identity that was protected and folklorised by the regime and the local right wing. Renowned historians like Ferran Archilés and Pau Viciano had studied Valencianism and the region's projection through its basic symbolism since 1878. The Falles, the Romanesque landscape, the mediaeval past, the manufactured goods and local crafts and the expressions of popular culture like the *sainet* (one-act farces), coupled with a prolific output of novels, music and

painting from the early 20th century, were all part of the repertoire of the regionalist representation of Valencianism.

However, in the 1960s there was a major ideological shift in the construction of this identity. Fuster and his circle supported a model of political Catalanism, a new Valencian nationalism concentrated in the role of language and a gradual identity-based ethnoculturalisation independent of Spain. Fuster's concise expression "*dir-nos valencians és la nostra manera de dir-nos catalans*" (calling ourselves Valencians is our way of calling ourselves Catalans) is well known, and his assertions in the 1960s and in the transition advocated a new identity opposed to the old regional identity in a bid to supposedly and consciously break with the regionalist projection of Valencian identity. Fuster believed that it was essential to disseminate a new national framework of modernisation in a context of change in the social structure, demographics, urbanisation and industrialisation processes that would break with Spain's agrarian model, which was associated with the representation of an archaic traditionalism that had to be combatted through a political framework associated with anti-Francoism and Catalan nationalism as the alternative. The left wing and anti-Francoist sectors largely accepted Fuster's concepts and linguistic claims, so the 1960s and 1970s were the years of the greatest degree of centrality of the Catalan Countries and shared identity of its regions. Despite this, although it is true that in cultural terms there was a process of accepting this notion of the Catalan Countries, in the sphere of the symbolic and political project it did not find hegemonic support in the subsequent political discourses. Contemporary political Valencianism was widely studied by Alfons Cucó, a key figure in Valencianism during the democratic transition who was influenced by Fuster's nationalism – just like the entire generation of thinkers at that juncture, but it represents the tradition of a non-alternative autonomist nationalism.

On the other hand, the Valencian right wing quickly associated the left's discourse with Catalanism and swiftly appropriated Valencianism for itself as a form of Spanish-ness, such that there has been a systematic reproduction of a discursive contrast between Catalanism and anti-Valencianism. The famous expression "*No mos fareu catalans*" (you will not make us Catalans) is a good framing of this supposed conflict. It should be noted that furthermore, the elites in the region of Valencia have historically and ideologically been projected as sympathetic with Spanishism, projecting popular and regional social practices in Valencianism. Blaverism is the outcome of this relationship, a specific contribution of Spanishism and the extreme right in the region of Valencia that has been extensively studied by Vicent Flor. The conflict of the symbolism representing this identity has been known as the "*batalla de València*", a politicisation of the use of the flag, language and name País Valencià, which ended up as the Comunitat Valenciana. The autonomous regions provided coverage to the parallel construction of a regional and Spanish identity. However, one sidenote is needed: after the Franco regime there were two discredited ideas-positions: the right and Spanish nationalism. To what extent does Catalan anti-nationalism allow the idea of Spain to be revived and legitimise an evolution towards rightist positions? Blaverism later reinvented the identity features of Valencianism, namely language and territory, with the purpose of atomising the most important elements of Valencia's own identity. The re-presentation and re-signification of these two elements by Spanishism

was accomplished via two strategies. The first is the linguistic atomisation of Catalan, that is, the manifest intention not to call the language in the different regions ‘Catalan’ – such as “Lapao” in the western part of Catalonia, the Iberian-rooted Valencian and Mallorcan and its hyper-dialectalisation – via the glorification of bilingualism, a strategy pursued all over the Catalan Countries based on a process of language shift and minoritisation as a popular or private language, which has had uneven effects in the different regions. The second is territorial fragmentation and provincialisation, in recent decades with the argument of modernisation based on ecological and regional exploitation, large-scale infrastructures and architectural flourishes linked to a neoliberal model of development which is known in both the region of Valencia and on the Balearic Islands.

In the region of Valencia, Catalan-ness has taken root in the collective imagination as an identity primarily linked to the left and to cultural and political Catalanism. Despite the fact that Valencian nationalism is not clearly represented in the current political system, the framework of representation of Catalan-ness today is associated with an identity of resistance. In the 1990s, a Fusterian revision was carried out by numerous sectors as a third way, as embodied in the ideas of Joan Francesc Mira, who sought a reconceptualisation of or reconciliation with the symbolic legacy of early 20th century political Valencianism as identity elements that explain Valencianism beyond regionalisation, enabling the project of a Valencian political nation to be revived in the more “realistic” social imaginary within the current political context, which is less “utopian” than the configuration of the Catalan Countries. This is a Valencianism under construction, as some have called it, which, just like the pan-Catalanist option bequeathed by Fuster, sketches the two current overarching identity stories of Catalanism in the region of Valencia. In any event, with a greater or lesser reach, these two stories have played a key role in imagining the identity of Valencia. In order to understand the new dimensionalities in this issue today, we suggest a reading of the “País Valencià, segle xxi. Reflexions i experiències de la generació que ve” collection published as part of the Valencianist guidebooks put out by the Universitat de València.

4. The Balearic Islands: Ethno-landscape re-appropriation

There are two factors to bear in mind in relation to the transformation of the identity on the Balearic Islands since the 1960s. The first is the already extensively analysed influence of the tourism boom and cultural and political contact with Europe, the outcome of the regime’s openness in its constant bid for economic survival. The impact of tourism generated a long-term transformation of the economy, social structure and frameworks of identity representation which has lasted until today. Likewise, even though the islands underwent an accelerated process of tertiarisation which changed the agrarian model – with its cacique-based tradition – this transformation fostered the arrival of a heavy contingent of immigrants from mainland Spain to work in a heavily provincialized and somewhat abandoned geographic space within the Spanish state. Just like Spanish immigration to Catalonia and French immigration to Northern Catalonia, Spanish immigration and tourism to the Balearic Islands prompted a major transformation in the patterns of diglossia in Catalan societies and therefore in the use of the language and the shaping of the

collective linguistic imagination. However, it is true that the arrival of tourism and immigrants from northern Europe had a heavy influence on shaping a collective imagination to represent of the islands, not only in linguistic terms but also in the projection of the region as a traditional, rural Mediterranean landscape which reshaped the stories of identity self-representation through the confluence of two dynamics.

The first dynamic was the relationship between these new self-representations and Catalanism through generations of young university students who travelled to Barcelona to study, where they were exposed to the nationalist anti-Franco movement and influenced by Fuster's work *Nosaltres els valencians*. One of them was Josep Melià, who in 1967 published *Els mallorquins*, a work regarded as a parallel to Fuster's but from the vantage point of Mallorca whose goal was to revisit and reinterpret the history of Mallorca and the Balearic Islands.²

The second dynamic entailed a reassessment of natural locales which, as Antoni Vives explains, was done by re-visioning the ethno-symbolic legacy and appropriating it through associationism, scouting, educational renovation movements in schools and the oral transmission of the legacy in the town parishes. According to Vives, contact with a new context of representation on the islands under the influence of European alternative tourism reinforced – and empowered – a romantic identity which forged ties with the ecologist movement and the nationalist movements aimed at linguistic and cultural revival.

This identification remains valid today, when the claims on behalf of the territory and heritage are framed as a story that contrasts with imposed Spanish-ness and speculative and consumer-based territorial exploitation. These processes of primarily cultural identity have clearly been transferred to the realm of politics as a project of the unique political nation of Mallorcan-ness, Menorcan-ness, Ibizan-ness and Formenteran-ness in the hegemonic sphere. What has emerged is a clear refusal to construct a denatured Balearic identity without roots in the practices and representation of the reality on the islands. Just as with the territorial atomisation in the region of Valencia, the establishment of Balearic-ness has been regarded by the local nationalists as another formula of political dissolution of the territorial unity with the Catalan Countries.

5. Northern Catalonia: Subjugated Catalan-ness

The Catalan-ness of Northern Catalonia has features that distinguish it from those in the other regions of the Catalan Countries because it is part of a different sociopolitical context, namely the state of France since the 1659 Treaty of the Pyrenees. The counties of Northern Catalonia have unevenly retained markers of Catalan-ness in the cultural identity of their inhabitants, depending on the phenomena of urbanisation and demographic transformation they have

² Similar historical revisionist approaches were carried out later by figures like Josep Maria Massot i Muntaner and Gregori Mir i Mayol, and from the standpoint of cultural and political activism by authors like Josep Maria Llompart and Damià Pons, just to mention the most renowned.

experienced. Of course, the same holds true in the region of Valencia, on the Balearic Islands and in the Principality. Within 21st-century France, Catalan-ness as its own identity does not exist either legally or officially. On the other hand, the relationship between Northern Catalonia and Paris has been questioned by the domination to which the latter has subjected the former. A region with a heavy influx of French immigrants, as well as a popular retirement area, over the last decade of the 20th century it received 75,000 new inhabitants from the rest of France, who were joined more recently by even larger numbers of immigrant workers from abroad. The demographic predictions say that two-thirds of the population of Northern Catalonia may be born outside the region by 2015, a phenomenon which has led to talk about a “demographic transfusion” (Baylac-Ferrer, 2009:20). In a more painstaking, specific study on the transformations in Northern Catalonia, it might be interesting to observe – just as has been done in the Balearic Islands, as discussed above – to what extent the construction of Northern Catalonia as a peripheral space in France has affected the frameworks of identity meaning.

For centuries, the transmission of Catalan identity took place orally, especially through language and the transmission of popular culture and oral micro-toponymy. Linguistically, in the 1950s first the early bourgeoisie and later the working classes stopped transmitting the language, with the exception of the Gypsies, who kept it as their language of socialisation. The influence of the French national identity and the unfolding of France’s Jacobin state profoundly affected the mental structures of identity, just as republican values and national secularisation changed the rites and traditional phenomenology, and this can be seen in the new Catalan identity in the north. Throughout the 20th century and even today, however, Catalan-ness has historically been a subjugated identity associated with ruralism, the frontier of modernity. This is true to such an extent that what are inaccurately named ‘regional languages’ have suffered from linguistic subjugation and recession even in the private spheres of everyday life, symbolically represented by the concept of patois as an expression of illiteracy and uncouthness. This is a model of diglossia manifestly proposed by the French state through the public education system – which brings to mind the famous pictures of schools with the slogan “*parlez français, soyez propres*” (speak French, be clean) – and a centralised administrative and territorial organisation which showed no signs of greater flexibility in recognising identities labelled as regional until the second half of the 20th century.

In order to grasp the identity transformations in Northern Catalonia, we should bear in mind that after 1945 the defence of any nationalistic stance felt reminiscent of Pétain’s reactionary discourse and Nazi collaboration. It was not until the 1960s that groups of young Catalanophiles, under the clear influence of the new cultural and political trends, began to organise into groups supporting linguistic rights after a first – almost anecdotal – formula to study the “local languages and dialects” in schools was made possible by the Deixonne Law (1951). The influence of May ’68 heavily swayed the leftist parties and French communists towards recognition of Northern Catalonia. This is captured by Pere Verdaguer when he interviewed Miquel Mayol, a member of the cultural group of Catalan youth after May ’68: “*ara la cultura és política i la política cultural*” (now culture is politics and politics is culture). Guy Héraud’s ideas on the Europe of ethnicities and Robert Lafont in his *Révolution régionaliste* (1967) gained a prominent place in discussions on the modernisation of the

state and what came to be known as the decolonisation of the provinces. This was also expressed in *Le Nouvel Observateur* in April 1968: “*l’esquerra s’adona amb una certa estupefacció que l’exigència d’una revolució regionalista és potser la condició prèvia de la democràcia i del socialisme*” (Verdaguer, 1974:236). Mitterrand himself had pledged greater linguistic recognition, although it never actually materialised. The French left’s sensitivity to the issue of other identities was almost like a mirage in the formulation of a gradual regionalisation of the state.

However, we should note that cultural organisations in Northern Catalonia have never ceased to exist since the 1960s, and contacts with Southern Catalonia, the Principality proper, have been constant over time. The *Universitat Catalana d’Estiu* (uce) was founded in 1969 with the goal of sociocultural confluence among the Catalan Countries, and it has been held nonstop in Prada since then, even though it has never managed to lay deep roots in the sociocultural dynamics of the region. Political organisations have followed this same pattern, although the representation and political repercussions of the Catalanist parties have only been symbolic. One of the unique features of Northern Catalonia compared to the other political realities in the Catalan Countries is that organisations have framed themselves as groups defending Catalanist interests, alternating nationalist, autonomist and regionalist discourses indistinctly without any identification with class or with the left-right divide. Political Catalanism throughout the 1970s, 1980s and 1990s continued to be framed as the defence of the Catalan identity within France with the goal of capturing and reassessing a neglected specificity. Identity expressions are therefore focused on the linguistic and cultural issue, and projects aimed at transmitting them are the most common. The organisation of the first Catalan-language schools in 1976, the *La Bressola* and *Arrels* schools, are still the prime driving forces spreading the language and reviving Catalan-ness. Associations of parents and teachers in support of education in Catalan have sprung up around these projects. However, schools are not the only spaces of academic dissemination; so are the Department of Catalan at the University of Perpignan, the *Òmnium Catalunya Nord*, *Arrels* radio and the *Casal Jaume I*, among others, from the standpoint of cultural and popular dissemination.

We would like to mention two more dynamics worth bearing in mind, which appear yet again. First, the defence of the environment has also come to the fore as a factor of cohesion and identification of Catalanism in Northern Catalonia, and good examples of this are the rejection of a project like the very high tension (VHT) lines and the campaigns rejecting tourism development in the region. The second is the persistent desire for territorial fragmentation by the French state, echoing that of Spain. In the case of Northern Catalonia, the administrative division of France is the first political frontier of Catalan-ness, with the depersonalisation triggered by the French transposition of place and topographic names and personal names into French, and it has experienced attempts to even further regionalise it with failed formulas such as the change of the department’s name from “*Languedoc-Roussillon*” to “*Septimanie*” in 2005.

When we explain the Catalan-ness of Northern Catalonia from the south, we tend to notice a folklorised interpretation of the repertoire of elements making up the identity. Even though it is true that the more strictly folkloric elements and expressions, or those from popular culture – *gegants* (giants), *castellers* (human pyramids), *diables* (devils), festivals and celebrations like the

Flame of El Canigó, the Correllengua and Saint John's Eve celebrations – or sports elements such as the USAP, are the ones which are more widely accepted as elements of identification with Catalan-ness, this same dynamic cannot be found as clearly in the expressions that are more profusely integrated into the new mass identities of the rising pro-independence movement in the Principality. Since the beginning of the 21st century, there has been a rising presence of the Catalan language in Northern Catalonia, although it is still comparatively meagre. The role of the media has not been symptomatic, but the reception of the media from the south has shared realities, albeit not necessarily with a good capacity or desire to capture the reality of the lands outside the Principality, and especially the Internet has facilitated a transfer between North and South that has changed the frameworks of identity representation. The subjugated Catalan-ness in Northern Catalonia has prompted greater awareness of Catalan-ness as a device of power in southern Catalonia. This is a slow but constant process of southward projection as a framework of modernity, freedom and normality which, within globalisation and the porousness of frontiers after the project of European construction, brings positive affirmation and appreciation of Catalan identity just as the myth of the French Republic is being seriously questioned based on the exclusionary management of the Jacobin model in the French state.

6. Catalonia: From cultural to political Catalan-ness

In the Principality, Catalan-ness as a recognised identity has historically been crucially important to the shaping of the nation. More recently, a manifestly cultural and progressively political national identity in Catalonia is gaining the greatest number of adherents through the political bid for sovereignty. Of course, the Catalan-ness that today is beginning to be hegemonically recognised as an identity project aimed at a rupture with the Spanish state did not construct a social story of its specificity in these terms until the first decade of the 21st century. Catalanism prior to the Civil War sought autonomy as a means of achieving a new political framework of modernisation and greater influence in the Spanish political system. With the recovery of democracy, Catalanism once again sought to restore its cultural and political position – within the new system of the autonomous regions – in Spain through the strategic course of pactism. This political project has clearly failed for a variety of reasons: the inability to change the Charter of Self-Government to fit the text approved by the Catalan Parliament in 2006; a constant centralisation policy by the Spanish state – aggravated by the ideological oversimplification in a national vein by both the left and the right in recent years; deep-seated political and societal frustration with the supposedly perfect transition in the 1970s; and of course the 2008 economic crisis, which is still in effect today, placing arguments about the fiscal deficit at the core of the grievances with Spain. The fact that the economic issue has become of the utmost importance in the pro-sovereignty discourse has explanatory factors in the symbolic transformations which the identity has experienced, changes that are clearly linked to late modernity which we shall examine at the end of this article.

However, in the 1960s the elements shaping identity were related to the transformations mentioned above and linked to the new mass culture, such as the Nova Cançó and the spread of “música lleugera” in Catalan, which was

crucially importance in all the Catalan Countries; anti-Francoism, from neighbourhood, student, union and political movements, and democracy; along with claims for freedom, justice, territoriality and language. Some experiences framed the transformations in the identity discourse to make it an identity of resistance. Francoism as a story of anti-Catalan repression is one of them, but so is the immigration of Spaniards to Catalonia in the 1960s and 1970s, which brought about a true socio-demographic transformation. Anna Cabré uses the term “*sistema català de reproducció*” (Catalan system of reproduction) to refer to the demographic model of growth in Catalonia during this period. The influence of immigration clearly played a core role in shaping the identity story, and one example of this is the idea widely found in the social discourse that “*és català qui viu i treballa a Catalunya*” (whoever lives and works in Catalonia is Catalan), which has remained alive in the collective social imagination with the arrival of international immigrants at the turn of the century, despite the new challenges this entails. Linked to these phenomena, the school as an integrative factor and the aforementioned associationism and political movements as places of Catalanisation are two crucially important contexts of socialisation in the models of representation and places of memory in the social and national model of Catalonia during the transition and democratic recovery. The Catalan language took on a prominent role as a cultural identity marker, so language was the most important identity factor shared hegemonically in the Catalan collective imagination.

With the recovery of democracy, the political and institutional debates began to transform the consensus from the transition into a more left-right conflict, yet one that was strikingly obsessed with cultural factors and the national debate, which ended up displacing the political facet. Replacing the class conflict with the culture conflict in the 1980s and 1990s was a projection of the gradual ideological liberalisation of welfare societies in the late 20th century.³ Political and economic liberalism would displace the debates of the 1960s to the field of welfare and wealth, conditioned by the end of the large social meta-stories and the rise of individualism and the personalisation of identity. The economic argument in the current sovereignty debate is fully imbued with this new story. Parallel to this process, one of the transformations in the elements of national identity which we can spotlight is the revision of ethnocultural factors – aesthetic, historical, landscape and folkloric – which in the Principality seem to have been superseded by the new practical adhesions – democratic, welfare, wealth, freedom and justice measures – of the new mass pro-sovereignty Catalanism. One last note with regard to the new identities linked to Catalan-ness: As Joaquim Capdevila observed after the 1960s and repeated cultural influences, as well as the influences from the global transformations, Catalan-ness will undergo an evolution from its strictly patriotic identities towards complex national identities in which gender, class, environment and other identities converge, from which a hyper-identification with the land and local environments will be projected. This is what Capdevila believes is a new stage in Catalanism which he calls post-nationalist, which will harbour new expressions of leftist pro-independence after the 1960s and glocalist support of independence after the 1990s, as well as the aforementioned

³ A thorough examination of this issue can be found in Lladonosa (2013).

mass support for independence, and it will mark the starting point of a process of transformation from cultural convictions to political arguments.

7. *Jo et done el meu present, transforma'l en futur*⁴

Catalan-ness in the Catalan Countries has taken different forms of protagonism according to the sociopolitical context of each specific region and the deliberate disruption by the Spanish and French states. The symbolic stories and material projection of this Catalan-ness entails understanding the complex system into which it is inserted, without forgetting that the social structures are conditioned by the actions of the states and the aforementioned factors. Today, we have two more challenges that will shape us as a people. The incorporation of international immigration and the economic crisis and chronic unemployment open up questions regarding the structure of our society and social ascent within it. The issue of class conflict should probably once again be situated at the core of the political discourses for national construction. What is more, it should be noted that there is a series of elements that have similarly been reproduced around the Catalan Countries and can explain the transformations of Catalan-ness and its current forms of representation.

The ideological transformation we have experienced since the 1960s have had a vast effect on the face of these identities, first, because of the end of the meta-stories and the loss of the centrality of the grand leftist ideologies, and secondly because of the effects of neoliberalism and the crisis in social democracy. The emerging identities mentioned above are models that replace the traditional identities, and they provide us with a new value system characterised by greater cultural and relational informality, yet at the same time by new projective aims in more specific identities and in specifically more local claims, if you will. This dynamic has arisen all around the Catalan Countries in the guise of new protests which are a local response to state and global pressures. Even though they have not been clearly translated institutionally, they have indeed been politically through the organisation of social, associative, cultural and even festive networks with a clearly protesting purpose which are manifestly projective. Following are two examples which can be found in different sites within the Catalan speaking lands.

The first is the new forms of resistance and projection of the popular language and culture through a revision and updating of the traditional identity markers, namely the modern cultural and musical festive expressions for language. They include Correllengües (celebrations in favour of the Catalan language) around the land, Tirant de Rock campaigns, competitions like Sona 9, festivals like the Feslloch in Benlloch, Identi'Cat in Bao, the FestTour travelling festival in Catalonia, the countless local festivals such as the DesFOLCa't in Calaf and the Santa Maria festivities in Formentera, along with the profusion of new bands and the normalisation of the use of the language in all genres. Another example is the revival of popular culture to recover and update it: singers and practitioners of *glosa* (a traditional musical rhyming activity), *gegants* (giants), *castellers* (human pyramids), *bastoners* (practitioners of a tradition weapon dance), *diables* (devils), etc. Yet another example is the local

⁴ Ventura, Feliu, "Present", *Música i lletra*. Propaganda pel fet!, 2011. Translated as "I give you my present; transform it into the future".

recovery of the anthropological heritage; one example from the Ponent region is the Vinyes Trobades project promoted by Slow Food Terres de Lleida to safeguard the old vineyards, local grape varieties and wine-making culture.

The second is the transformation from the romantic image of the land and the landscape to ecologism, coupled with the new environmental and regional claims which can also be found all over the Catalan Countries. They are closely associated with the symbolism of the Catalan identity, an alternative to the processes of deindustrialisation, the devaluation of agriculture, the neoliberalisation of the economic system and the destruction of the land. Examples of this include the famous “*No al transvasament*” campaign promoted by the Plataforma en Defensa de l’Ebre, “*No a la MAT*” promoted by the platform by the same name, and the countless “Save the...” campaigns, on behalf of Cabanyal, El Roser, L’Empordà, Mallorca, Ses Fontanelles and many other sites aimed at saving the land and the heritage. Finally, we should mention a dynamic that is not waning, namely schools and associationism as the structures for sociocultural action and reassessment. They include everything from the educational renovation movements in La Bressola to the groups of the Escola Valenciana and the Escoles Mallorquines movement in the sphere of education, and all kinds of local cultural groups within associationism, as mentioned above. Each of these expressions is a device of power which strengthens the dimensionality of identity resistance in a projective stage en route to a transformation that is as yet unfinished.

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The Serra de Tramuntana of Mallorca. Physical and human landscape¹

Vicenç M. Rosselló i Verger*

Universitat de València

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Translated from Catalan by Mary Black

Abstract

The Serra de Tramuntana covers 1,041 km² distributed into eighteen municipalities, covering more than a quarter of the area of the island of Mallorca. It is the most rugged part of the island due to the asymmetric thrust faults whose edges from the Jurassic are frequently higher than 1,000 metres in altitude. The limestone formation explains the rich variety of karst forms and leads to a peculiar water circulation route. Most of the numerous endemic plants of the Balearic Islands are concentrated in this mountainous region. The olive tree, one of the products (along with wheat and grapevines) within the Mediterranean trilogy cited by V. Mut in the 17th century, was brought to the mountain range in large estates. The oil trade, which was very active until the 19th century, was the economic mainstay of these estates. The strategic aspect of the mountain range takes specific shape in the “castells roquers” or castles built on cliffs and in an episode in 1594 which planned the deportation of “useless” people to mountain shelters. The Serra’s role as a place of spiritual refuge has led to several sites, such as the Lluc sanctuary. This paper analyses two coastal towns along with three other towns which resulted from the merger of several smaller nuclei.

Key words: Mallorca, mountain, olive growing, settlement, defence

¹ Professor Vicenç M. Rosselló gave this lecture at the Societat Catalana de Geografia on the 1st of October 2013 on the occasion of a planned outing to the Serra de Tramuntana organised by the Department of Geography of the Universitat Autònoma.

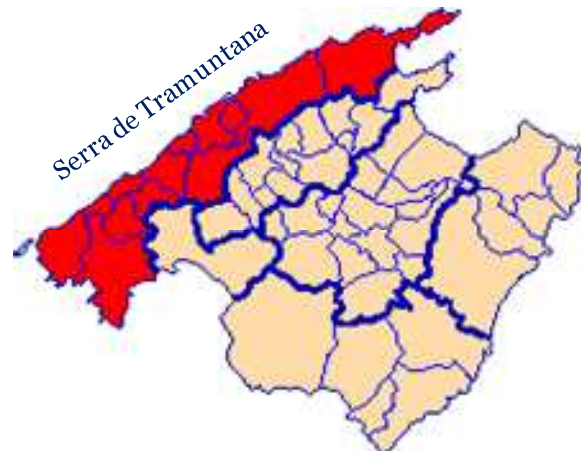
* Contact address: Vicenç M. Rosselló. [Departament de Geografia](#), Universitat de València. Avinguda Blasco Ibáñez, 28. 46010 València, EU. E-mail: vicent.rossello@uv.es.

Serra de Tramuntana of Mallorca: Geographical location

CATALAN COUNTRIES



MALLORCA



1. The name and the scope

There are no *comarques* or counties on Mallorca. What do remain are the 19th-century judicial divisions (Muntanya, with Inca as its capital; Migjorn, with Palma as its capital; and Llevant, with Manacor as its capital) or a more realistic duality of City/*Part Forana* (outer regions, or everything but the city of Palma) which politicians use more often. In 1964, the author divided the island into five physiographic regions to justify the topic of his doctoral thesis, the Migjorn. There was Muntanya and Raiguer,² an invention or resurrection that prospered, but not through any merit of his own.

The *ÿuz' al-ÿibāl* of al-Andalus did not encompass anything other than the core region of '*les muntanyes*' (the mountains), approximately the current township of Escorca. The other *aiÿzā* were called by the toponym of their most important city: Bunyula, Muço, Sulyar, Isburlas. The mediaeval division into Muntanya, Pla and Marina (Mountain, Plain and Marine) is often oversimplified into Mountain and Plain, encompassing the mountains of the Llevant and the centre of the island. I think that the personality of the Serra de Tramuntana has conferred a specific, contrasting features on its landscape which no one disputes. This is a reredos of our little world which tends to be seen with the mythologizing eyes of a city-dweller like poet Joan Alcover.³

²We could debate whether it should be written Reguer – fossilised in a marquisate; Raiguer, more similar to the etymon RADICARIUM; or Raiguer, which is also used in the geomorphological vocabulary in the sense of “piedmont” or “glacis” (Termcat). Today there is a Mancomunitat del Raiguer (1981).

³*“Qui me duu l'estrofa plena de perfums,
abella brunzenta de la soledat?
Quan de ma finestra, a encesa de llums,
estenc la mirada per damunt Ciutat
i l'ànima mia s'enfonsa, llunyana,
dins la serra immensa
que l'illa travessa, que l'illa defensa
de la tramuntana...” (La Serra, 1905)*

The 18 townships into which the Serra is divided have widely divergent sizes and populations. Historically, there were no more than half a dozen of them, but they were further subdivided in the 20th century. In figures, they cover a total area of 1,041 km², or 28.6% of the island.

2. The physical landscape

2.1. Structure and forms

The rugged terrain of the Serra includes fourteen or fifteen peaks more than 1,000 metres tall, including Puig Major d'en Torrella (1,443), Puig Major de Maçanella (1,348), Tomir (1,102) and L'Ofra (1,090), etc. The tectonic setting includes diverse terrains from the Permian–Triassic to the Miocene, but the most common is limestone and Mesozoic dolomite, especially from the Jurassic, which accounts for most of the prominent edges. The great geologist Paul Fallot turned *La Sierra de Majorque* (the title of his doctoral thesis) into the scientific paradigm of alpine reliefs by postulating three tectonic series of thrust folds on a gypsum base which favoured the overthrust. Series II shows the highest heights, and just like the others it is strongly asymmetrical, the reason behind the appearance of the petrous waves of the SE-facing thrust faults. All of this would fall within the internal Prebaetic, which includes the Balearic promontory.

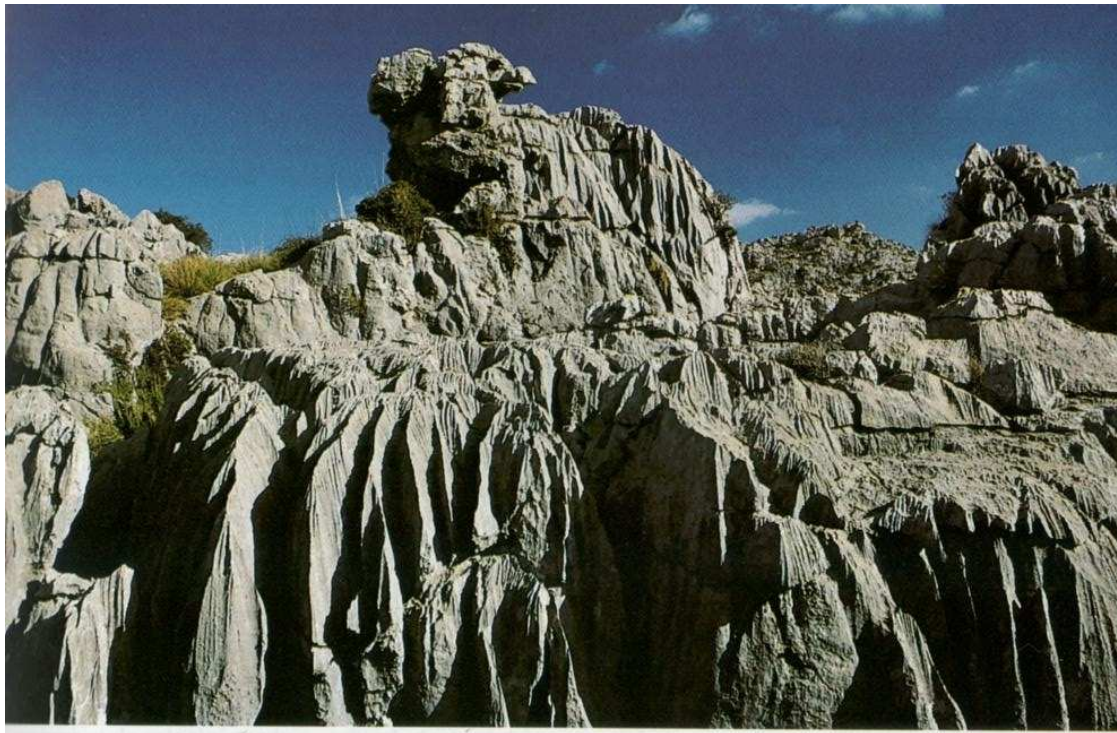
After overcoming the gravitational tectonic model of the 1970s, modern authors have revisited Fallot's scheme and subdivided the overlapping and folded sheets into five units, which are stacked and piggyback-thrusted facing NW with a contraction of almost 20 km between them.

A series of longitudinal valleys (including Calvià-Valldurgent, Orient, El Pla de Cúber and Vall d'en Marc) separate the dominant peaks and often include poljes and dolines. In contrast, the crosswise pathways of the river courses (Sa Riera, Vall d'Esporles-Canet, the Sóller depression, S'Estorell, the large canyon of Torrent de Pareis) have been cut off.

There is no dearth of words for the karst which has been intensely and extensively developed over the predominant Mesozoic carbonate rock formations, especially from the Jurassic. Over and beneath the group, there are hundreds of these phenomena. Sometimes karren is the most conspicuous exokarstic form: on Mallorca, it is known as *esquetjar*, *rellar* or *rascler*, while it is called *Rillenkarr* in the international terminology (Figure 1). I would dare to claim that the Serra is a paradise. There is no dearth of considerable poljes (such as Son Torrella) and dolines (such as Clot de Mortitx), along with respectable canyons such as the classic Torrent de Pareis stream. Regarding the endokarst, the chasms from dissolution are quite notable: the one on Puig Caragoler is 318 metres deep, Cove de Sa Campana is 304 metres deep, and the chasm in Escorca measures 139 metres deep. We should also mention the chasms carved by snowmelt, such as the one on the peak of Puig de Maçanella. There are multiple notable caves in the vadose (not saturated) zone, such as the collapsed one in Son Pou.⁴

⁴In the township of Escorca alone, the catalogue of caves and chasms includes 220 items.

Figure 1. Rillenkarrren. Es Camell de Lluç is a frequently visited example of what is locally called *esquetjar*, *rellar* or *rascler*, a form of dissolution that affects the Mesozoic limestone in the Serra.



Photography by Joan J. Fornós

2.2. A castle of water

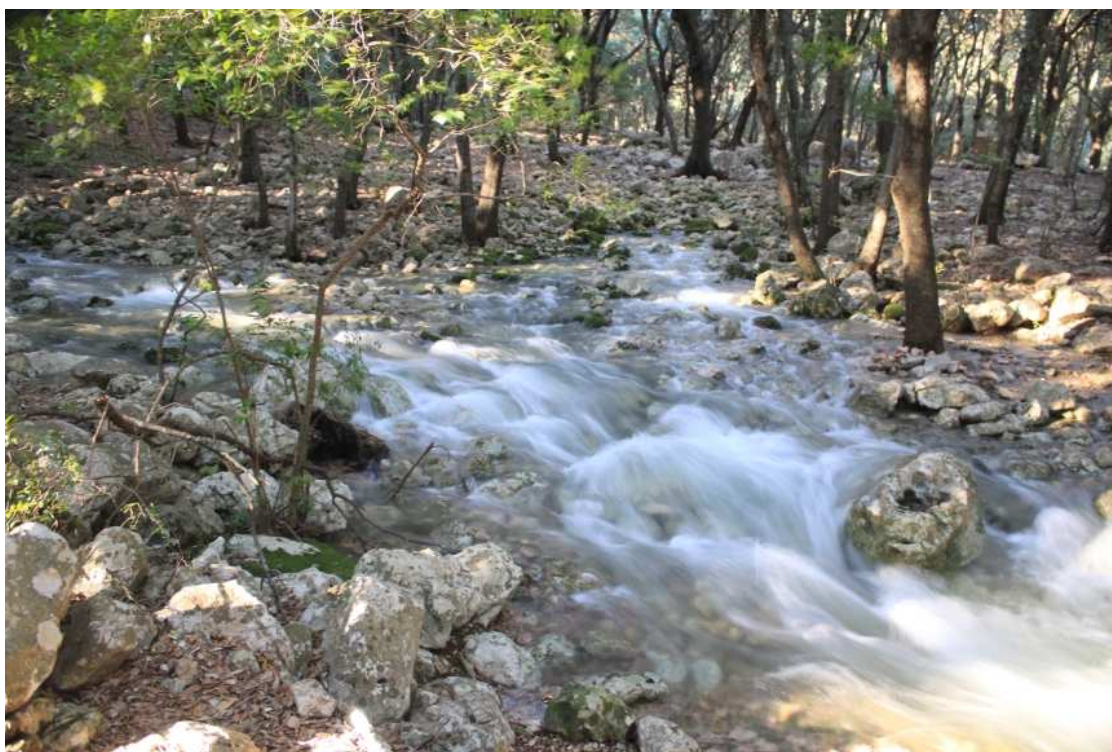
The shadow of the Serra protects the island from northerly winds and explains its famous calm, in contrast to Menorca. What is noteworthy in the Serra is the rainfall in the southeast and west, with warm and cold fronts, and especially the rainfall in the northwest with heavy downpours from cold fronts and gusts of the mistral wind. The northeast, however, favours the region of Pollença, where summer rains are common. The Serra's meso-climate has annual rainfall of over 600 mm, which reaches an annual average of 1,400 mm in several places, making it the water reservoir for Mallorca as a whole. The average temperatures are 4 or 5 degrees lower than in El Raiguer or El Pla, but the altitudinal gradation and asymmetry is accentuated in terms of precipitation. The screen effect and local topography can explain figures like the 1,500 mm average rainfall in Mortitx. The frequency of solid precipitation – which was more common in the past – explains the proliferation of “*cases de neu*” (snow houses) at altitudes of more than 950 metres.

The hydrographic network on Mallorca is modest because of the small size of the basins and because the omnipresent carbonate rock formations favour underground water circulation. Right now we can only observe fleeting or sporadic water circulation conditioned by rounds of rain of more than 60 mm, but we cannot forget that the over-exploitation of the aquifers has led the phreatic level to drop considerably, or that flash floods – some of them tragic – are likely to recur every 50 to 75 years.

When making a centrifugal, dextrorotatory survey, we begin by noting the brief streams in the Andratx basin (in Santa Ponça and Son Vic) and the equally brief – yet quite steep – streams in the Costa Brava (in Sóller and the Torrent de Pareis). In the Pollença basin we only need to mention the Sant [Son] Jordi stream, which collects water from Vall d'en Marc, while two of the most important streams on the island whose sources are in the Serra flow into the Alcúdia basin: the Muro stream receives the mountain off-flows from Solleric, Almedrà and Inca, while the Sant Miquel basin is fed from the Maçanella, Comafreda and Maçana branches. Finally, the basin of Palma contains Torrent Gros (Esporles-Orient), Bàrbara and Sa Riera streams, which originate in Puigpunyent.

The largest springs are obviously in the Serra. I shall limit myself to mentioning the Font de la Vila which used to burble in the capital city for centuries; S'Olla and Es Verger springs in Sóller; and the spectacular phenomenon of the Fonts Ufanes in Gabellí (Figure 2), which are nothing other than a huge vauclysian spring not far from the caves of Campanet.

Figure 2. The Fonts Ufanes springs. A spectacular vauclysian spring that burbles up around eight to ten days after the intense rainfall common in Campanet.



Photography by Antonio Rodríguez Perea

The only somewhat important Mallorcan reservoirs have taken advantage of the geomorphic conditions and rainfall of the Serra. Gorg Blau was a natural pond which was turned into a small hydroelectric power plant in 1906. A bit further up, a reservoir to supply the capital was built on the lands of Almalluig in 1971, and the Cúber reservoir was added the following year. The respective

heads of the reservoirs are at 613 and 750 metres in altitude, and the total capacity of the system does not exceed 11 hm³.

2.3. The geobotanists' "Balearic zone"

Without abdicating Mallorca's overwhelmingly Mediterranean personality (Bolòs, 1996), modulated by the climate of dry summers, I will strive to summarise the physiognomic profile of the plant landscape. Small islands tend to be poor in the number of species they harbour, but their unique evolution or role as a refuge compensate their interest with the counterweight of endemic species. The isolation that occurred between the Pliocene and the Pleistocene interrupted the natural colonisation from the Baetic promontory – botanists prefer to call it the *Dianic* promontory. After the second millennium BC, men and livestock contributed to its impoverishment: one of the most lamentable episodes was the installation of military radar on the peak of Puig Major d'en Torrella in the late 1960s, which led to the destruction of the most unique community in the Serra (Sáez and Vicens, 1997).

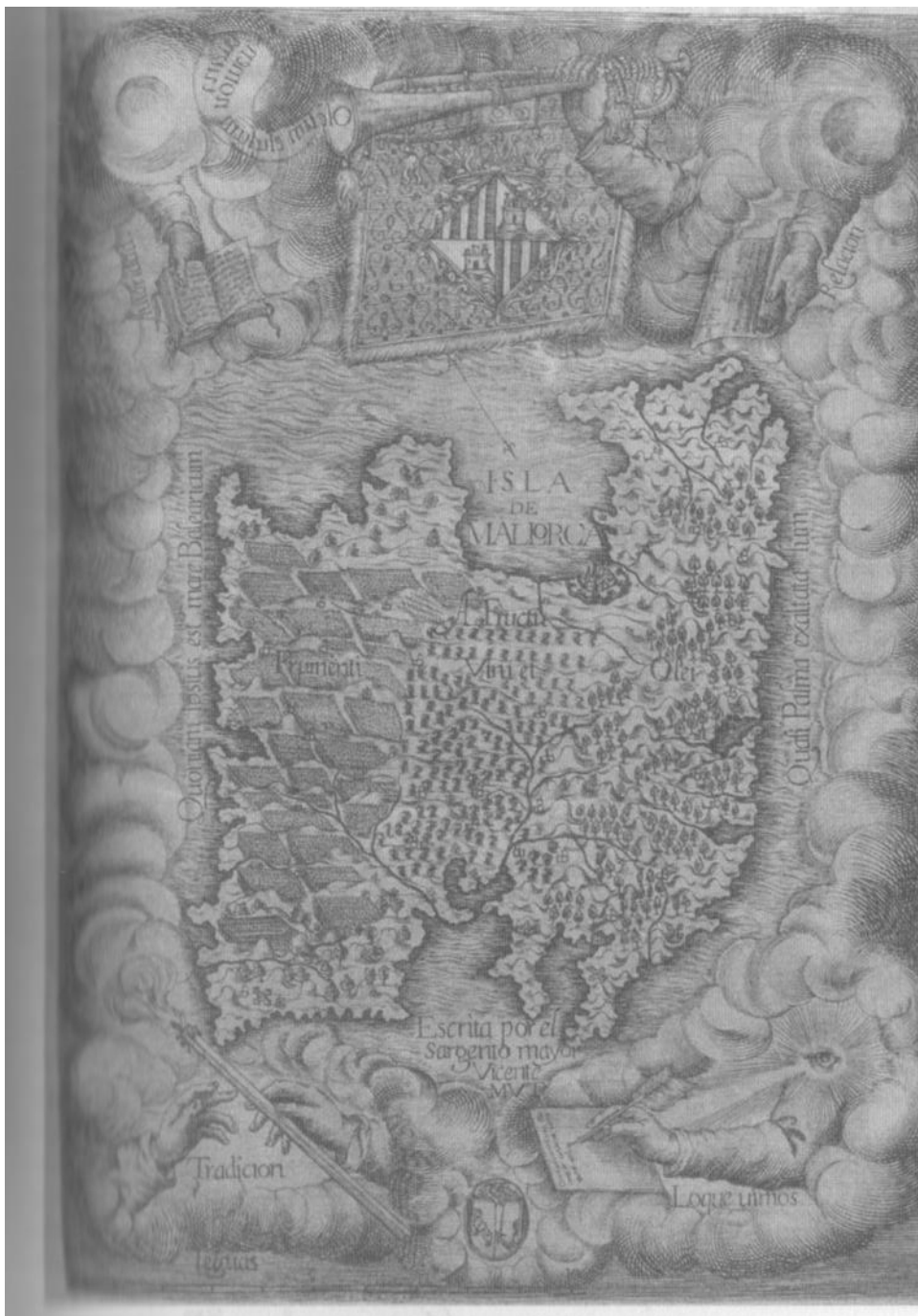
The peaks that surpass 1,100 metres above sea level are the domain of *Teucrietum subspinosi*, characterised by *Genista tricuspidata* and by the more specific germander (*Teucrium subspinosum*) and other scrublands with cat thyme. This is what Knoche called the "Balearic zone", which is shaped by endemic features like karren, quarries (or screes) and cliffs. Many of the 400 endemic species live there; the majority are Pyrenean while others, survivors such as those from the Pre-Quaternary Tyrrhenian group, take refuge in the limestone cliffs. The most representative species in the quarries is glossy parsnip (*Pastinaca lucida*), but the most physiognomically widespread is Mauritania grass (*Ampelodesmos mauritanica*). Below this culminal level, as it is called now, there remain vestiges of deciduous plants like Italian maple (*Acer opalus*), European yew – there is one on Puig des Teix – and boxwood, at the upper boundary of the holm oak forests.

The holm oak forest (*Quercetum ilicis galloprovinciale*) occupies a zone spanning between 800 and 1,200 metres in altitude. More specifically, in *Quercetum ilicis* which, according to Knoche (1921), "was the vocation of the Balearic Islands", can be identified with the holm oak forest. The Serra harbours the most beautiful holm oaks on the island, especially on the mistral windward side starting at 300 or 400 metres in altitude, and on the Pollença side, almost at sea level. Indeed, the boundary is the isohyet at 600 mm. Many pine groves and garrigue scrublands are the result of the degradation of the climatic holm oak grove with the participation not only of humans – pasturage and charcoal-making – but also climatic oscillation.

3. The cultural landscape

Vicenç Mut, an astronomer and cartographer from the 17th century, opened a volume in his history of Mallorca (Figure 3) with a three-part symbolic map: wheat, grapevines and olive trees, imitating a biblical quotation: "*A fructu frumenti, vini et olei, quasi Palma exaltata sum*". Grain cultivation by the sea, vineyards on the plains and olive orchards in the mountain is precisely the "Mediterranean trilogy" invented by Francophone human geographers.

Figure 3. Vicenç Mut's map. As the opening of his *Historia de Mallorca* (1659), this engraving (with SW at the top) plays with the biblical quotation, "A fructu frumenti, vini et olei" to identify the grain-growing region of the Migjorn, the vineyard region of El Pla and the olive orchards of the Serra.



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3.1. The olive estates

The mountains are harsh. Areas with soil that can be farmed are few and far between, and they are often built up. People must struggle not only against

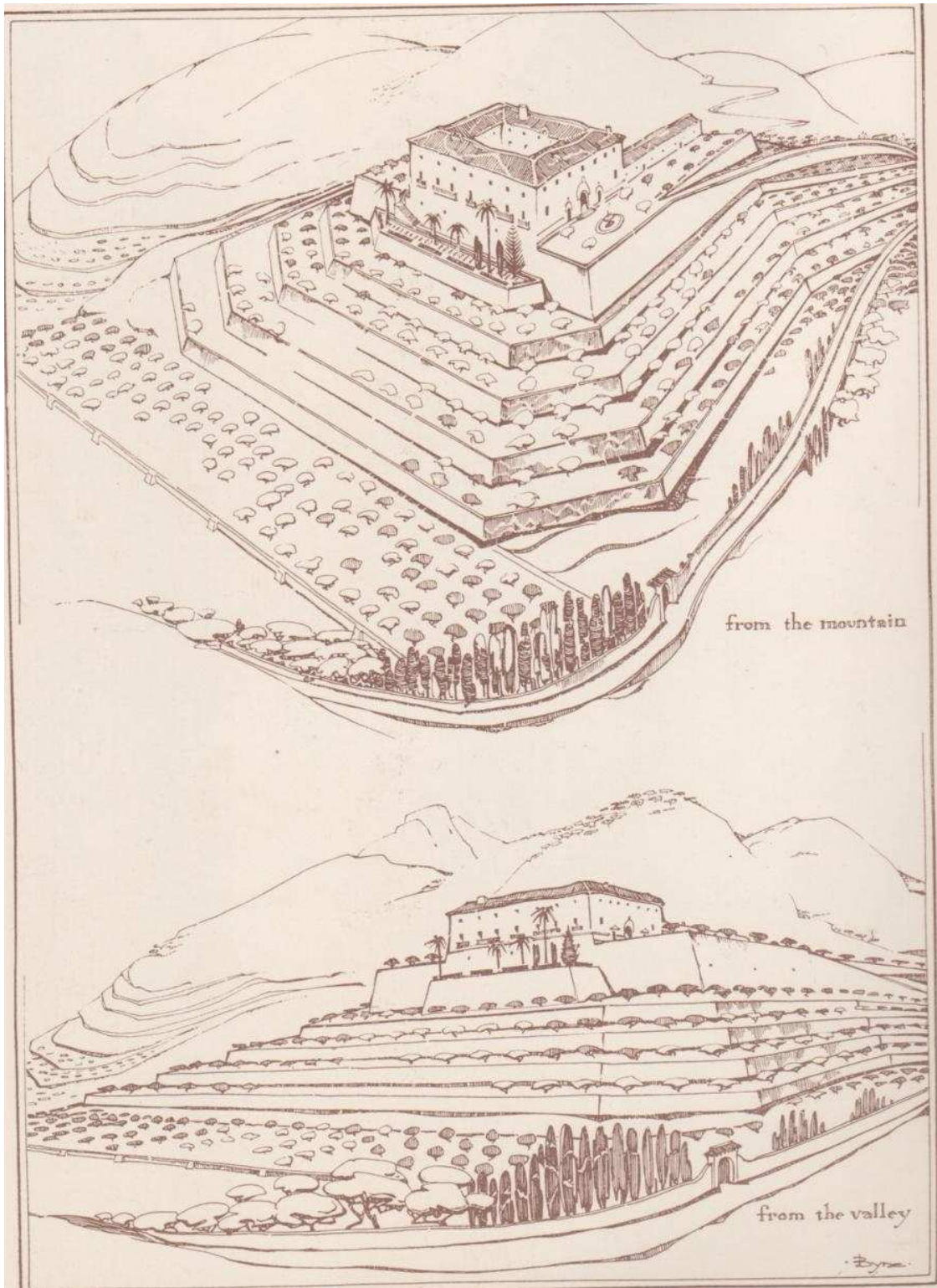
erosion but also to conquer the lands, some of them economically marginal. The scarcity of land is exacerbated on an island, and farm work is undervalued during times of recession. A *rota* (breckland) was a resource – albeit a precarious one – against hunger. The terracing – with thousands of kilometres of dry wall that transformed unfarmable slopes into terraces – made wooded areas profitable with an enormous investment in labour; 52% of the Serra was actually farmed. However, the Serra has long had a tendency to be divided into large estates, at least large on the island scale, like all economic magnitudes.

The *possessió* (estate), a name that came after the Muslim *alqueria* (farmstead), *rafal* (shed) or *mas* (farmhouse), gained ground in the 16th century as the cadastral unit and farming system characterised by an outside workforce called the *missatges* (farmworkers). This word *possessió* – a Latinism – must have been introduced into the deeds and land registries by the “Bolognese” jurists or the humanists from the royal curia in the late Renaissance. The names of many but not all of these estates begin with *Son* or *So Na* followed by the surname or nickname. One idiosyncratic feature that characterises the estates in the eyes of the people is that they are associated with a certain prestige.

It was not unusual to find mountain estates more than 500 hectares large owned by aristocratic citizens even as late as the 20th century. This land included forests and scrubland in a rugged terrain where the land could be cultivated thanks to terracing. Grimalt and Blázquez (1998) calculated 167 km² of these lands (16% of the area of the Serra), divided between the southeast part in the clearing in Calvià, Andratx and Puigpunyent; the central part in Esporles, Bunyola, Alaró and Escorca; and the far northeast part in Pollença. The seafront still shows the imposing tiers in Estellencs, Banyalbufar, Valldemossa and Sóller. However, we should not forget that *margin* and *marginal* have the same etymology (terracing is *amarjament* in Catalan) and that maintaining the patches of land was an arduous, expensive job.

The purpose of “*ses cases*”, or the houses on the estate, was to serve as the homes of the farming family, the *amos* or tenant farmers (sharecroppers, farm managers) and the salaried *missatges* (farmworkers). Very often some of the harvest was set aside for the absent landowner. The mountain estates (Alfàbia, Almedrà, Biniatzar, Colonya, Honor, Pastoritx, etc.) had spectacular *tafones* (oil mills) as an indispensable adjunct. The houses tended to be built on rocky, prominent places in order to not use farmable land, to find solid foundations and to foster oversight without marring the beauty of the landscape and the climatic advantages. The wonderful location of Son Fortesa comes from its splendid view, both active and passive (Figure 4). A spring (such as Galatzó, Sa Granja or Raixa) may have been a decisive factor in the site chosen, but cisterns filled with rainwater – very prestigious among the islanders – collected the reserves needed: water was rarely in short supply.

Figure 4. Son Fortesa. Two drawings by Arthur Byne (1928) of an interesting estate in Puigpunyent surrounded by terraces and splendid active and passive views.



Majorcan Houses and Gardens

The typology of buildings on the estates is difficult to outline here and now, since they encompass everything from Gothic to neoclassical and show

diverse models, including block houses or houses with pitched roofs – which have nothing to do with the Catalan farmhouse – and buildings constructed around a cloister which became particularly popular after the 17th century in the late Baroque with an Italianate neoclassicism. The list of estates could be quite long (there are more than 50 in the Serra) and includes Son Pacs and Pastoritx (Valldemossa), Son Dameto (Esporles), Coma-sema (Bunyola), Solleric (Alaró) and Son Torrella⁵ (Santa Maria).

The gardens were used for the owners' leisure activities, as Byne observed in his wonderful book *Majorcan Houses and Gardens* (1928). The Alfàbia and Raixa⁶ gardens are notable in Bunyola; so are the Sa Granja gardens at the monastery of La Real and later the Fortunys in Esporles, with the celebrated spout; the Romantic garden-vegetable patch in Son Vic de Superna in Puigpunyent; and the Gabellí Gran in Campanet, while Galatzó (Calvià) had a more utilitarian garden.

Livestock farming used to be one of the prime ways to earn a living in the mountains, based on small-scale transhumance in which the animals were moved along pathways known as *camins de muntanya*, or mountain trails, dotted with ponds, drinking troughs and rest areas. For example, the Maçanella estate was linked to Sa Vall (in Santanyí) and the Es Teix estate was connected to Sa Torre d'en Vilallonga (Llucmajor). However, the large estates, which resulted from the “peasant dispossession” in the 16th century by the nobles and/or merchants, relegated livestock to a second tier and they instead turned to olive trees, 80% of which were in the mountain and 11% in Raiguer (Jover and Morey, 2003). The oil yielded was not very high quality and it was mainly used to make soap. Nonetheless, this product became the most important source of market wealth on Mallorca between the 18th and 19th centuries (Bisson, 1977), which the aristocracy and bourgeoisie understood by consecrating the agricultural dogma of the olive tree as a mountain tree. Indeed, it was never found less than 300 metres in altitude and climbed as high as 1,200 metres.

Olive cultivation was so important that the Mallorcan tax system was seriously harmed by the addition of one zero in the 18th century: two million *arroves* (10.4 kg each) of olive oil instead of the 200,000 which could have been taxed. Extortion has been going on for some time now! Casimir Urech devoted a valuable statistical study to it to demonstrate this huge oversight.

The oil fever, when wild olive trees⁷ were still being grafted and the oil trade was far more than a modest farming activity, dwindled for some time. Maintaining the terraces, the impossible mechanisation of harvesting and the difficult roads explain the frequent return of spontaneous vegetation in many old olive orchards. What remain today are “thousand-year old” olive trees for gape-mouthed tourists.

Two anecdotes will suffice to point out an aspect that has nothing to do with agriculture: Mallorca's mountains were used more than once as a shelter for resisters and contemplatives.

⁵Built by the Cotoners, great masters of the Order of Malta, 1670.

⁶Owned by the Counts of Montenegro and completed by Cardinal Despuig.

⁷This is reminiscent of the *Oleo-ceratonion* alliance of geobotanists.

Of the three “*castells roquers*” (castles built on cliffs) which probably have Roman or Byzantine roots, and surely predate Islam, Ibn ‘Amīra (ca. 1260) called the one in Alaró “the castle of the rūm” after the Christians who resisted there for eight years and five months after the invasion of al-Andalus. Enscorced at the peak of a cliff 822 metres over sea level in the centre of the Serra, the supporters of the independent kingdom of Mallorca also gathered there until 1343. It still boasts quite noteworthy features (Figure 5).

Figure 5. The Alaró castle. Current entrance to one of the castles built on cliffs with at least Byzantine if not Roman roots. It has served as a refuge for numerous resisters.



Photography by V.M.R.

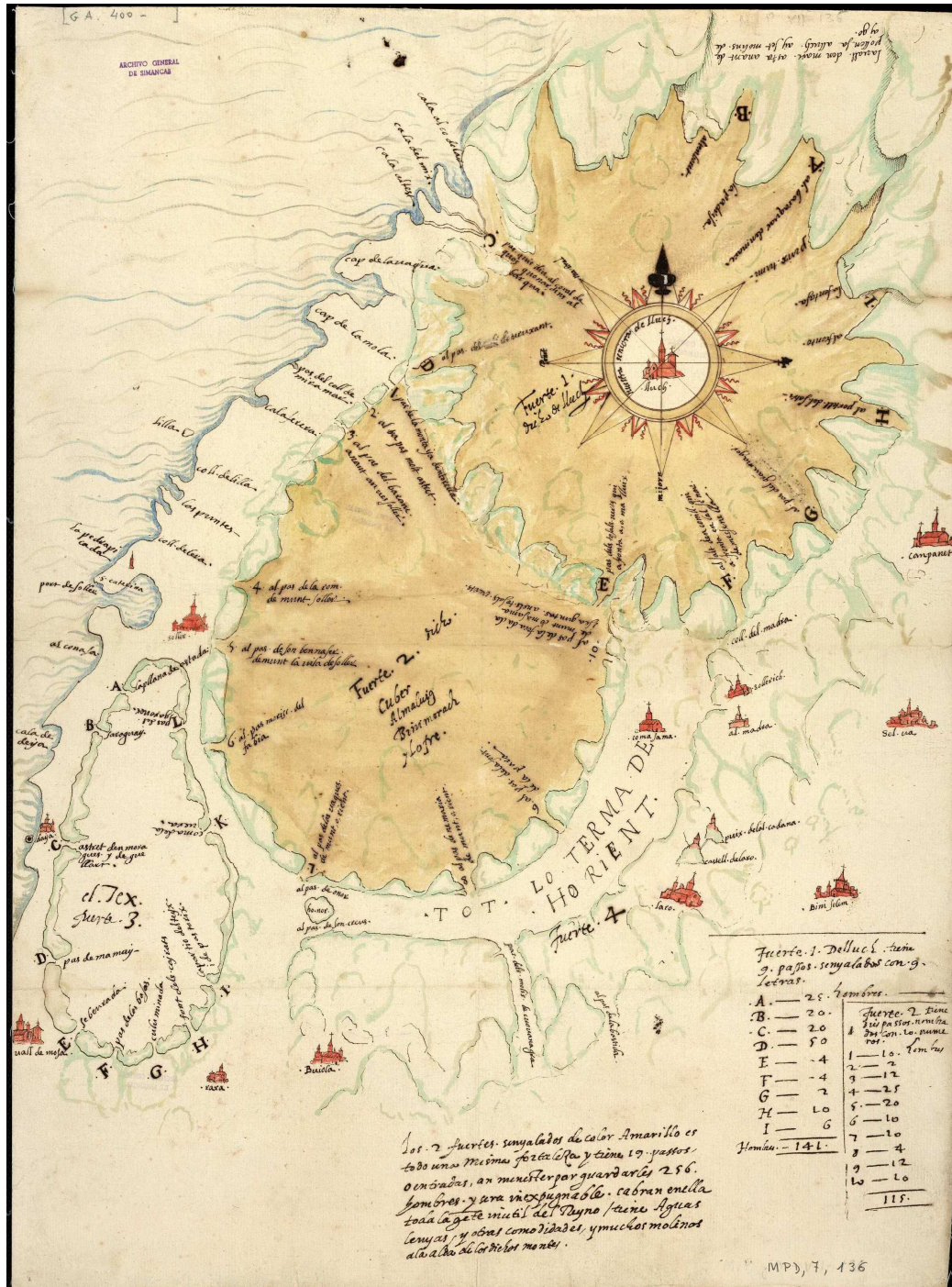
The *ḥiṣn Bulānsa* or castle of the King, however, was the refuge of the Islamic “judge of the mountains” until 1231, thanks to the assistance that came by sea from Menorca. Supported by the Triassic cliffs of Cornavaques, which stand at 492 metres over sea level, it is equally inaccessible by sea and by land.⁸ It was used as a coastal lookout point as well as a hideout in 1243 by the last rebels against Peter the Ceremonious.

In 1594, the viceroy of Mallorca received a warning from his colleague in Sicily about the threat of a large Turkish armada. The administrative machinery of the most Christian King Philip II, obsessed by the risk of piracy that had affected our coastline more than once, was set into motion. The Simancas

⁸Even more so because it had been included within the March family’s Ternelles estate.

Archive conserves the file and a map – more like a “mental” sketch (Figure 6) – of the Serra at a scale of approximately 1:60,000. Someone thought to squeeze 70,000 people into a few mountain forts, that is, “all the useless people” (women, children and men over the age of 60) in one or several redoubts whose passes or accesses were to be defended by 256 armed men (Rosselló, at press).

Figure 6. A map from 1594. The Turkish threat forced the authorities from the Spanish monarchy to plan for a possible “deportation” of the civilian population to the mountains. Antoni Verger drew up this map of possible refuges and their defence after a painstaking survey.



The document was the outcome of an official survey of the Serra conducted by the knights Ramon Cós and Joanot Desbrull and the expert Antoni Verger, “a sculptor of the art of angles”, that is, a topographer. On the map he put the three most easily defended redoubts: 1) the fort of Lluc, between Tomir, Caragoler, Roig and Maçanella hills, with their corresponding longitudinal valleys; 2) the fort of Cúber, Almalluig, L’Ofra and Tossals Verds; 3) Teix hill, which was more distant and further southwest. There was also an addition place which was harder to control in the Orient valley. The compass rose on the map centred on *Nostra Senyora de Lluc*, which staved off the sweeping deportation.

The three female hermits which were established on Puig de Can Sales in Pollença in 1362 – at the far northeast end of the Serra – were the original nucleus of Puig de Maria convent. In 1577, obeying the provisions of the Council of Trent without much conviction, these Augustine nuns moved to Puig del Sitjar inside the walls of Palma. Likewise, the Franciscan nuns, who had been established in L’Olivar (Esporles) in 1515, soon abandoned their convent, a part of which remains: S’Esgleieta or the little church. In 1549 a new convent was built in Vila d’Amunt in what is today L’Olivar market on the site of the convent that was torn down in 1837 in the ecclesiastic confiscation.

In the township of Escorca, in the heart of the Serra at 525 metres in altitude, in a holm oak forest called *Lucus*, perhaps a ‘sacred forest’, a sanctuary devoted to the Mare de Déu (Virgin Mary) was founded in the 13th century, evoking the mythical discovery of an image that surely cannot be the one we see today. The Islamic supply routes from Inca to Pollença and Sóller crossed this forest. During the next century, an island Montserrat began to form which actually usurped the role as parish church previously held by the tiny primitive church in Sant Pere d’Escorca, which had been built in 1239.

In 1456, a college of five priests was formed, the seed of the sanctuary and the choir (1536) when the brotherhood of Nostra Dona de Lluc had already spread to the majority of villages, sparking regular pilgrimages. As its model, Lluc had its “book of miracles” (17th century) and a register of votive offerings which reflected a rising acceptance and frequentation.⁹ In 1884, bishop P. J. Campins crowned the image of the Virgin of Lluc and gave the congregation of the Missioners dels Sagrats Cors stewardship over the sanctuary, which in the 20th century became the centre of Christian spirituality in the diocese. A geographer from the 1970s “discovered” a demographic anomaly in such a dispersed municipality that did not even have an urbanised centre: there was no information on the proportions of religious men and women at the time of the sanctuary’s peak.¹⁰

Despite its turn away from Christianity, Lluc is still a cultural attraction – museum, nature interpretation centre (Ca S’Amitger), civic initiative – aided by its peerless natural setting.

⁹The fascinating Porxets in Plaça dels Pelegrins date from this period, and they became the Sunday inn of the visitors from the estates around it.

¹⁰Around 60% of the population is disperse and 44% works in the tertiary sector.

4. The towns and villages

We shall now examine five settlements which can serve as an example of how human habitation has been focused, shaped by farming, the roadway network and the cultural heritage.

4.1. Sóller

This is the most populous town and the one with the most accentuated personality, along with the most influential in the lands of the Serra as a whole, with the exception of Palma. Founded on the eastern banks of Torrent Major stream, and perhaps originally protected by a ramshackle enclosure and the fortified parish church, by the 17th century it had three bridges that connected the two parts of the town, *vila deçà* and *vila dellà*, which allowed it to expand towards the convent one century later. The establishment of the port (1744),¹¹ which specialised in exports of oranges, signalled the town's upsurge. Merchants of *fruits et primeurs* from Sóller spread all around Western Europe, and upon their return they built sumptuous, neat, modernist houses. The city developed around the pathways and L'Horta. In 1912, the railway crossed the Serra and linked up with a tram in the port which today has become the victim of tourism (just like L'Horta, it has plentiful water). At the turn of the century, another tunnel made it possible to avoid the twists and turns on the old Es Coll road.

4.2. Pollença

This village dominates at one end of the Serra where the endemic isolation leads not only to a clear anthropological conservatism but also to a different form of language. This is another town from al-Andalus – despite the Latin toponym – which did not even have a straight street in the 18th century, except those added to the southeast and the appendixes to the two neighbourhoods around the convents. Since the start of the conquest, it had been the realm of the Templars and later the Hospitallers. Sant Domingo convent – in the southern expansion – dates from the late 16th century, and Montis-sion convent (Jesuits) was built to the north at the foot of the spectacular Calvari staircase in the late 17th century. The more contemporary growth spread onto the plain thanks to a select tourist tradition which emerged when L'Horta came to be populated with artists, the bourgeoisie and aristocrats after the 1930s.

4.3. Three composite villages

We shall conclude with an examination of three towns that developed in a mountainous region around farmsteads or hamlets from al-Andalus assigned during the distribution of properties in the 13th century.

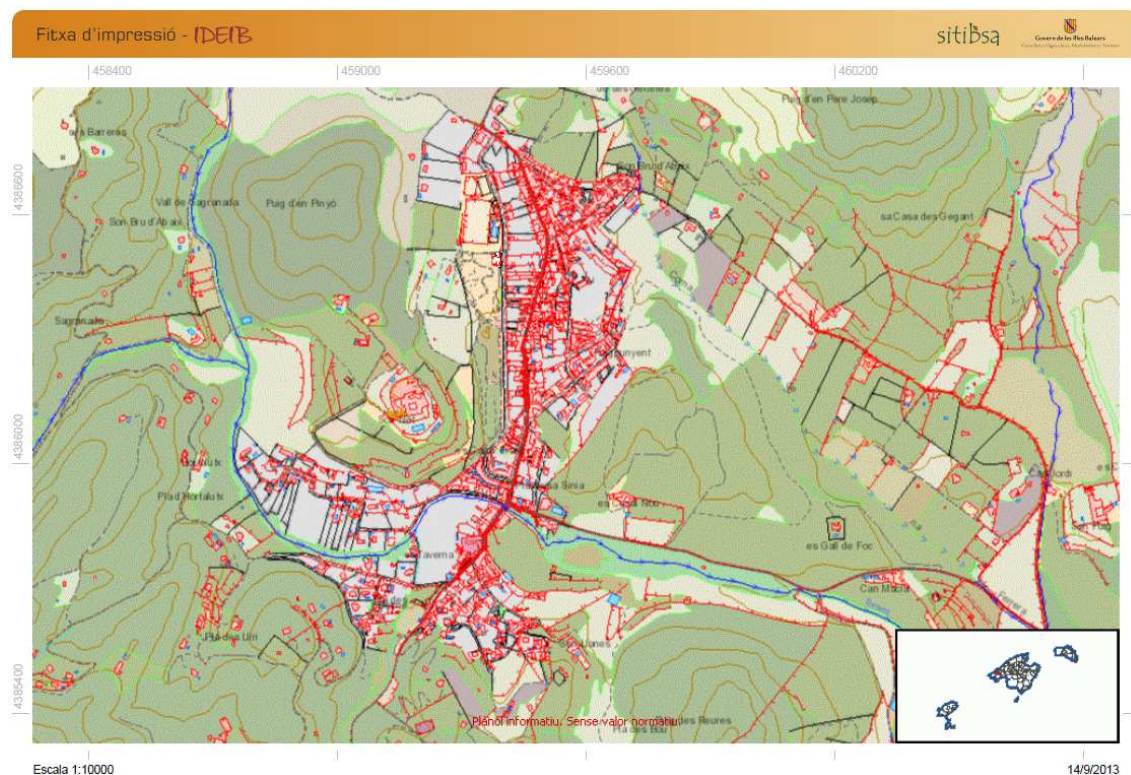
Esporles is a clear example of synoecism along Torrent de Sant Pere – which runs from the northernmost part of the township – and road that goes from S'Esgleieta to Estellencs. The township belonged to the realm of the Cistercians' La Real which still own La Granja, and in 1858 its entire extension

¹¹Previously, it had been quite active in coastal shipping on the island.

measured 35.27 km², distributed into just 140 plots of land, which explains the indigence of the majority of Esporles residents. At the beginning of the past century, the town had three or four individual nuclei: Vilavella to the north of the crossing of Son Simonet and Sa Granja streams; Sa Vileta near the new church (1904) on the right bank of Torrent de Sant Pere; Vilanova on the far south end; and even today Es Balladors on the eastern side, an expansion connected with a certain rise in the blanket or mantle industry. In the 18th century, there were only 12 houses on Camí de Banyalbufar (the church site in the 19th century) and 79 on Meridian Street (Berard, 1789).

Puigpunyent (Figure 7) still has the twofold identity of being a village watched over by Son Nét, between *la Vila* (the town), which is separated from Son Bru a 950-metre stretch. The former only supplies the church, the nearby rectory and another house. The rest, dispersed in the late 18th century, has gradually coalesced around Son Bru in a road pattern on the way to Esporles.

Figure 7. Puigpunyent. In the lee of Puig de Galatzó, which lends the town its name, this village still shows its twofold status of having two nuclei “watched over” from Turó de Son Nét: *la vila* (the town, with the church, town hall and a few houses) and Son Bru (roadside village).



In Alaró, the duality between *los d'Amunt* (upper town) and *los d'Avall* (lower town) still exists. The Oloron farmstead was the nucleus of the former, in a *roquissar* or rocky place which served as the location of the first church back when Jaume II (1300) was striving to concentrate the hamlets; this is the first mention of a *vila* (town). The old town is separated from the larger town

(*d'avall*) to the southeast by the lands Son Danús. Over time it stretched down to Cases Noves, which is laid out in an orthogonal pattern.

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Free press, a local communication model

Lluís Costa Fernández and Mònica Puntí Brun*

Universitat de Girona

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Abstract

The relationship between the non-institutional free press and local communication is quite particular since this type of press shapes a unique model of local communication which proves that advertising is enough to finance a news product targeted at a fairly well-defined readership as long as this product has a good advertising sales department and effective distribution within its operating area. This paper discusses the current situation of the free press in Catalonia, where this phenomenon has been quite prominent. It points out the main features of this type of press and surveys its history, which spans from the euphoria of its early years and its expansion and consolidation to the current crisis.

Key words: free press, local press, local communication, globalisation, glocalisation

1. Introduction: Local communication in the age of globalism

In the new scene that has emerged from the gradual spread of the information and communication technologies, we have to shade the global/local dichotomy, especially if there is a temptation to introduce terms of exclusion. Local scenarios are needed for global actions. The Internet is a medium that allows for communication among many people on a global scale for the first time, yet it also has major repercussions in the local sphere. Public opinion – perhaps more unequivocally known as the receiver – is keenly interested in the local news. Information consumers want to have exhaustive knowledge of their most immediate environment.

However, there is no doubt that today the term *local* should be exclusively used in the sphere of contents, since with the advent of the Internet the second element that has traditionally defined the concept of *local*, the *receiver* – or coverage – now transcends physical space. Local information primarily refers to contents defined in geographic, social and cultural terms and

* Contact address: Mònica Puntí. [Departament de Filologia i Comunicació](#), Universitat de Girona. Pl. Ferrater Mora, 1. 17071 Girona, EU. E-mail: monica.punti@udg.edu.

to how the events that take place within this frame are treated, along with other events which affect the citizens of this area. It is a service-oriented, direct, local kind of communication which offers the most everyday contents and gets feedback from its own receivers. Local communication does not have the panoramic breadth and the diversity of general communication. It does not need to because its sphere of reception requires detail and specificity, unlike the media that have to serve more universal audiences.

It is clear that the concept of *local* should not be the antithesis of the concept of *global*.¹ Thinking locally and acting globally: this is the formula that gives meaning to communication processes; it is what is known as *glocalisation*, a buzzword that defines this reality. In fact, today's technologies multiply not only global but also local spaces, and the revitalisation of the interest in the idea of *local* can be found in this apparent paradox. It is true that the digital society has become an extremely powerful instrument in the development of local communication, because it has permitted it to have, under equal conditions, the elements that until now have been the exclusive realm of general communication, namely access to data, processing this data and the technological process of developing the product and finally disseminating it. A good communicator is one who knows how to find the relationship between local information and broader geographic contexts, be they national, state-wide or international; one who investigates and interrelates; and one who is not satisfied with a simple official communique or the information provided at a press conference and instead tries to interpret and contextualise this information.

Manuel Castells has reflected on the need to include local scenarios in global actions, and he has described the Internet as an instrument which for the first time has allowed for communication from the many to the many in a given time on a global scale, yet with major repercussions on local scenes. In fact, citizen participation is indispensable to developing quality information disseminated via the web. The intention of preserving one's own culture and the need for receivers to feel like participants in the contents of the media around them are the only weapons that the local media have in order to operate on par with their larger counterparts in the process of globalisation. And let us note the fact that globalisation does not necessarily lead to cultural and social homogenisation. In the era of the new technologies, local communication inserted within the global context represents the confirmation of a reality: the articulation and survival of local and national identities.²

Global and local are the flip sides of the same coin. While in recent years, networks that make intercommunication possible in real time across the entire planet have spread like wildfire, the social value of local information has experienced unimagined headway. We are unquestionably in the midst of a paradigm shift (Ramonet, 2011).

¹ See López García (2008), which surveys the local concept in relation to globality and the buzzword globalisation. Chapter 1, "Una revisión interdisciplinar del concepto de local", is particularly germane.

² See Castells (2009), especially the chapter "La comunicació en l'era digital", pp. 93-208.

2. Methodology and sources of information

This article is the outcome of a study performed in two phases. The first phase consisted of exhaustive documentary research on the free press in Catalonia. We primarily used two sources of information: different journals specialising in the media, and the archives of the *Associació Catalana de la Premsa Gratuïta i Mitjans Digitals* (Catalan Association of Free Press and Digital Media, ACPG). In the second phase, we studied the different free publications currently being issued in Catalonia and their typology and contents so that we could reach conclusions on the current status of the free press here. The article is based on two main hypotheses that we attempt to prove. The first is that the crisis has affected the free press just as it has the other media, but that it has not diminished the importance of projects in this sector, instead the polar opposite: new forms are being sought to reach their audience, such as their leap to the web. The second hypothesis which we try to corroborate is that the free press plays a complementary yet extremely important role within the local information system.

The free press deals with the news differently, and its hierarchy of information is distinct from that of the paid press. What is more, the way it designs and organises topics makes it particularly appealing to audiences such as young people and immigrants. We try to prove this through a content analysis of different publications, both free and paid, classified into three different groups: daily general news publications, daily local and county-wide news publications, and non-daily publications, in this case weeklies, that are local and county-wide in scope. The free publications that we studied are: *20 Minutos*, *Qué!*, *Bondia Lleida*, *Més Tarragona - Reus - Costa Daurada*, *La Fura*, *L'Enllaç dels Anoiencs*, *Contrapunt*, *El Tot Mataró*, *Capgròs*, *Tot Sant Cugat*, *L'Independent de Gràcia*, *El Tot Badalona* and *Mollet a mà*. These free publications are compared with the following paid publications: *Ara*, *El Periódico*, *El Punt Avui*, *La Vanguardia*, *Diari Ebre*, *Diari de Girona*, *Diari de Tarragona*, *Regió 7*, *Segre*, *Diari de Sant Cugat*, *Setmanari de l'Alt Empordà*, *L'Eco de Sitges*, *Revista del Vallès*, *Nova Tàrrrega*, *La Comarca d'Olot*, *El 3 de Vuit*, *Àncora* and *Diari de Vilanova*. Basically, we analysed the front pages of these publications so we could see the hierarchy of information. For the daily publications, we examined the front pages during the week of the 25th to 29th of June 2012, while for the weekly publications we studied the front pages from the entire month of June of the same year. This selection was performed randomly.

However, before presenting the results of this study, we want to briefly survey the history of the free press and the most prominent authors who have studied it. We will take a historical tour of its origins and the euphoria of its early years, then examine its expansion and consolidation, and finally discuss the current crisis. We will also seek to provide a detailed description of the free press, which has been so scarcely researched, especially local and county-wide publications which are distributed for free, as it has long been considered the poor stepsister of the paid press in this same sphere.

3. The free press in local communication

The rebirth of local communication in Catalonia started after 1975 in the wake of the death of General Franco. Part of the ancient, glorious tradition of county-wide press developed in the early decades of the 20th century was revived, a tradition that had shaped the first major historical period in the Catalan press before the end of the Spanish Civil War (1936-1939) marked its sudden erasure (Guillamet, 1983: 41).

The relationship between the free non-institutional press and local communication is highly particular because this model is very characteristic of local communication and serves as proof that advertising is enough to finance news products targeted at quite heterogeneous audiences, as long as they have a good sales department and effective distribution within their area of influence. In France, the free press emerged in 1960, and in a little over three decades its dissemination reached the astronomical figure of 24 million copies. This journalistic model is also quite powerful in Great Britain and the United States of America. In Spain, the phenomenon was introduced a bit more slowly, but in the last few decades of the 20th century its prominence in the written press market has also become unquestionable. In fact, the free press became so prominent that it attracted the attention of large media groups such as Grup Zeta, which at one point published more than 70 free local press titles, either biweekly or monthly, at different points around Spain. Concha Edo believes that the predecessor of the free press was the *Feuille du Bureau d'Adresses*, published in France after 1630 by Théophraste Renaudot (1586-1653). He was also the founder of the *Gazette* in 1631 and a pioneer in the press in France. Nevertheless, the free press as we know it today did not achieve its prominence and was not defined until 1960.

Concurring with Alfonso Nieto, Concha Edo also considers other forerunners in the 18th and 19th centuries, which she groups into three categories: advertising publications, subsidised newspapers and indirect forms of free press. Despite these precedents, she believes that the current concept of free press was born in the USA in 1960s as an alternative press and gained ground in around 1970. At that time, this kind of press began to spread in Europe as well. In the excerpt below, Nieto mentions the different features of the free press:

“Since 1970 we have witnessed the consolidation of publications issued as an alternative to the existing press. Along with the special attention they attach to news stories on local politics, entertainment and culture, the alternative publications also have a specific focus: attracting local advertisers, namely small retailers or professionals. We could say that there are three prominent features of alternative publications: a) they are disseminated locally, b) they are particularly persistent in their quest for advertisers, and c) the copy that reaches readers is totally or partially free.” (Nieto, 1984: 85).

We can regard this juncture, around 1970s, as the rebirth of the free press in Spain. Catalonia is the region with the longest-standing tradition of local and county-wide press, both free and paid. In fact, the first free publication in Spain

was founded in Catalonia back in 1969, namely the weekly *Clàxon Tarragona*. In that historical context, there were different instances of experimentation with new journalistic formulas, as Jaume Guillamet recalls:

“In the decade starting in the first years after the Franco regime, 1976, until the final liberalisation of the press, which culminated with the privatisation of the old provincial newspapers of the Movement in 1983, there was all sorts of testing of new models to bring newspapers up to date” (Guillamet, 1996: 169).

In the early days, the contents of the free press in Catalonia – which was initially not very news-oriented – signalled the first contact with written Catalan for many immigrant families (especially those from Andalusia), who picked up the magazine to check the time a given TV programme was going to be broadcast or to check real estate agency listings. Therefore, one of the target audiences of this kind of press was immigrants. This trend remains in place today, and immigrants are a major target of the free press. In fact, it is a gateway to integration for the new immigrants and a tool of territorial cohesion.

As mentioned above, in 1969 the first free weekly was published in Catalonia, the *Clàxon Tarragona*, and others sprang up quite regularly in dozens of medium-sized cities in Catalonia with titles like *Sac Comercial* in Osona (1977), *El Tot Mataró* (1981), *El Tot Badalona* (1981), *La Fura* in Vilafranca (1982), *Capgròs de Mataró* (1984), *El Pregó del Vallès* (1984), *El Pregó de Sabadell* (1984), *Aquí* (1985), *Zona Alta* in Barcelona (1985), *Tot Sant Cugat* (1986), *L’Ham* in Banyoles (1986), *Tot Cerdanyola* (1987), *Reclam d’Osona* (1988), *Revenda* (1990), *Reclam La Cerdanya i Alt Urgell* (1992), *3 Viles* (1993), *Nou Palafrugell* (1993) and *Punt de Venda Alt i Baix Empordà, la Garrotxa i El Gironès* (1993) – this is a free newspaper issued by a publication with larger territorial coverage, namely *El Punt – El Tot Granollers i Vallès Oriental* (1993), *Secundèria* (1994), *Pànxing Tot Cerdanya* (1995), *El Pregó de Terrassa* (1995), *Cop d’Ull* (1995), the monthly *Mataró Report* (1996) and *El Mercat de Girona* (1997), just to name a few.³

Alfonso Nieto, one of the first Spanish authors to study the free press sector, defines it as: *“All newspapers that are distributed free of charge and thus are solely financed by advertising and published by businesspeople who run an economic risk by doing so”*. This same author stresses that free publications are free regardless of their frequency, and that the fact that they are free does not imply that their contents are lower quality or less reliable, because their credibility depends on the editor and his or her professionalism. In fact, citing Drancourt, Nieto says: *“The success of free publications is closely tied to the quality of the reporting in the newspapers”* (Nieto, 1984: 86).

This kind of local press is an alternative to the traditional press and covers certain news needs that had been unmet until it emerged. These needs basically included more local information closer to the readers. For this reason,

³ Some of these free publications are still issued today. Many are part of the *Associació Catalana de la Premsa Gratuïta i Mitjans Digitals (ACPG)*. These titles may be viewed on the association’s website: www.acpg.cat. However, some publications have folded for a variety of reasons.

they are targeted at a very specific group of people living within a given region. On the other hand, there are also publications specialising in a specific topic (medicine, university affairs, etc.); that is, they are not only identified as local and county-wide publications but are also targeted at a specialised or professional audience. Therefore, the first major consequence of the emergence of free local publications is the increase in the heterogeneity of the local journalism sector, since these kinds of publications are very diverse in both their areas of dissemination and their frequency and contents (López, Fernández & Durán, 2002: 275).

As mentioned above, free publications in Catalonia have been extremely dynamic from the very start. In fact, different authors have acknowledged that the phenomenon of the free press is unique in Catalonia and by extension Spain.⁴ This uniqueness of the free press in Catalonia led to the founding of the *Associació Catalana de la Premsa Gratuïta* (Catalan Association of the Free Press, ACPG)⁵ in 1997 with the mission of bringing together most of the free local and county-wide publications as well as some of the larger free newspapers. Along with this association, the *Asociación Española de Prensa Gratuïta* (Spanish Association of the Free Press, AEPG)⁶ also emerged in 2001, when the phenomenon of free newspapers was beginning to gain momentum and become a specific information outlet:

“Few countries in Europe – or even in the world – have experienced a revolution in its daily printed press comparable to what happened in Spain in the first decade of the 21st century: circulation doubled (more than 30 new titles launched onto the market) and millions of new readers began to consume the press regularly” (Bakker & Berganza, 2011: 19).

Thanks to the *Associació Catalana de la Premsa Gratuïta*, this new press gradually gained journalistic awareness and definitively became the benchmark news medium in many Catalan counties. We could claim that the most

⁴ This was acknowledged by the researcher specialising in the free press, Piet Bakker, at the *Segones Jornades Internacionals de Premsa Gratuïta* organised by ACPG. A report on this conference can be found in the news story published on the Capgròs.com portal: Capgròs.com (2006), “La premsa gratuïta organitza unes jornades internacionals” [online], <http://www.capgros.com/noticies/detail.asp?id_noticia_portal=10493&sec=71> (retrieved: 4 July 2012).

⁵ Today this association has changed its name slightly. When it was founded in 1997 it was the *Associació Catalana de la Premsa Gratuïta* (Catalan Association of the Free Press, ACPG). Today its complete name is the *Associació Catalana de la Premsa Gratuïta i Mitjans Digitals* (Catalan Association of Free Press and Digital Media, ACPG). The name was changed in 2010 in order to include the digital media in the association, in addition to continuing to serve as an umbrella for free publications, despite the creation of the ACPG’s Digital Area in 2008. Even though the association’s name changed, its abbreviation has not and it remains the ACPG. Information on the name change can be found in the following report: ACPG (2010), “Els 140 editors assistents a l’Assemblea de l’ACPG aproven el canvi de nom per adaptar-se a la nova realitat de l’entitat” [online], <<http://www.acpg.cat/noticies/detail.php?id=588&nwl=31>> (retrieved: 4 July 2012).

⁶ More information on the *Asociación Española de Prensa Gratuïta* (AEPG) can be found on its website: <http://www.aepg.es>.

characteristic model of the free press in Catalonia is a medium that has been professionalised, sometimes replacing but primarily complementing the role of the traditional local press; furthermore, it is mass-distributed, especially through mail box stuffing or offering it at strategic spots with heavy passenger traffic, such as Barcelona's underground. In 2006, all the publications of the *Associació Catalana de la Premsa Gratuïta* printed over 2,800,000 copies and had a potential audience of 4.5 million readers. The ACPG is a highly active association in the field of the free press. Today 110 free publications and 97 digital media belong to it.

The phenomenon of the free press reached its peak of popularity in 2000 with the arrival of free newspapers in Europe. The first large-scale free general news newspaper in Spain was *20 Minutos*,⁷ and one year later, in 2001, the newspaper *Metro* began publication. The success of the free newspapers was reinforced when publishers in the paid press began to release free publications. Thus, Recoletos launched *Qué!* in 2005 (sold to Vocento in 2007), and the Planeta group launched *ADN* in 2006. Despite the launch of these generalist titles in Spain, we should note that the first free local newspaper in Europe was *Mini Diario*, which was founded in Valencia in 1992 and folded in 1998. During this time, there have been many other free local newspapers all over Spain.

The advent and especially the consolidation of the free press led to profound concern among owners of the paid press, who were worried that it might become a direct competitor which would end up replacing the paid press. This fear was most likely unfounded, since according to the sector itself, consumers often had a newspaper-reading habit that went beyond what the free press could offer and therefore they bought the conventional press. Spanish television and radio consumption was higher, but with the advent of the free press, the habit of newspaper-reading rose, and in consequence so did purchases of the paid press. What is more, many printers of paid newspapers also printed free publications. Despite this, initially there was a public clash because the publishers of the paid press believed that the free press was low-quality and posed unfair competition in terms of securing advertisers.

Some publishers in the paid press opened free editions to combat this competition. Others first exerted pressure for stronger regulations on the distribution of the free press,⁸ and then tried to ensure that it was excluded from the *Estudi General de Mitjans* (General Media Study, EGM). In the former strategy, we can see that the distribution points of the free press were regulated in some cities, such as Santa Cruz de Tenerife and Madrid. In the latter, the paid press was unable to prevent the free press from being included in the media

⁷ Initially, in 2000 the free newspaper *20 Minutos* began to circulate in the capital of Spain under the name of *Madrid y M@s*. It opened a branch in Barcelona that same year. In 2001, the Norwegian advertising group Schibsted bought the majority of its shares and changed its name. It also introduced the design of the other titles that the group owned in Germany and Switzerland.

⁸ *El Mundo* (2008), "Madrid limita el número de repartidores de periódicos gratuitos en la calle" [online], <<http://www.elmundo.es/elmundo/2008/06/05/comunicacion/1212688481.html>> (retrieved: 4 July 2012); *El País* (2002), "Prohibido el reparto de periódicos gratuitos en los transportes públicos" [online], <http://elpais.com/diario/2002/05/16/madrid/1021548260_850215.html> (retrieved: 4 July 2012).

studies. What is more, there were also clashes when the free press was able to access the tracking of the number of copies printed offered by the Oficina de Justificació de la Difusió (Office of Justification of Dissemination, OJD).⁹ However, in the end, the OJD agreed to track the number of copies printed by free newspapers by creating a new tracking area for free publications.¹⁰

Over time, this confrontation was settled, as the figures showed that readers of the free press were not replacing readers of the paid press; rather they were complementary. For example, a 2007 study by Orange Media reached the conclusion that three out of every four readers of the free press had also read the general news press in the past month. Therefore, reading the free press did not exclude or replace reading the paid press. Despite this, in one of the questions in the study participants were asked about the effect of the advent of the free press in their reading of the paid press, and the results were as follows: 63% read the same amount of paid press as before, 18% read less paid press than before, 14% continued not to read the paid press and 5% read more paid press than before. In short, the fact is that there are 13% fewer readers of the paid press than before the advent of the free press.

After some difficulties, hurdles and debates, the free press gained traction. At the start of the 21st century, it became a strong business sector that kept launching new media in Catalan in television, radio, the written press and especially the Internet. Therefore, it is a key sector in the development of the field of communication and the media in Catalonia which began to become quite prominent. According to the *Informe de la comunicació a Catalunya 2005-2006*, the 35 publications belonging to the Associació Catalana de la Premsa Gratuïta in 2003 had risen to more than 80 two years later. Regarding their frequency, 47 were weekly, 19 monthly, one bimonthly, four biweekly and four daily. The typology of free publications combined products that were purely advertising or commercial with ones that included more news, on either services or local events.

The economic crisis began to rear its head in 2008, and the free press became the scapegoat, given the notable retreat of the advertising industry. The income in the press dropped, and titles disappeared. The dissemination or distribution of publications dropped, and so did resources for advertising, although paradoxically the number of readers rose, according to figures from the *Baròmetre de la Comunicació i la Cultura* (Moragas i Spà et al., 2011). Many publications also cut their staff, as seen in a study conducted by the

⁹ *El País* (2003), “Competencia expedienta a la OJD por poner trabas al diario 20 minutos” [online], <http://elpais.com/diario/2003/11/18/sociedad/1069110008_850215.html> (retrieved: 4 July 2012); *El Mundo* (2002), “El diario Metro anuncia acciones legales contra OJD por las sanciones a la prensa gratuita” [online], <<http://www.elmundo.es/elmundo/2002/10/10/sociedad/1034243344.html>> (retrieved: 4 July 2012); *El País* (2003), “El diario gratuito 20 minutos retira su demanda contra la OJD” [online], <http://elpais.com/diario/2003/11/09/sociedad/1068332405_850215.html> (retrieved: 4 July 2012).

¹⁰ *El Mundo* (2004), “OJD cambia de nombre” [online], <<http://www.elmundo.es/elmundo/2004/07/01/comunicacion/1088684143.html>> (retrieved: 4 July 2012); *El Mundo* (2004), “La OJD se reestructura con una nueva división que controlará la distribución de la prensa gratuita” [online], <<http://www.elmundo.es/elmundo/2004/10/19/comunicacion/1098197228.html>> (retrieved: 4 July 2012).

Asociación Española de Prensa Gratuita.¹¹ This study was performed based on a survey of 240 editors in the free press, and it revealed that half of them had had to trim their staff. The main cause of these staff cutbacks was the drop in advertising income, which affected 79% of the editors surveyed, and they claimed that in 2009 this drop was between 31% and 50% compared to the previous year. The following quotation from Piet Bakker and Maria Rosa Berganza Conde explains the relationship between readership and the crisis in the press:

“In turn, Spain offers an unequivocal example of how the crisis of the press and readership are unrelated: according to data from the Estudi General de Mitjans (AIMC, 2008), newspapers’ penetration has risen five points in the past ten years, and the number of free copies distributed is slightly higher than the number of copies of the paid press, although the replacement effect has been minimal according to the findings of the World Press Report (World Association of Newspapers, 1996-2006)” (Miguel, 2011: 49).

An article by Bakker explains that free newspapers face three main problems when dealing with the current economic crisis. The first, as mentioned above, is the drop in advertising income; this is closely related to consumer confidence, which is lower in crisis situations. The second problem is related to their position in the market compared to other competitors. *“Paid newspapers tend to be differentiated from each other in terms of their choice of audience, political viewpoints, pricing strategies, marketing and distribution areas”*, comments Bakker. In contrast, free newspapers do not have these options for differentiation, since they all are distributed similarly in public transport and busy places, and therefore they cannot compete by targeting a specific audience that might interest a given advertiser. The third problem which free newspapers often face is that most of them are not backed by a large media group. Having a business conglomerate behind them would balance the risk and make them less vulnerable to fluctuations in the economy. All of these problems had affected the market for the free press:

“In terms of market development, free newspapers have disappeared from some European markets, but overall they have fallen to a less competitive position and adopted another commercial model in which cooperation is more important than competition. The third trend seems to be that the larger and therefore stronger newspapers tend to have higher chances of survival” (Bakker, 2010: 136).

In the two-year period from 2009-2010, some free newspapers have left paper behind to become digital, such as the weekly *Punt de Venda*, the editions

¹¹ *El Mundo* (2009), “La mitad de los editores de prensa gratuita han reducido su plantilla” [online], <<http://www.elmundo.es/elmundo/2009/09/15/comunicacion/1253022272.html>> (retrieved: 4 July 2012).

of the publication Flash and the titles put out by Anuntis Segundamano SL (*Clàxon*, *Revenda*, etc.). Others have ceased publication, such as the newspaper *Aquí* and the editions of *El Pregó*, or their frequency has changed, such as *Cafè amb Llet* (from weekly to monthly). According to Piet Bakker, the share of free newspapers had risen to 54% in 2006, while by 2009 this figure had dropped to 35%, since more than half of the 35 titles had shuttered. In contrast, the Comunicació 21 Group had expanded considerably, with 13 local editions. According to the *Informe de la Comunicació a Catalunya 2009-2010*, the most important daily, weekly and monthly free local and county-wide publications between 2008 and 2010 were: *Pànxing*, *El Tot Mataró i Maresme*, *Capgròs*, *Tribuna Maresme*, *Notícies TGN*, *Cafè amb Llet*, *Freqüència*, *Més Tarragona - Reus - Costa Daurada*, *La Fura*, *El Tot Badalona-Montgat-Tiana*, *Tot Sant Cugat*, *Reclam Osona - Ripollès - La Selva*, *Més! Osona* and *Bondia Lleida*.

In 2012, the news on the media is not very positive. In terms of the free press, we should note that currently there is only one generalist newspaper that is still being published, namely *20 Minutos*, since the others have had to close. *Metro* was the first to announce its closure, and it stopped publication in 2009 after recording a drop in sales and having to dismiss many of its workers and close branches. *Metro* closed its branch in Spain, the first free newspaper to do so. The next free newspaper to close was *ADN*, put out by the Planeta business group, in 2011. This closure left 60 people from the Madrid, Barcelona and Valencia bureaus jobless. The last to close was the free newspaper *Qué!*, put out by the Vocento business group. The group's intention was only to close the paper edition and to leave the digital edition in order to keep the brand. However, the closure of publications and editions is not the only thing that has affected the circulation of the free press; so has the fact that the newspapers that are still being published have cut back their circulation. In Spain, circulation has dropped by more than 50% since 2006, from 4.9 million to 2.2 million. With 2010 figures, we can see that only 15 of the original 35 newspapers are still being published, and regarding the number of editions, only 56 of the original 113 still remain.

4. Characteristics of the free press

The researchers Piet Bakker and María Rosa Berganza Conde remark on a variety of reasons why the phenomenon of the free press was so prominent in Spain. The free press is a major phenomenon in the country in that it existed long before the newspaper *Metro* was launched in Stockholm in 1995. Therefore, the first characteristic that Bakker and Berganza Conde cite is the large number of titles and their diversity (national and local, morning or evening, specialised, etc.). The second factor worth mentioning is their high circulation and large market share: in 2006, the peak of free publications,¹² circulation was 5 million and their market share was 50%. Finally, the last factor is that free newspapers in Spain have transformed a country that was characterised by high television consumption into a country of free press readers. In 2007, a milestone was reached when the newspaper *20 Minutos* was

¹² *El País* (2006), "Las publicaciones gratuitas en Europa crecieron un 60% en 2006" [online], <http://elpais.com/diario/2006/10/27/sociedad/1161900013_850215.html> (retrieved: 4 July 2012).

the most read in Spain, with 2.5 million people reading it per day. The other free newspapers *Qué!*, *Metro* and *ADN* came in fourth, fifth and sixth in the rankings, respectively.

According to Andreu Casero, we should make a distinction between daily publications (free newspapers) and non-daily free publications (that is, publications that come out weekly, biweekly or monthly, among others). They are two slightly different concepts, since free newspapers tend to offer general news, while free non-daily publications are more local in content. Despite this, free newspapers tend to have the mission of providing local news, even though their distribution area might be larger than local and reach several different municipalities within the Barcelona metropolitan area. What is more, they appear every day from Monday to Friday, on workdays, that is. In contrast, free non-daily publications are published at different intervals and are much more closely tied to local affairs, since the majority are local in scope.

A unique feature of the free press, both daily and non-daily, is the absence of political clashes, since it is a kind of journalism that focuses on social topics and other topics of interest to readers. It focuses on local issues, and free newspapers do so through their local editions (Sabés, 2006). The study performed of the contents of the local press noted the lack of political clashes in these publications, which contrasts with the paid press. If we primarily examine generalist newspapers, we can see that the front pages of the free publications analysed have political contents less often than paid newspapers. During one week (from the 25th to 29th of June 2012), we analysed the front pages of different publications and noted that the front pages of the free publication *Qué!* contained no political news, while the front page of *20 Minutos* had one political story as the main news item and three more as secondary news. In contrast, when we observed the generalist paid newspapers, political news was more frequent. In the newspapers *Ara* and *El Punt Avui*, political stories were the main news items in three of the five front pages studied, and they also contained other secondary political stories (one more in *Ara* and for more in *El Punt Avui*). If we examine the paid newspapers *El Periódico* and *La Vanguardia*, the main topics on the front pages were more varied: only one political news story was on the front of the former, and none appeared on the latter; *El Periódico* had no secondary political stories while *La Vanguardia* had two throughout the entire week studied.

Secondly, we analysed the contents of the front pages of the daily local and county-wide news publications. In this case, we also compared free and paid publications and examined one week, from the 25th to 29th of June 2012. The dynamic of these publications is clearly distinct from the general news publications, since the contents of the former cover the region while the contents of the latter are broader. We did not detect such significant differences between the paid and free publications because the subject matter is quite clearly delimited. Thus, for example, the main content of the five front pages of the daily free publications *Bondia Lleida* and *Més Tarragona - Reus - Costa Daurada* was local news stories, while the other two were society topics. Regarding the paid publications, we found the following contents: two front pages of *Diari Ebre* contained local news, two had society news stories and one opened with sports; four front pages of *Diari Girona* contained local reports and one opened with a society story; four front pages of *Regió 7* contained local news and another reported on sports; and Segre opened with two local stories,

two society stories and one sports report. Therefore, we can see that the most commonly recurring topics on the front pages of both free and paid publications are local stories and society news. This conclusion is also valid for non-daily publications; in our case, the non-daily publications studied were local and county-wide weeklies. The front pages of different editions from the month of June 2012 were studied to ascertain the hierarchy of the contents (Table 1).

Table 1. Weekly local and county-wide publications

Free	Subject	Paid	Subject
<i>Capgròs</i>	Local	<i>Àncora</i>	Local
<i>Contrapunt</i>	Local + Society	<i>Diari de Sant Cugat</i>	Local + Society
<i>El Tot Badalona</i>	Local	<i>Diari de Vilanova</i>	Local + Society
<i>El Tot Mataró</i>	Local	<i>El 3 de Vuit</i>	Local + Society
<i>El Tot Sant Cugat</i>	Local + Services	<i>L'Eco de Sitges</i>	Local + Services
<i>L'Enllaç dels Anoiens</i>	Local	<i>La Comarca d'Olot</i>	Local
<i>L'Independent de Gràcia</i>	Local	<i>Nova Tàrrrega</i>	Local
<i>La Fura</i>	Local + Services	<i>Revista del Vallès</i>	Local + Society + Sports + Other
<i>Mollet a mà</i>	Local + Society	<i>Setmanari de l'Alt Empordà</i>	Local + Sports + Other

Source: Authors, based on a study on contents of the front pages of weekly local and county-wide publications, both free and paid. The subjects of the news on the front pages in the month of June 2012 are listed.

Once we have analysed the contents and main topics reported on by free publications, we should note that the news model of this kind of press is based on conciseness, because they are designed to be read quickly (between 20 and 25 minutes) and their length is limited. What is more, the characteristic that best defines this phenomenon is the fact that it is free of charge, which has led to a certain prejudice in that anything that is free to consumers must not be high-quality or credible: *“This prejudice cannot be seen in other media which are free, such as the television, radio or Internet, but centuries of a paid newspaper tradition cannot be overcome easily”* (Fernández, 2002: 44). Other characteristics of this communicative model is that it helps modest local businesses to enter the world of advertising, businesses that would be hard-pressed to promote their products in the traditional media given the high fees. Yet this does not prevent consolidated brands and companies from also using the free press to reach an audience that does not read the paid press – these are ads called *media agencies*, which distribute their packages of advertisements and their campaigns state-wide. This is even further magnified if we bear in mind that in Spain a little over 10% of the population purchases newspapers. However, in reality the reader profile of the free press is a young person aged 30-35, middle and upper middle class with secondary or vocational studies. That is, from the standpoint of advertising penetration, the reader profile could not be better. The attention of the promoters of local media is focused on advertising by modest clients.

It is essential to bear in mind that the free press has a different audience than the paid press, since it is targeted at occasional readers who are not in the habit of reading. *“Thus, free newspapers contribute to spreading the habit of*

reading and help the weaker socioeconomic strata gain access to printed information”, says Roberto de Miguel Pascual (Miguel, 2011: 45). It also attracts two crucial audiences: young adults and immigrants. Young adults find the free press to be a more audiovisual, multimedia format, which they prefer. The fact that it is free is also important, since young adults tend to get information through other free media like the radio, television and Internet. The free press has created a different reader profile than the paid press, since it has attracted population segments like young adults *“of both sexes, educated and working, who are not used to reading”* (Arroyo, 2006a: 1). What is more, it offers contents that are accessible, general and entertaining. Regarding immigrants, the free press is one way of learning the local language and integrating into society. Likewise, there are free publications targeted specifically at this audience.¹³

The economic crisis has seriously affected free publications, since they are more sensitive to fluctuations in the economy because they depend solely on advertising revenues, one of the first areas within companies to be trimmed. What is more, not only does the free press compete with the paid press for advertising, but today there are also other media that capture much of this income. Today, the media whose advertising income has risen the most are the Internet and the new technologies, which has repercussions on the other media. This poses a problem for the free press, although it might be an opportunity in the long term. Here we can see a glimmer of hope for the survival of the free press: *“The reason why the position of these newspapers is still relatively strong is that they attract a different kind of reader than paid newspapers. The readers of free newspapers are, in fact, considerably younger overall”* (Bakker, 2010: 137).

So is the Internet an opportunity for the free press? According to the *Informe de la Comunicació a Catalunya 2009-2010*, after the crisis in the digital economy shuttered many local products in the first half of the decade, 2009 was the culmination of a recovery of the enthusiasm for the Internet in local communication. Therefore, it seems that the future of the free press may lie in the digital world, or at least this is the impression gleaned from observations of the local communication sector. The number of local digital media has doubled in recent years, and specifically we can see that the majority of free publications have taken the leap to the web. If we look at the website of the Associació Catalana de la Premsa Gratuïta i Mitjans Digitals (www.acpg.cat), we can see the match between their paper publications and digital media. In fact, the association has encouraged this trend among its members, and in 2008 it opened the Digital Area to help include the digital media. At first 30 digital media registered as members, but by late 2010 this number had risen to 90. Today it includes almost 100 digital publications.

Advertising revenues are increasingly spent on the Internet as well. This is proven by the figures: in 2010 advertising revenues on the Internet rose 13.5%, while in 2011 they rose 12.6%, according to data from InfoAdex.¹⁴ The

¹³ PRNoticias (2008), “El 14% de los lectores de diarios gratuitos son inmigrantes” [online], <http://www.prnoticias.com/index.php/home/59/10021672-el-14-de-los-lectores-de-diarios-gratuitos-son-inmigrantes-> (retrieved: 4 July 2012).

¹⁴ An analysis of figures on advertising investment in 2010 can be seen in the following news story: *Marketing Directo* (2010), “InfoAdex: la inversión publicitaria en España ha crecido un

rise in the number of digital media audited by the OJD Interactive is remarkable, as is the rise in the number of readers of the press, in this case, the number of unique monthly users. Despite this increase in the consumption of local media, revenues have stagnated. For this reason, the editors of both the free and paid press have cut back human resources in order to cope with this stagnation or drop in advertising income. However, local and county-wide information on the Internet is more highly valued, and the trend of new digital titles appearing which started in 2007 has consolidated.

Therefore, today the free press is working on improving its presence on the Internet and having its own digital channels. Once again we should mention the ACPG, because it is taking steps to have a prominent presence in the digital media. In 2012, the organisation's 15th Assembly was held¹⁵ with the main objective of acting as the umbrella of its members, including both free publications and digital media.¹⁶ One of the avenues that it has embarked upon this year is a ranking of the digital media in Catalan, spearheaded jointly by the OJD Interactive and Nielsen Online, in order to encourage measurements of Internet audiences.¹⁷

The results of the first monthly ranking of digital media in Catalan (January 2012) shows that the local digital media have a higher penetration in the target audience.¹⁸ According to the figures from the ranking, we can see that the top ten digital media in Catalan (in descending order of unique monthly users) are: *Televisió de Catalunya* (1,726,406), *Ara* (1,045,845), *El Punt Avui* (543,407), *Vilaweb* (467,843), *324* (455,582), *Nació Digital* (368,925), *Catalunya Ràdio* (333,501), *Racó Català* (265,982), *Diari de Girona* (231,702) and *Esport 3* (226,708). We can highlight two newspapers whose information revolves around the local and county sphere, namely *El Punt Avui* and *Diari de Girona*, as well as two digital-native media, namely *Vilaweb* and *Nació Digital*, whose goal is to cover the local market, especially *Nació Digital*, which has several local editions. In this ranking of digital media in Catalan, we can also highlight other locally-oriented projects such as *Regió 7* in twelfth place (137,993), *BTV* in thirteenth (127,092), *LaMalla.cat* in fifteenth (81,279),

3,5% en el primer semestre de 2010" [online], <<http://www.marketingdirecto.com/actualidad/publicidad/la-inversion-publicitaria-en-espana-ha-crecido-un-35-en-el-primer-semestre-de-2010/>> (retrieved: 4 July 2012). And the figures from 2011: *Marketing Directo* (2012), "Info-Adex: la inversión publicitaria en España cayó un 6,5% en 2011" [online], <<http://www.marketingdirecto.com/actualidad/publicidad/el-mercado-publicitario-espanol-cayo-un-65-en-2011-segun-el-estudio-infoadex/>> (retrieved: 4 July 2012).

¹⁵ More information on the 15th Assembly of the ACPG can be found in the report on its website: ACPG (2012), "L'ACPG encara el futur en el seu 15è aniversari" [online], <<http://www.acpg.cat/noticies/detail.php?id=914>> (retrieved: 4 July 2012).

¹⁶ *Comunicació21* (2012), "L'ACPG actuarà com a patronal dels mitjans associats" [online], <<http://comunicacio21.cat/2012/06/1%E2%80%99acpg-actuara-com-a-patronal-dels-mitjans-associats/>> (retrieved: 4 July 2012).

¹⁷ *Comunicació21* (2012), "Es presenta un rànquing per visualitzar la força dels digitals en català" [online], <<http://comunicacio21.cat/2012/02/es-presenta-un-ranquing-per-visualitzar-la-forca-dels-digitals-en-catala/>> (retrieved: 4 July 2012).

¹⁸ *Comunicació21* (2012), "Els digitals de proximitat tenen una major penetració en l'audiència objectiu" [online], <<http://comunicacio21.cat/2012/03/els-digitals-de-proximitat-tenen-una-major-penetracio-en-1%E2%80%99audiencia-objectiu/>> (retrieved: 4 July 2012).

Cugat.cat in seventeenth (32,729), *Anoia Diari* in eighteenth (28,404), *Vilanova Digital* in nineteenth (26,744), *Reus Digital* in twenty-first (24,774), *Capgròs* in twenty-second (24,433) and *L'Empordà.info* in twenty-third (23,855).

These figures show that the local and county-wide news is also successful on the Internet. In fact, as noted above, globalisation has led to more local spaces, and the Internet is where we can see this the most. Therefore, the local press has an opportunity on the Internet which it should seize.

5. Conclusions: Internet, an opportunity for the free press?

Today *local* is not the opposite of *global*; rather they are two interrelated terms. They are the flip sides of the same coin. In fact, with the new technologies we have not only more global spaces but also more local spaces. The relationship between both terms is precisely described with the term *glocalisation*. The interest in more local information has been revitalised with *glocalisation*. Therefore, *local communication* has become an important concept in our society, and within it we can find the free press, a model of local communication.

The rebirth of the free press took place in around 1970, when publications of this kind began to emerge. Catalonia is one of the regions where the local and county-wide press is the most common and where local communication is the most developed, including the free publications discussed in this article. It is a model that has gradually professionalised over time, even though it was not very news-oriented at first. What is more, it is a kind of alternative press that arose to cover needs that were previously unmet.

The peak of the free press came in around 2000, when daily publications began to emerge, namely free newspapers. Until then, free publications were not daily (they were weekly, biweekly, monthly, etc.). Therefore, the phenomenon of the free press became more popular after 2000 and free newspapers like *20 Minutos*, *Metro*, *Qué!* and *ADN* were launched, even though this kind of press had emerged years earlier in Catalonia and Spain. It is a characteristic phenomenon in this country because there is a large number of titles and a great deal of diversity, high circulation and market share. This has prompted a change in media consumption by raising readership levels.

Within the free press sector, we can make a distinction between daily and non-daily publications (the latter have other frequencies) because they have several differences yet also some similarities. They are the most prominent locally and seek content closer to readers, although free newspapers often have broader contents or general information because they tend to be distributed in large cities and metropolitan areas. Both kinds avoid political confrontation and instead focus on social issues. What is more, they are press models that stand out for their conciseness and brevity and are primarily characterised by being free of charge. The kind of advertising they tend to contain is local; that is, modest, local companies take out adverts in them. Another shared characteristic is their reader profile: the readers tend to be either young or immigrants.

The two-year period 2005-2006 was very prosperous for the free press; in fact, it marked a peak with a large market share, many titles being published

and a high readership. However, in 2008 it began to feel the economic crisis that still lasts today. The recession in the advertising sector led to a considerable drop in advertising income, and the media that noticed it the most were the ones that depended on advertising, such as the free press, which had to lower print runs and staff and even close publications. One clear symptom of this trend was the closure of three out of the four major free newspapers in Spain (*Metro*, *Qué!* and *ADN*).

By glancing at the figures on advertising revenues per medium, we can see that they are rising the most in the Internet. For this reason, the majority of free press publishers have taken the leap to the web because they see an opportunity there. In fact, during the crisis many local digital projects were halted, but since 2009 the enthusiasm for the Internet seems to be on the rise in local communication. Therefore, the future of the local press may well be digital.

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Isaiah Berlin's *value pluralism*. Refining theory to improve democratic practice

Ferran Requejo*

Universitat Pompeu Fabra

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Abstract

Isaiah Berlin's humanistic liberalism is still an influential theory and an implacable antidote against extremism and fanaticism in all their guises. The author of this article notes that one of the main contributions of this theoretician born 100 years ago consists in gaining awareness that there is a multiplicity of values in plural societies which cannot be reduced to a single principle, or a universal permanent combination of values applicable to all individuals and all practical cases. However, Berlin's defence of value pluralism is in no way a gratuitous concession to relativism or scepticism. Without a doubt, there is a role reserved for reason in moral conflicts. However, "reasonable" discrimination between values is much more context-dependent, even on an individual scale, than what moral, political or religious "rationalist" conceptions assume.

Key words: Isaiah Berlin, value pluralism, relativism, democracy, federalism

Intellectual biographies usually include a series of readings and discussions which awaken readers from their "dogmatic slumber", as happened to Kant with David Hume's thinking. Something similar happened to Isaiah Berlin through the works of Herder and Vico (despite the fact that he later criticised them on some points). In my case, Berlin's liberalism was – just as Montaigne and Wittgenstein were in another sense – one of those theoretical lightning bolts that captivated my mind and helped me to think better; in a way that was simultaneously more realistic, more complete and more nuanced. And especially with Berlin, this characteristic has been reinforced over time.

One of the most noteworthy aspects of Berlin's theoretical style is his use of anti-enlightened romantic thinking to refine the values of the Enlightenment itself. His forthright criticism of the theoretical and moral prejudices of Western philosophy can be summarised by his well-known statement that from classical

* Contact address: Ferran Requejo. Office 20.113, [Departament de Ciències Polítiques i Socials](#), Universitat Pompeu Fabra. Ramon Trias Fargas, 25-27. 08005 Barcelona, EU. E-mail: ferran.requejo@upf.edu.

Greece and Christianity until the rationalism of the Enlightenment and its derivatives, this tradition has acritically accepted three considerations: 1) that all questions have a rational answer, 2) that this answer is unique and knowable, and 3) that all the answers to the different questions that are considered true or correct are compatible with each other. Berlin showed how each of these three considerations is highly questionable. Instead, he tells us, ideologies and utopias based on a single theoretical perspective are not only impossible in practice but are also incoherent in theoretical terms.

Here we shall focus on what I believe is the centre of gravity of this new intellectual “music”: value pluralism. The most important point of Berlin’s pluralism is the “rational” conviction that there cannot be a single correct, unitary vision of good or morality. His criticism of “monist” theoretical conceptions, that is, those that maintain that there is only one ultimate value, or a single combination of moral values that represents the “most human”, “most moral” or “most rational” way of living life, is now classic. There are no “equivalent” ways of living human life for the moral, religious or political monism currently in vogue apart from what they propose. However, “monism”, Berlin tells us, “is the root of all extremism”. This is the case, for example, of Platonic philosophy or the common interpretation of the monotheistic religions by their respective orthodoxies and churches. Given this position (and others like cultural pluralism, which defends a complete link of morality in each of the “cultures” in which it develops), Berlin defends *value pluralism*: the existence of a multiplicity of heterogeneous values that cannot be reduced to a single principle or a universal, a permanent combination of values applicable to all individuals and practical cases. In contrast to the assumptions of many political or religious ideologies, moral heterogeneity cannot be reduced to any harmonious combination of values.

In fact, regardless of the moral and political conceptions deemed to be most appropriate in a given context, in the early 21st century “value pluralism” appears as a highly influential philosophy of morality. Thus, this form of pluralism basically asserts three things:

a) The *irreducibility* of goods and values. The goods and values of human life are radically diverse. It is impossible to reduce some values to others or to derive some values from others, or to combine them all into a single higher value or a permanent combination of values.

b) *Agonism*. Goods and values are often mutually incompatible. It is impossible to harmonise them into a coherent whole. The moral struggle does not occur between good and evil but between good and good.

c) The *incommensurability* of goods and values. Conflicts between different goods and values cannot be decided in terms of interpersonal reasonability. There is no set of principles shared by all humans that is capable of resolving this kind of conflict. There is no universal hierarchy of values.

The most radical feature of value pluralism is the third one: incommensurability. This feature is formulated in relation to values between cultures as well as within cultures themselves. However, this does not entail adopting a sceptical or relativistic position in the moral sphere. Berlin maintains

that values are objective and that reason plays a role in moral conflicts. However, “reasonable” discrimination between values is much more context-dependent, even on an individual scale, than what moral, political or religious “rationalist” conceptions assume. Faced with a specific situation of conflicting values, there is no single “truth”, nor is there one “correct” moral position. Reason plays a role when prioritising and interpreting values in a given situation, but this will often become an unavoidably controversial issue given the three aforementioned characteristics of morality, especially the incommensurability of goods and values.

The fundamental basis of incommensurability is in how individuals deal with practical contexts. Despite genetic and cultural differences, human nature is partly shared by all individuals. Yet these individuals differ with regard to how they deal with shared needs, and not all needs are shared. There are a number of “universal evils” (slavery, torture, genocide, etc.) which foster a certain “universalism” regarding what should be avoided, but no moral conception can claim to defend true “human good”. Thus, moral *pluralism* replaces moral *monism*. As we know, this is accepted by some theoreticians of democracy and justice, such as John Rawls. However, in Berlin’s pluralism, values cannot be placed in a universal hierarchy regardless of the context (in contrast to, for example, the two Rawlsian principles of socioeconomic justice, which stipulate the permanent priority of freedom over equality). Berlin’s perspective rejects the claim of the majority of traditional moral schools, and some modern ones, that any well-constructed moral theory must be capable of establishing a permanent hierarchy of its values or principles in order to “rationally” resolve practical conflicts.

The perspective of value pluralism brings us closer than other moral theories to the cases of *rational “undecidability”* which are common in empirical political spheres. For example, it brings us closer to the practical dilemmas and rivalries that are so appealingly shown by the tragedies in literature, both classical Greek and Shakespearean.

Value pluralism and classical tragedy

Despite being a literary genre, in tragedies the action often takes place beyond the limits that human languages can express. In them, we often fail to understand all the motives that spur the characters to take actions that are not totally decidable in rational terms. However, these characters must not only decide in theory, they must also act in practice. These characters have their doubts and their questions with multiple answers, and their criticisable actions force the audience’s most insecure side to mentally participate in the action of the play. The characters (and we with them) often face an agonistic plurality of values, a plurality that becomes “tragic” not only because any practical decision leads to some kind of loss, but also because it is impossible to avoid the fact that this decision will trigger negative consequences, regardless of what it is.

The classical tragedies still fascinate us today. Tragedy and democracy emerged together as the novel products of the *city* in classical Greece. Tragedies evoke the contingent, complex world of human actions. “There is no tragedy without action”, said Aristotle. It is the representation of a chessboard where our political and moral decisions play out. And that which is human is also

contradictory, Berlin repeats, because the values with which we try to morally order the world are often irreconcilable. Considered in isolation, love, justice, freedom, knowledge, duty or friendship lead to dogmatism in the theoretical sphere and are ephemeral in the practical sphere. They are suitable values, but they cannot be combined in a harmonious way. The moral conflict, as we said above, is between good and good.

We are also what we do. And human actions never form a single image but the multiple reflections of a moral “*cracked mirror*”. We will not behave more fairly by trying to mask the contradictory plurality in which we must act; nor will we be happier. Tragedies show what moral and political theories tend to silence: our instrumental reason is strong, but our morality is fragile. Practical actions are never decidable in a wholly rational fashion. However, Creon, Antigone, Orestes, Brutus, Henry IV and Lear must act, despite the fact that their questions have several possible rational and moral answers.

So tragedies reinforce individuals’ moral perspective and the awareness of the limitations of their theoretical reference systems. They also give us the chance to become better political and moral thinkers when we perceive the difficulty of finding clear and “rational” answers to the *actions* that are occurring on stage. Tragedies constantly highlight our role as historical beings and transform us through the decisions we take. These decisions are often based on emotions and reasons that are always partial, and in conflict with their own internal nature. In the practical sphere, the sphere of action, Plato and Kant are wrong. In other words, the interpretation and hierarchy of values is always debatable; democracy refers to an inevitably “tragic” pluralism.

From an epistemological standpoint, despite the “objectivity” of the conception of Berlin’s values, value pluralism refers back to the *modern* attitude of the 16th century humanists (Montaigne). This attitude claims that universal perspectives of morality inevitably generate conflicts which cannot be fully resolved. This attitude is more sceptical, more tolerant and more concerned with the practical aspects of human existence than the more “systematic” theoretical attitude of the Cartesian and Hobbesian philosophies of the following century, which has so strongly influenced contemporary moral and political thinking.

Thus, Berlin’s value pluralism is a theoretical perspective that:

1. Warns us of the *plural* and *agonistic* nature of morality and politics (something that the majority of monist theories in general [Kantian, utilitarian, etc.] usually try to avoid, fairly futilely, I think);
2. Stresses that legitimising criteria in politics are not always related to a universal, context-free *moral* perspective but instead to specific and contextual *ethical* perspectives, and to *pragmatic*, rational perspectives; and
3. Illustrates that these legitimising criteria are based not only on *values*, even when functional (not moral) values are included such as efficiency or stability, but also on specific collective *interests* and particular *identities* (which are sometimes also presented under the guise of values).

Perhaps to some people, value pluralism is not a conception of morality “to keep” in normative terms, but I think that it is at the very least a conception “to consider” in order to refine the theories proposed and to avoid their epistemological excesses and simplifications.

Value pluralism and plurinational federalism

Berlin's writings do not address the issue of federalism, even though they do discuss nationalism, which he saw as a reaction to previous collective grievances. Unlike other concurrent phenomena or movements associated with cultural pluralism (immigration, religious groups, indigenous peoples, etc.), in some democracies it is possible to witness harmony or basic similarity between the “lifestyles” of the members of different national collectives who live together (plurinational democracies like Canada, Belgium, the United Kingdom, Spain, etc.). However, inevitably, and also unlike other cultural pluralism movements, both majority and minority national collectives are partly the product of nation-building processes which, in the case of plurinational democracies, are to some extent in competition with each other.

In these contexts, I believe that the adoption of value pluralism as a theoretical perspective of plurinational federations has at least two advantages over other theoretical perspectives:

1. First, with regard to political liberalism, value pluralism allows individual and collective rights and freedoms to be constitutionally investigated and established more openly. Moreover, it allows for mutual recognition between the different national collectives or *demos* within a democracy. As a result, fewer issues are excluded a priori from the political agenda, and the dialogue between the different parties is no longer based on monist theories – be they more “liberal” or more “republican” (both of which display conceptual and institutional biases when applied to plurinational realities). In this way, for example, the constitutional regulation of collective freedoms can be prevented from being established exclusively or from becoming predominant from the perspective of the state as a collective subject which views itself as hegemonic, to the detriment of minority national collectives. Value pluralism also makes it easier for pragmatic agreements to be reached among political actors who are generally sceptical of the potential of theories, but who also wish to maintain a minimum consensus which is more open to cultural interpretation and more resistant to the passage of time than that which characterises traditional liberalism and constitutionalism.

2. Secondly, regarding plurinational federalism, value pluralism allows the liberal and federal logics related to the protection of rights and freedoms to be more easily recovered. It also facilitates regulation of the mutual recognition of internal national pluralism in a democracy and the content of self-government, as well as the regulation of reform processes by national collectives that lack any kind of normative hierarchy. It is, therefore, a theoretical perspective that facilitates the legitimacy of and changes in federal rules over time, when neither the majorities nor the minorities have exclusive claim to their interpretation.

These two advantages are related to the predominance of freedom in Berlin's work, both individual and collective freedom, and negative and positive freedom. Obviously, there are other values and other basic legitimising principles (the different meanings of political equality, respect for minorities, constitutionalism and the rule of law, efficiency and stability, etc.). However, it is possible to say that *negative collective freedom* plays a key role in guaranteeing that external coercion between the different national collectives within a plurinational democracy is avoided.

The increased complexity of an increasingly plural and globalised world also requires greater complexity in federal agreements inside democracies. One of the historical advantages displayed by different kinds of federal agreements, even federations, is their potential flexibility and their adaptability to different specific realities. In fact, since World War II, comparative politics has shown that adaptability is an essential requirement for the stability and success of any federal agreement that is established. This adaptability also extends to plurinational federations, which, while sharing certain common features with other federations, also display major historical, cultural, constitutional differences and within the party system compared to uninational federations (Germany, Australia, etc.).

The model of plurinational federalism based on value pluralism which I have defended in other publications (*Multinational Federalism and Value Pluralism*, Routledge 2005) is thus aimed at improving the quality of plurinational democratic federations. This is achieved by taking into account five factors related to a form of political liberalism which is suited to the realities of national pluralism: 1) a more complex notion of political equality which takes national differences into account; 2) a pluralistic conception, in national terms, of the different *demos* in the federation; 3) the inclusion of the "ethical" dimension of practical rationality; 4) the accommodation of a variety of partially competitive nation-building processes; and 5) the combination of universal and particular legitimising regulations present in all democracies.

Faced with all the most complex meanings of freedom, equality and plurality that are appearing in our societies, today's liberal democracies do not yet have institutions and procedural rules that are capable of accommodating the internal complexity of values, interests and identities that characterise these societies. The adoption of the perspective of value pluralism as a moral structure fosters a less arrogant theoretical attitude, one that is more sensitive to practice and to contextual features than that which is fostered by conceptions that date from the Enlightenment, especially traditional liberalism and socialism. Berlin reminds us better than anyone else that no doctrine or ideology can offer a solution to all of humanity's practical problems. When that kind of solution has been offered, it has created totalitarian horrors, both from the right and from the left.

In the early 21st century, I believe that it is no exaggeration to say of Berlin's thinking what Nelson Riddle said about the American composer George Gershwin while Riddle was adapting his songs for an Ella Fitzgerald record released in 1959: "He wrote tomorrow's music yesterday".

The democratic principle and constitutional justification of the right to decide

Josep Maria Vilajosana*

Universitat Pompeu Fabra

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Abstract

In this article, the author defends the right to decide, meaning that holding a referendum on the political future of Catalonia is not banned by the Spanish Constitution (SC). The principal reason cited is that the principle of indissolubility (section 2.1 of the SC) and the principle of national sovereignty (section 1.2 SC) should be adequately balanced with the principles of liberal democracy (as defined in sections 1.1., 23.1., 9 and 10 of the SC). In light of this perspective, the article provides justification for two main aspects: 1) holding a referendum on Catalonia's independence on the grounds of an evolutive interpretation of democratic rights linked to a dense conception of democracy; and 2) holding a referendum exclusively in Catalonia, in order to avoid shifting from the principle of the majority to the dominion of the majorities.

Key words: right to decide, evolutive interpretation, liberal democracy, personal autonomy, inviolability, human dignity, dominion of the majorities

1. Introduction

In recent years, support for the right to decide in Catalonia has risen exponentially. To avoid peering too far back in time, after the Constitutional Court's ruling 31/2010 on the Statute of Autonomy, a social movement has coalesced with the main goal of debating this issue. We merely have to recall the massive demonstrations on the 10th of July 2010 with the slogan "*Som una nació. Nosaltres decidim*" (We are a nation. We decide), the one on the 11th of September 2012 with the slogan "*Catalunya, nou Estat d'Europa*" (Catalonia, new European state) and the *Via Catalana cap a la Independència* (Catalan

* Contact address: Josep Maria Vilajosana. [Departament de Dret](#), Universitat Pompeu Fabra. Ramon Trias Fargas, 25-27. 08005 Barcelona, EU. E-mail: josep.vilajosana@upf.edu.

Way towards Independence)¹ on the same date, Catalonia's national holiday, in 2013.

Generally speaking, this social outcry has forced the political parties to take a clearer stance on the right to decide, which has spurred a social and political debate that is still ongoing.² Within this tendency, we should also factor in the election results in favour of the parties that made the right to decide part of their platforms, as well as all the social indicators that show the sustained existence of a vast societal majority in favour of this right.³ The legal sphere cannot be excluded from this discussion, and at some times it has even been brought to the forefront, which seems fitting if what we are discussing is rights, constitutions and legal rules. However, the way it has been conducted so far, the legal debate has not been very enlightening. Many times the only thing that it has done is allude to the purported evidence that can be used to legitimise either position chosen in advance. There has been a plethora of adamant declarations on either side by jurists or even by people who have no legal background. Some articles are mentioned, but they lack constructions with the theoretical solidity that should be required in an issue of this importance.

Anyone who wishes to deny the possibility that the Spanish legal system protects the right to decide primarily refers to article 2, where it says that the Constitution is grounded upon the indissoluble unity of the Spanish nation, and article 1.2, which states that national sovereignty is held by the Spanish people. To the contrary, anyone who believes that the right to decide is protected by the Constitution stresses that we must take article 1.1 into account, which states that the Spanish state is established in a democratic State, along with other precepts, such as article 23, which recognises that citizen have the fundamental right to participate directly or indirectly in public affairs. Despite this, in such a complex legal problem as this one, simply citing articles is not enough to settle the interpretative disputes.

In this sense, the purpose of this article is twofold. First, I shall try to clarify the terms of the discussion in order to provide a *legal* meaning to a claim that was first shaped based on postulates outside the law. In section 2, we shall

¹ Inspired by the Baltic Way or Baltic Chain, which joined the capitals of Estonia, Latvia and Lithuania in 1989, on the Eleventh of September 2013 a human chain in favour of independence for Catalonia 480 kilometres long was made from Le Perthus to Alcanar. According to figures from the Department of the Interior of the Generalitat, 1.6 million people participated in it.

² As highlighted in the "Informe sobre els procediments legals a través dels quals els ciutadans i les ciutadanes poden ser consultats sobre llur futur polític" (Report on the legal procedures through which citizens can be consulted on their political future) by the Institut d'Estudis Autònoms, 11 March 2013 (henceforth, the "IEA Report"), the resolutions of the Parliament which have contained the right to decide have gone from being highly abstract formulas (Resolutions 98/III from December 1989, 229/III from September 1991 and 679/V from October 1998), to expressing the will to establish mechanisms that would enable this right can be exercised (Resolutions 944/V from June 1999 and 1978/VI from June 2003), to emphasising the decision to use this right since 2010 (Resolutions 631/VIII from March 2010, 6/IX from March 2011, 742/IX from September 2012 and 5/X from January 2013). See "IEA Report", p. 5, note 4.

³ In the regional elections held on 25 November 2012, 73.47% of the electors voted for parties that had included the right of Catalonia's citizens to be consulted on their political future in their platforms. The different surveys published since then have only proven that this phenomenon is continuing to gain momentum.

see that the “right to decide” is an ambiguous expression which conceals two different concepts with different legal implications: the right to be consulted on one’s own political future and the right to self-determination. After that, I will demonstrate that it is possible to mount a solid defence of the right to decide in the first of these concepts without altering the wording of the 1978 Constitution. This defence is grounded upon the democratic principle, which is why I shall point out its potentialities and limitations by analysing the problems that affect the object and subject of the consultation, following the order I believe is the most suitable, as I shall explain in section 3.

In section 4, which examines the problem of the object, I shall justify one possible balance of the principle of indissolubility and the democratic principle. I shall advocate an evolutive interpretation of democratic rights linked to a dense conception of democracy. The conclusion of this section is that, just as the principle of indissolubility prevails in the exercise of the right of self-determination through a unilateral declaration of independence, the democratic principle prevails in the possibility of holding a consultation: the Constitution does not forbid a consultation on the independence of Catalonia.

Section 5 analyses the problem of the subject. Here we should weight the principle of national sovereignty against the different principles that help to define liberal democracy. The conclusion in this case is that it should be possible to hold the consultation among the Catalans to avoid shifting from the principle of the majority (part of the definition of democracy) to the dominion of the majorities (which runs counter to any reasonable conception of democracy). The principle of national sovereignty, however, also plays a role if we bear in mind that the Constitution allows the State non-negligible intervention in referendum processes.

Finally, we should note that my observations will primarily be grounded upon the tools of the philosophy of law with the goal of providing elements that can serve as a hinge between general legal theory or political philosophy on the one hand and constitutional theory on the other.

2. The right to decide

2.1. The aptness of an expression

It has been stressed more than once that the phrase “right to decide” is a neologism that sprang from politics or the media but is in no way recognised as a technical concept in law. This statement is partly true.

On the one hand, if what we mean is that it had not been used technically in legal contexts before, this is true. However, outside of Catalonia, its use can be detected in Scotland and Euskadi (Basque Country) when the *Lehendakari* (regional president) Ibarretxe proposed a new Statute of Autonomy and a subsequent consultation on the peace process. In both cases, the initiative came from the institutions, either to drive home the unspoken possibility of consulting the people (Scotland) or as an attempt to remove themselves from a violent context (Euskadi) (López, 2013). However, in Catalonia it appeared within the context of the statutory debates shortly after the joint declaration by the Parliament on the 30th of November 2005. Unlike the two aforementioned cases, in Catalonia the expression “right to decide” gained permanent impetus

from social movements. Specifically, one of these movements, the Plataforma pel Dret de Decidir (Platform for the Right to Decide), organised in late 2005, explicitly used this slogan, and after that the expression spread (Vilaregut, 2013). Therefore, generally speaking we can state that outside Catalonia, the expression “right to decide” has been used primarily by representatives of institutions in top-down processes, while in Catalonia it has primarily been used in social movements in a grassroots or bottom-up process.

On the other hand, if the goal is to sustain that the fact that this expression has not been used in legal circles until today means that we can infer that it cannot be used in the future, this holds no water whatsoever. Let us think about how absurd it would be if we applied this same standard to all legal concepts: it would have been impossible to have innovated the conceptual arsenal in any way since Roman law! In short, the justification to use a new term lies simply in the fact that it is needed to refer to new situations or claims which are not reflected in the vocabulary that has existed until then. The supposed immutable nature of things does not dictate what concepts should be used; rather, usefulness is what provides us with the criteria to coin new terms when needed.

Therefore, the question we should ask is not whether the body of legal knowledge contains the concept of the right to decide but whether we need it and why. Some people claim that anything legally important is already covered by appealing to the right of self-determination. This would indeed be a familiar concept: it appears in international declarations and treaties and has been amply developed by doctrine.⁴ But when one proceeds in this way the goal is usually to shut down the debate simply by definition. One is often intentionally playing with the fact that peoples’ right to self-determination has highly contextualised connotations because of their origin, which is related to the process of decolonisation. It then becomes easy to deny that it is applicable in any other context, such as in Spain today. Despite this, someone else might assert that if the same concept is to be used outside the context in which it was formed it would require further argumentation and a disadvantageous point of departure that there are no good reasons for accepting. For example, they could be forced to provide new proof that all of the features that characterised the old colonies can be found in Catalonia today.

In reality, the fact that the expression “right to decide” is a neologism, unlike what it might seem, makes it the perfect candidate for embarking upon a legal discussion with no prejudices. Its meaning is not conditioned by a connotation-laden concept from a foreign historical context and thus lends itself to better adaptation to the problem currently being debated. So what is the problem that the right to decide aims to solve?

The first thing to be considered is that this problem, no matter what it may be, has emerged in democratic contexts, that is, in states whose underpinning is popular sovereignty and which recognise and respect

⁴ The right to self-determination, like the right of peoples, has been valid in international law since the United Nations Charter of 1945 (arts. 1 and 55) and is expressly proclaimed in article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights approved by the UN General Assembly on 16 December 1966 and in force since 1976. Regarding doctrine, see Deci & Ryan (2002).

fundamental rights, including its citizens' right to political participation in public affairs. However, in addition to being democratic, these states are multinational, that is, they contain territorialised minorities. It is in the space delimited by these features where it makes sense to formulate the problem or problems that the right to decide brings to the fore. When we try to do so, we realise there is an ambiguity which must be examined.

2.2. Two concepts of the right to decide

One obstacle that affects the use of this expression in a technical sphere, such as legal discourse, is its ambiguity. There is no doubt that speaking ambiguously about the right to decide has a major strategic advantage. The use of this term within both the social movements that defend it and the political statements that include it enables different positions to easily be accommodated. In this way, one surely attains a broader consensus than if an expression with a single meaning were used. However, this strategic reason, which might be justified in the sphere of social movements and even politics, cannot validate a wholesale transposition into academia. Technical knowledge, such as legal knowledge, requires clear distinctions and a rigorous use of terminology, aims which fit poorly with the use of ambiguous expressions.

But what are the different meanings expressed by this term and what legal importance might they have? In my opinion, "right to decide" expresses two legal situations that are different but joined by the prominent role assigned to the democratic principle: citizens' right to be consulted on their political future and the right to self-determination.

These are different legal situations for two reasons: first, the right to be consulted is an individual right (the holder of this right is every citizen), while the right to self-determination is a collective right (the holders of this right are entire peoples). Secondly, they are different because they are linked to two different usual ways of being exercised, namely consultations in the former and unilateral declarations of independence in the latter. Finally, their legality takes two different legal systems as their reference: state and international, respectively.⁵ In this article, I am concerned with the right to decide only in the first sense.

Yet despite this ambiguity, as long as one is meticulous regarding these distinctions, it is useful to keep using the expression "right to decide" as an umbrella term that covers both meanings, given the essential role that the democratic principle plays in both of them. I will further explore the first meaning here, and regarding the second I will only add that people's right to self-determination is increasingly acquiring a connotation that detaches it from its colonialist origin and focuses on the exercise of democracy, mainly after the advisory opinion handed down by the International Court of Justice on Kosovo in 2010.⁶

⁵ From the perspective of international law, see Seshagiri (2010).

⁶ See López (2009) and López (2011). This is leading people to beginning to wonder whether we might be witnessing the fourth wave in the creation of new states, in which the distinct feature may be that it takes place within democratic states and via democratic methods. The previous three waves were first the dismantlement of the Ottoman, Austro-Hungarian, Russian and

3. The right to decide as citizens' right to be consulted on their political future

3.1. *Delimiting its meaning*

In order to specify the legal scope of this issue, it should be formulated bearing in mind that today there are institutions that represent the citizens in the autonomous community of Catalonia, namely the Generalitat. Thus, the practical question we should ask is: Does the Spanish Constitution *allow* the Generalitat to hold a consultation among Catalans on their political future? The advantages of framing the issue in this way is that it connects the holder of the right (citizens) to the way it is usually institutionally exercised (the consultation) and helps to shed light on an ambivalence which might remain hidden if we ask the question simply in terms of citizens' rights.⁷ I am referring to the typical ambiguity of permission.

Whenever we speak in terms of "permission", we should bear in mind that there are two different meanings at play. Permitting a behaviour in the *weak* sense is equivalent to stating that in the legal system at hand there is no rule that explicitly forbids this behaviour. In contrast, when someone claims that a behaviour is permitted in the *strong* sense, they mean that the relevant legal system contains a rule explicitly stating this permission. Therefore, the former entails proving the absence of a rule (of prohibition), while the latter must show the existence of a rule (of permission).⁸ As we shall see in this article, there are good reasons for thinking that the Generalitat is permitted, at least in the weak sense, to hold a consultation of the citizens of Catalonia about their political future.

3.2. *Lexicographic order of the problems*

Once we have determined the meaning of the question we are asking, we must carefully elucidate the problems faced by those who, like me, are seeking to justify the aforementioned possibility. There are three justification problems: the object, the subject and the procedures of the consultation. Below we shall briefly outline them in order to show that the order in which they should be addressed is not random.

The problem related to the object of the consultation emerges basically from the doubt as to whether the Constitution allows a consultation on the question of if a territory within the state can secede; the problem of the subject refers to which group should be asked to express their opinion on this matter; and the problem of procedures consists of ascertaining whether the Constitution stipulates the ways in which a consultation of this kind should be carried out.

German Empires; second, decolonisation; and third, the fall of the Soviet bloc. On this topic, see Gagnon (2012) and Sanjaume (2012).

⁷ Actually, these formulations are not equivalent. Theoretically, it is imaginable for citizens to exercise their rights outside the institutions. However, as noted in this text, here I shall only take into account the exercise of rights carried out through the institution of the Generalitat, which was created in accordance with the Constitution.

⁸ The first person to formulate this distinction was Von Wright (1963: 10).

We must realise that problems have a given lexicographic order. By this I mean that it only makes sense to answer the second question once the first has been resolved and the third one once the second has been resolved. Similarly, when discussing one of the subsequent problems, we are implicitly accepting a given resolution of the previous ones. For example, if we reach the conclusion that there is no way to constitutionally justify a consultation on the topic of secession, then it makes no sense to discuss what subject should be consulted or the right procedure to carry out this consultation. Likewise, if one embarks upon a discussion on which individuals should be asked to participate in the consultation, this implicitly assumes it may legitimately be held. This lexicographic order is not always respected in discussions on this topic. Thus, we find some people launching into a debate on procedures without having first resolved the other two questions. Even more frequently, once it has been adamantly stated that the Constitution does not allow a consultation because the object is unconstitutional, then a discussion ensues on how the subject of the consultation cannot be the Catalan people but the Spanish people, thus admitting that the consultation can indeed be held.

Henceforth I shall analyse the problems of the object and the subject, in this order. I will not discuss the procedures stipulated because I believe that this has already been studied in an exemplary fashion.⁹ My intention is to show the potentialities and limitations of the democratic principle when constitutionally grounding the right to decide meant in the sense of justifying that the Generalitat can indeed hold a consultation. I shall demonstrate that, when understood properly, the democratic principle legally justifies that this consultation on the secession of Catalonia can be held (and therefore, *a fortiori*, a consultation can be held on any issue regarding Catalonia's fit within Spain) and that it can be held only among Catalans.

4. The problem of the object

This problem can be described in this way: Can one argue that the Constitution protects, that is, allows, albeit in a weak sense, citizens to vote in a consultation on whether Catalonia should become an independent state?

The first thing we should say is that there is no rule that explicitly provides the answer to this question. For this reason, we must examine the principles. When dealing with the problem in this way, we must be aware that the distinction between rules and principles is structural. Rules have conditions of enforcement, while principles are categorical (Dworkin, 1978). Therefore, what we could say to begin with is that there is no constitutional wording which can reasonably be construed as a rule that regulates this case and thus provides the regulatory solution. This leaves us with the problem of having to seek the solution in principles. We then realise that once we have determined that we have to deal with the problem using principles as tools, it is essential to complement the structural approach, which enables us to distinguish principles from rules, with the *functional* approach, which tells us the goals sought when regulating human behaviour through principles.

⁹ For a study on the procedures, see the "IEA Report". For an analysis of the possible scenarios that determine the different means, see Feliu (2013) and Bossacoma (2012).

4.1. How legal principles work

Volumes have been written on legal principles in general and on constitutional principles in particular.¹⁰ In this article, I shall simply provide a few broad strokes that will help to explain how I am using these terms here. I shall review what prescriptive and constitutive rules are, as well as technical rules and ideals. I shall also conceptualise the main principles, which I will later interpret, as ideal rules.

4.2. Different meanings of “rule”

The word “rule” has no single, unequivocal conceptual meaning. One of the most common meanings associates it with prescriptions, that is, with behavioural guidelines which are considered compulsory, forbidden or permitted. However, in other contexts a “rule” is linked to the determination of what is proper or defining of an institution. This is true of games. In this case, we could speak about constitutive rules.¹¹ This kind of rule is canonical: “In C context, X counts as Y”.¹² For example, “in football, the ball crossing the goal line counts as a goal”.

The Constitution offers clear cases of sentences that might be construed in both ways. We could understand the rule contained in article 22.5 as prescriptive: “Secret and paramilitary associations are forbidden”. And we could construe the rule expressed in article 12 as a constitutive rule: “In the context of the 1978 constitution, a person who is (at least) 18 years old is considered a legal adult”.

Another meaning of “rule” which might be relevant is what we call “technical norms or rules”. *Technical* rules stipulate the conditions needed to achieve a given purpose. The law does not tend to directly contain technical terms. However, sometimes, we can understand that based on the establishment of constitutive rules, their associated technical rules can be inferred. For example, article 22.2 of the Constitution (“Associations that seek or use means classified as criminal are illegal”) may be understood as a constitutive rule according to which “in the context of the Constitution, associations that seek or use criminal means will be considered illegal”. Based on that, one could construct a technical rule something like: “Anyone wanting to set up a legal association should not seek criminal purposes nor use criminal means”. Given that making an association with or without these features falls within our decision-making capacity, one could formulate this technical rule as a kind of user’s guide. Strictly speaking, the technical rule is not part of the

¹⁰ For the different meanings in which we have discussed legal principles, see Guastini (1999, Ch. 5).

¹¹ However, we should note that, purely speaking, it is not right to speak about a common class (the class of rules), in which prescriptive and constitutive rules are subclasses. A more suitable way to pose the question would be to understand them as two different *meanings* of the word “rule”. For the sake of ease, in this text I will refer to “prescriptive rules” and “constitutive rules” when I should say “rules *in the prescriptive sense*” and “rules *in the constitutive sense*”. On this topic, see Moreso & Vilajosana (2004: 65-68).

¹² This is the formula coined by Searle (1995).

Constitution, but it does conceptually assume the presence of a constitutive rule, as in the article transcribed above.

Finally we come to ideal rules, which, according to Von Wright, have an immediate relationship not with our actions, that is, not with “should do”, but with a given state of affairs, that is, with “should be” (Von Wright, 1963). This is what happens when, for example, we say that a car should be quick, comfortable and safe. Ideal rules establish the pattern of excellence of something. In this sense, they resemble constitutive rules, given that they define what we understand as a good individual within a given category (a good car, in our example). However, they also bear similarities with technical rules, given that making an effort to achieve an ideal is similar to pursuing a goal. Constitutional principles can be understood as ideal rules (Moreso & Vilajosana, 2004: 91-92).

4.3. Principles as ideal rules

Principles, viewed as ideal rules, establish certain dimensions of ideal states of affairs which the world should have in order to be in conformance with the law. Similar to our example when we said that the ideal car should be stable, quick and safe, the ideal state of the affairs regulated by the Constitution should be such that, for example, they lead to favourable conditions for social and economic progress (article 40), they allow everyone to enjoy a proper environment (article 45.1) and they respect the freedom of information and the right to privacy. It is obvious that these aspects of the ideal may conflict with each other (in the case of the car, speed may run in detriment to safety; in the case of the state of affairs promoted by the Constitution, a proper environment may run counter to economic progress, and the extent of freedom of information may run in detriment to personal privacy). In this sense, ideal rules must be complemented by mechanisms that establish the acceptable degree to which these conditions should obtain and eliminate the conflicts. The way that constitutional interpreters do this, as is common knowledge, is through the technique of balancing.

Thus, legal principles are guidelines that establish not so much what should be done but what should be. On the other hand, we can infer a kind of technical rule from these ideal rules that point to which measures should be adopted to draw near the ideal. This is how we can understand Robert Alexy's position when he states that legal principles are mandates of optimisation: they require one to do what is necessary so that the ideal state of affairs is realised to the greatest extent possible (Alexy, 1993: 87-94). However, legal principles are not detailed rules and must often be complemented by these detailed rules. Generally speaking, legal principles appeal to the reasons that justify having a certain rule or another: they help to shape what we could call the identity of the object which they cover. A person's principles confer on them a given identity; similarly, we could say that the legal principles in a given system shape the system's material identity. This holds true with constitutional principles, and especially with the ones at hand: they shape the identity of a liberal democratic system, meant as outlined below.

4.4. *The weighing of the relevant principles*

Once we have examined the most appropriate conceptualisation of the principles, we must analyse those that might collide with the situation at hand. Someone opposed to a consultation on the secession of Catalonia cites one of the principles contained in article 2 of the Constitution, the one on the indissoluble unity of the Spanish nation. To the contrary, someone who believes that this consultation is allowed alludes to the democratic principle contained in article 1.1.

Before examining the possibilities of weighing these two principles, we should question whether in this case they actually collide. Indeed, the mere fact of holding a consultation, strictly speaking, does not rupture state unity (Ferrerres, 2012). However, how the result is used is what might give rise to a conflict with unity. If the result of the consultation on secession were negative, it is obvious that it would not affect this unity; however, if it were positive, then the articulation of this result is what might enter into conflict with the principle of indissoluble unity.

From the conceptual standpoint, I find it very difficult to object to this argument. However, I believe that the discussion on justifying the consultation based on the object cannot be regarded as resolved because it does entail a kind of trivialisation of what a democratic consultation of this magnitude means. We could expect that those who participate in it would want their desires to be respected and treated with the dignity they deserve, as I shall argue below. They would believe that they are not participating in a mere opinion survey but that the question they are being asked is of the utmost importance in their lives.¹³ I believe that this assessment of the importance of what is at play is also shared by those who oppose the legal justification of the consultation (and they oppose it for precisely this reason). Therefore, we can conclude that it still makes sense to discuss the weighing of these two principles, namely the principle of indissolubility and the democratic principle. Thus, we could say that strictly speaking they do not collide or only do so *tangentially*.

Those who deny a constitutional justification of the consultation cite the two principles through two arguments which I shall call, respectively, the argument of the absolute primacy of the principle of indissolubility, and the argument of the petrification of the democratic principle. Regarding the former, I shall defend the fact that just like all principles, indissolubility also has limits; and I shall oppose the latter by upholding an evolutive interpretation of the Constitution and specifically of the rights that are directly tied to the democratic principle.

¹³ As the Canadian Supreme Court says: “Le rejet clairement exprimé par le peuple du Québec de l’ordre constitutionnel existant conférerait clairement légitimité aux revendications sécessionnistes, et imposerait aux autres provinces et au gouvernement fédéral l’obligation de prendre en considération et de respecter cette expression de la volonté démocratique en engageant des négociations et en les poursuivant *en conformité avec les principes constitutionnels*” (*Renvoi relatif à la sécession du Québec*, from 20-I-1998, sect. 88).

4.5. The limits of the principle of indissolubility

The argument on the absolute primacy of the principle of indissolubility would mean that there is no conceivable circumstance under which the democratic principle could prevail. A consultation on the secession of part of the state territory affects the principle of indissolubility (even if just tangentially, as mentioned above). Therefore, the argument would conclude, a consultation of this kind could not be supported under the democratic principle.

This reasoning, however, is puzzling. Until now, both the doctrine and the jurisprudence of the Constitutional Court have admitted that the tool of weighing principles is used so that neither is viewed as unlimited. Under certain circumstances, one would prevail; while under other circumstances, the other would prevail. Now, however, it seems that if we accept the plausibility of this argument, there is one principle that never budes, namely the principle of the indissoluble unity of the Spanish nation. And we could say that it never budes because if it has never buded before the democratic principle under any circumstance, it should not be able to do so before any other principle. Indeed, it is difficult to imagine other cases of collision that might give rise to reasonable discussion. However, if we bear in mind the conception of principles as ideal rules and the mechanism of weighing used in the arguments of the constitutional courts in all democracies around us, the view of the principle of indissolubility as absolute loses ground.

In any event, to be consistent, we should add the cases in which the principle of indissolubility prevails over the democratic principle. Otherwise, we might believe that I am falling into the very error that I am criticising: a kind of argument of the absolute primacy of the democratic principle. What we must ascertain now is in what case the democratic principle would budge before the principle of indissolubility. I believe that this situation occurs in relation to the right to secession. Everyone agrees that the Constitution does not recognise this right.¹⁴ Therefore, a unilateral declaration of independence by the Generalitat, as the typical example of the exercise of that right, would not be covered by the Constitution, even if it were done by the democratically elected representatives.¹⁵ Thus, neither of these two principles can be understood in an unlimited fashion and both have to be considered when determining the identity of the Constitution in a balanced fashion.

¹⁴ Today there is a debate, primarily in political sciences, around the reasons which would, generally speaking, make a constitutionalisation of the right to secession advisable. Contrary to appearances, some people with “unionist” positions are in favour of this option because of the legal security it would provide. However, it goes without saying that the cornerstone in the defence (or not) of a constitution that explicitly includes the right to secession is knowing what the specific mechanism for doing so would be. As always, the devil is in the details. See Kreptul (2003).

¹⁵ As upheld by the aforementioned opinion handed down by the Supreme Court of Canada as well. Another matter would be debating its legal status from the standpoint of international law, but this is an issue which, as I stated at the beginning, fits within the second sense in which the right to decide can be understood, and analysing this perspective falls outside the scope of this article.

4.6. *An evolutive interpretation of democratic rights*

The argument of the petrification of the Constitution is based on the premise that if the principle of indissolubility and the democratic principle must be weighed, they already were by the constituent lawmakers. Thus, the expression of the democratic principle in article 1.1, within what the Constitutional Court has called the “structural principles”, would admit one and only one structure, one and only one specific expression: the one that is expressed in the remaining the articles in the Constitution. Since this kind of consultation is not mentioned explicitly, this would mean that the way the constituent lawmakers understood democracy is this way and it cannot be altered.

The argument of the petrification of the interpretation of the Constitution is correlated with the use of a psychological or originalist interpretation. Thus, the constituent lawmaker’s desire to provide content and scope to the Constitution’s precepts would be prioritised when interpreting the content and scope of the democratic principles in the specific case at hand. Is this way of reasoning plausible?

We should admit that psychological arguments are an interpretative tool available to jurists. Nonetheless, their weight in argumentation tends to lose force as we get further from the time when the lawmakers’ will was expressed. We can accept the fact that, when the constitutional text was approved, the idea that the Constitution would support a consultation like the one being considered today was not present in the minds of the majority of members of the constituent Courts.¹⁶ We could also admit that the constituent lawmakers did not imagine that the instruments of direct democracy recognised in the Constitution, such as referenda, would be used in a more active way, given the logical predisposition against it, which I shall discuss further on. However, we cannot infer that the Constitution, interpreted 35 years later, cannot go further merely by the fact that this perception did not exist at that time. This adaptation to the changing times is precisely what the evolutive interpretation allows.¹⁷

The use of the evolutive interpretation has a longstanding tradition in international jurisdiction, and more specifically in the jurisdiction of the European Court of Human Rights when interpreting the European Convention on Human Rights.¹⁸ It has also been used by, among others, the International Court of Justice,¹⁹ the Court of Justice of the European Union,²⁰ the Inter-

¹⁶ However, some people think that a pact was reached at that time which included the potential development of Catalan autonomy, which was subsequently thwarted since Constitutional Court Ruling 31/2010.

¹⁷ Let us recall that article 3.1 of the Spanish Civil Code says, in effect, that the rules shall be interpreted according to “the historical and legislative antecedents”, but also in relation to “the social reality of the time when they are being applied”. In any case, as we shall see further on, the Constitutional Court did not link the evolutive interpretation so much with this provision as with those contained in article 10.2 of the Constitution, which is quite relevant to what I am arguing here.

¹⁸ It was approved on 4 November 1950 and entered into force on 3 September 1953.

¹⁹ Some cases where this can be found include: *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, [1971] ICJ Reports 16, para. 53. *Aegean Sea Continental Shelf* [1978] ICJ Reports 3, para. 77. *Dispute regarding Navigational and Related Rights (Costa Rica v. Nicaragua)* [2009] ICJ Reports 213, para. 64-66.

American Court of Human Rights²¹ and the United Nations Human Rights Committee.²² The European Court of Human Rights, at least since its ruling on the Tyrer case,²³ has developed a doctrine in which human rights should be interpreted in an evolutive way.²⁴ This means that a rule's content and scope cannot be limited by appealing to the fact that when it was passed (in the case of this Court, the Convention), the law in question was interpreted in a restrictive way or with certain connotations. What is important in these cases is not the goal in mind when the regulations were made but the connotations and scope that the concept has acquired over time.²⁵

Lately, the Spanish Constitutional Court has used the evolutive interpretation as well. In its ruling 198/2012 dated the 6th of November 2012, the high court used this interpretation to deem Law 13/2005, which changed the Civil Code by allowing same-sex marriage, fully constitutional. The eighth point of law in this resolution reads: "In 1978, when it was written, article 32 SC [which regulates marriage] was primarily understood as marriage between people of different sexes, even within the constituent debates". But despite this statement, and alluding to the Canadian Supreme Court's ruling from the 9th of December 2004, the Constitutional Court defended the evolutive interpretation to justify this opinion's distance from the that of the constituent lawmakers, and it does so in the ninth point of law in such a way that deserves a full citation:

"The Constitution is a "living tree" which, through an evolutive interpretation, accommodates the realities of modern life as a means of ensuring its own relevancy and legitimacy, not only because it is a text whose main principles are applied to situations which its writers did not imagine, but also because the public authorities, and particularly lawmakers, gradually update these principles and because the Constitutional Court, when it monitors the Constitution's adjustment to these updates, endows the rules with content which enables the constitutional text to be read in light of contemporary problems and the demands of today's society to which the fundamental rules of the legal order must respond, at the risk, otherwise, of becoming mere rhetoric."

What is more, the high court adds that the suitability of this kind of interpretation of the Constitution is confirmed by article 10.2: "the hermeneutic rule of article 10.2 SC is associated with an evolutive interpretative rule" (ibid).

²⁰ Case 283/81, *Srl CILFIT and Lanificio di Gavardo SpA v Ministry of Health* [1982] ECR 3415, para. 20.

²¹ *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law*, Advisory Opinion, OC-16, Inter-American Court of Human Rights Series A No. 16 (1 October 1999), para. 114.

²² *Roger Judge v. Canada*, Human Rights Committee, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003), para. 10.3.

²³ *Tyrer v. The United Kingdom* (1978) Series A, no. 26, para. 31.

²⁴ For exhaustive information, see Jacobs, White & Ovey (2010).

²⁵ See Helmersen (2013) and Dzehtsiarou (2011).

The argument which leads to this conclusion may be reconstructed as follows. Article 10.2 states that rules on the fundamental rights and freedoms recognised by the Constitution must be interpreted according to the Universal Declaration of Human Rights and international agreements on these matters which have been ratified by Spain. Given that according to the doctrine of the Constitutional Court itself,²⁶ this appeal to international law includes the relevant bodies' interpretation of the Declaration and these treaties, and given that the evolutive interpretation plays a decisive role in these bodies' hermeneutic processes, as highlighted above, then we can conclude that when the Constitutional Court uses it, it is simply complying with the mandate of article 10.2.

Once we have seen the fundamental role assigned to the evolutive interpretation in both international jurisprudence and the Constitutional Court's jurisprudence, what is left is transferring it to our case. In order to do this, we should be sensitive to the evolution that the institution of democracy has experienced in recent years and be capable of applying the results to the rights and freedoms which are clearly associated with it. On this long journey, we should not lose sight of the interpretative mandate contained in article 10.2, as the Constitutional Court itself has interpreted it. For this reason, below I shall propose a "dense" conception of democracy which fits in perfectly with the evolutive interpretation and from which we shall later infer important consequences when interpreting the rights and freedoms associated with it, such as the fundamental right recognised in article 23.1 or human dignity and the free development of the personality contained in article 10.1.

4.7. A dense conception of democracy

Democracy is not an institution created once and for all. Its main body has been augmented with different layers which have been added over time through conquests that tend to be viewed as permanent, not in the sense that empirically they cannot be lost but that this potential loss would not be justified. This is the dense conception of democracy which I uphold. The metaphor of density helps us to visualise a dynamic idea of democracy as a series of superimposed strata which are not the outcome of mere accumulation, rather they are integrated into a compact, perpetually unfinished whole. For our purposes, this conception would be manifested in two facets: procedures and contents.

Regarding the procedural facet, a dense conception of democracy helps us to understand that it makes no sense to suggest that there are two irreconcilable democratic systems: the representative and the direct, as is sometimes suggested precisely to deny the possibility of justifying the consultation. According to this line of argumentation which I am criticising, the Constitution has enshrined a representative model of democracy in which any element of direct democracy would be viewed with apprehension and thus limited to its minimal expression.

This caution in the use of instruments of direct consultation, usually through referenda, can be explained by the context in which the Constitution

²⁶ Constitutional Court Ruling 116/2006 dated 24 April 2006, and Constitutional Court Ruling 38/2011 dated 28 March 2011, among many others.

was founded. The way referenda had been used by the Franco dictatorship was still too recent. We can surely understand why this mistrust existed at that time, but does it still make sense more than three decades after the instatement of a democratic system?

There are times when people seem to want to claim that calling a referendum is anti-democratic, forgetting that what makes a referendum a truly democratic instrument is not the mechanism itself but the institutional context in which it is framed. The referenda held during the Franco regime were anti-democratic not because they were referenda but because they were held within an authoritarian regime. The ones that can be called now, however, are fully democratic because they would be held within an environment with full electoral guarantees and respect for fundamental rights. This means that expression through this instrument is as genuinely of the people as the expression used to choose representatives in ordinary elections. If we view it thus, we also understand that yet again that we would interpret there as being no radical contrast between representative democracy and direct democracy. Elections and consultations can coexist with no problems without the use of one procedure at the exclusion of the other. This coexistence does not denature the supposedly immutable representative essence of the Constitution but instead enriches it with more components, making it higher quality and “denser”. And this is perfectly compatible with citizens’ fundamental right to participate directly in public affairs, as recognised in article 23.1 of the Constitution.

This density of democracy is also expressed in its content. Today’s democracies are the outcome of successive conquests in the rights of the individuals and groups making them up. The number of rights recognised has never stopped growing. We could trace the historical line of how new references to rights have been added to the others which had previously been recognised, not as mere superimpositions but in an integrated way. For example, we can recall the famous reconstruction conducted via what are called generations of rights. These range from the first generation of civil and political rights, which date back to the American and French Revolutions (the underpinning of the rule of law), to the generation of economic, social and cultural rights (the underpinning of the social state) and finally what are called the third-generation rights, which include the rights to self-determination and national identity. Our awareness today of the importance that this latter set of rights has acquired can be seen not only in contemporary political theory²⁷ but also in the vision of international bodies.²⁸

What I would like to highlight within this phenomenon, within the line I am defending, is not only that it is a new vision but that it can be seamlessly integrated into the previous ones. The perspective of liberal democracies is changing, but not because the importance of these new rights does not fit within them; instead, it is precisely changing to make room for them.²⁹ In short, there

²⁷ For all of them, see Requejo (2010).

²⁸ See, for example, *Human Development Report*, United Nations, 2004, which upholds that cultural and national freedoms are important components of the quality of democracy.

²⁹ The United Kingdom’s behaviour towards Scotland’s demands, and Canada’s reaction to Quebec’s are good proof of this. On this point, it is imperative to mention yet again the Canadian Supreme Court’s 1998 ruling in which it created an obligation for the parties to negotiate in

are visions that integrate these latest conquests within the same liberal-rooted current. There is no need to look for an objective entity higher than individuals to justify “national” rights. They are pertinent for democracy precisely because they matter to citizens, who have the right to develop their own life plans.³⁰ Effectively offering the real possibility of participating directly in the political future of their own community becomes indisputably important in the content of these life plans, once again according to the fundamental right recognised in article 23.1. Below I shall focus more on this liberal component, properly interpreted.

In short, the dense conception of democracy serves to fill the evolutive interpretation that this institution requires with content, as explained above. It follows from everything that I have upheld in this section that the interpretation of the democratic principle (fleshed out in article 23.1) weighed with indissolubility allows (at least in the weak sense) a referendum to be called on the independence of Catalonia, but it vetoes a unilateral declaration. This is a reasonable way of taking these principles as ideal rules which define the democratic state instated in article 1.1 of the Constitution.

5. The problem of the subject

5.1. *The principle of national sovereignty*

Even though I have reasoned that the Constitution allows a consultation, we must still discuss who should be consulted: only Catalans or all Spaniards?

Yet again we find different, conflicting constitutional principles. For someone who believes that the subject of the consultation cannot be just Catalan citizens but should instead be all Spanish citizens, the underpinning would be the principle that states that sovereignty lies with the Spanish people (article 1.2). There are at least two arguments opposing this position, a simpler one and a deeper one.

Indeed, there is an easily understandable argument that can refute this position: if we want to know whether the Catalans want independence, whom should we ask if not the Catalans? This seems to have been understood in the thirty or so referenda which have been held around the world on this issue.³¹

However, the very simplicity of the argument means that it contains a trap. To wit, if the only reason for constitutionally endorsing the consultation is to ascertain the Catalans’ desires, then there is a temptation to equate this with a kind of survey of truly limited value. Therefore, it is easy to take this expression for something that it is not and understand it simply as a statement

good faith if the question and outcome of the referendum are clear. This is the strength that the democratic principle is acquiring today, as reflected quite clearly in this ruling.

³⁰ As can be seen, I am sticking to strictly liberal argumentation which fits in perfectly with the consideration of individual right which I postulate for the meaning of “right to decide” which I am analysing in this study. Regarding the possibilities of fitting the “national” protests, usually understood as collective rights, within a liberal scheme, see the texts compiled in Requejo & Caminal (2009). One of the pioneers in proposing this way was Kymlicka (1995).

³¹ From the referendum in Liberia in 1846 to the one in Puerto Rico in 2012.

that there is more or less widespread malaise in Catalonia regarding its fit within Spain.

In this case, the proposal of those who have upheld this kind of argument is to channel this “malaise” as if it were the expression of an intention to reform the Constitution.³² Once this is assumed, then the result is rather similar to those who uphold that the consultation should be held among all Spaniards, given the extreme difficulty involved in a constitutional reform.³³ What is more, we must establish what kind of constitutional reform would result if the majority of Catalans expressed their desire for independence. This would surely be a false expression: what was voted on was independence; what is allowed is the start of a reform process with different content and with required majorities that place the Catalan voters in a totally unjustified position, as I shall argue below. For these reasons, a deeper kind of reasoning is needed, which once again brings us back to the democratic principle.

5.2. *The principle of the majority and dominion of the majority*

I suggest a mental experiment. Imagine that the entire electorate in Catalonia wanted to vote yes on a referendum on independence. This 100% of Catalans would still be a minority in Spain. Therefore, we can predict that they would systematically lose any vote on this issue whose subject was all Spaniards.

Now let us ask not how the Catalans would feel (the answer is obvious) but how someone who belongs to the perpetual majority might feel in a situation like this. Could they still be content with the state of affairs? Could they say that they live in a liberal democratic state?³⁴

The answer to the first question would depend on each individual’s degree of moral conscience and does not concern us presently. However, the second question confronts us with a fundamental circumstance that does not depend on subjective factors. The reason is this: democracy implies the *principle* of the majority, but it is the opposite of *dominion* of the majority over the minority, in this case a minority, the Catalans, with delimited territorial confines and with their own language, culture and institutions.³⁵ Dominion of the majority perverts democracy and is opposed to the defining principles of liberal states. Let us briefly review these principles, and afterward we shall see how they occupy a prime place in the European Union treaties and the Constitution. They are the principles of the autonomy, inviolability and dignity of the individual (Nino, 1989).

³² This has been done, for example, in Francisco Rubio Llorente, “Un referéndum para Catalunya”, *El País*, 8 October 2012, and Francesc de Carreras, “Un referèndum?”, *La Vanguardia*, 20 September 2012.

³³ This is the vision at the root of Constitutional Court Ruling 102/2008 on the “Ibarretxe Plan”.

³⁴ I use the adjective “liberal” as the opposite of “fundamentalist”, not as the opposite of “social”. For a more in-depth analysis of this distinction and the defining principles of a liberal society, see Vilajosana (2007, Ch. 6).

³⁵ The distinction between the principle of the majority and the dominion of the majority can be found in Kelsen (1954: 412-413), although this author had obviously not thought about applying it to regionalised minorities. But if we bear in mind the dense conception of democracy that I am upholding in this text, then there is nothing preventing us from doing so.

5.3. The principle of the autonomy of the individual

This principle states that the State should not interfere in the individual choice of life plans. Instead, it should limit itself to designing institutions that facilitate the pursuit of these plans and fulfillment of the ideals of virtue that each individual upholds, while preventing mutual interference. The corollary of this principle is that the State is only authorised to interfere in a person's life plans when they could harm another person, that is, when they prevent another person from being able to freely pursue their own life plan.

In contrast, perfectionism sustains that what is good for an individual, or what meets their needs, is independent of their own desires or their lifestyle choices. Through a variety of means, the State gives preference to those interests and life plans that are objectively "better". Perfectionism is peculiar to fundamentalist states. If for some reason, religious or otherwise, it is determined that a moral truth has been reached, then it follows that the State has the duty to impose the behaviours prescribed by this moral truth in order to make its subjects "better" according to the ideal.

In a liberal conception of society, individuals have to be responsible for choosing their life plans according to their preferences and not see that choice as something to which they fall victim. This is a principle that enables us to justify the grounds on which certain fundamental rights are based in our contemporary societies. These grounds are indispensable for choosing and pursuing the life plans that individuals may set for themselves. They include the freedom to behave in any way that does not harm third parties, the right to physical and psychological integrity, the right to education, the freedom of expression, the freedom to develop one's private life, the freedom of association and many other rights and freedoms. They are joined by the rights that imply political participation in the future of the society where the individual lives, as acknowledged in article 23 of the Constitution.

This would be applied to the case at hand as follows: if for many Catalans, being consulted on their political future, and even being consulted on the possibility of setting up an independent political entity, is extremely important in the pursuit of their life plans, they cannot be deprived of this by saying that they are a minority within a state.

5.4. The principle of the inviolability of the individual

This principle holds that sacrifices and privations that do not benefit people cannot be imposed on them. It is based on the premise that when someone is required to be deprived of something without major benefit, this sacrifice is a means to an end outside the wellbeing of the person who must make the sacrifice, and this cannot be justified. In this vein, we should recall the second formulation of the Kantian imperative even though it is a more general idea than what I have just articulated: "Act in such a way that you treat humanity, whether in your own person or in any other person, always at the same time as an end, never merely as a means" (Kant, 1983).

The idea of not using people for purposes other than their own wellbeing is clearly what lies behind the ban on dominion of the majorities. If a majority is

to control a minority, especially in perpetuity, the people belonging to this minority are being used and treated as the mere recipients of the other's policies, not as subjects whose preferences must be borne in mind. By requiring a consultation on the independence of the Catalans to be voted on by all Spaniards, the Catalans are being made a perpetual minority on a matter that has a heavy impact on their life plans. They would never be able to reverse the situation and would thus be treated as mere instruments in a policy on which they would never be able to decide.

To this we could add that it is easy for those who claim that a constitutional amendment is needed or that the consultation must be held among all Spaniards to fall into democratic hypocrisy. Often they are the same people who over the years of democracy in Spain have argued that parties that defend any idea can run in elections, as long as they do so peacefully.³⁶ What is more, one of the arguments used the most against the terrorists in Euskadi is that what they were fighting for, namely independence, could be peacefully defended according to the Constitution. The example they always referred to was Catalonia. Therefore, should we understand that all of these arguments, upheld over this entire time to neutralise ETA's violence, have only been valid as long as the pro-independence movement was in the minority in Catalonia? Do they cease being valid when there are signs that it might be supported by the majority?

5.5. The principle of the dignity of the individual

Treating people with the dignity they deserve as individuals means taking their *beliefs* and *opinions* seriously, as well as their *decisions*. But each of these spheres has a slightly different scope.

Taking a person's beliefs and opinions seriously means that if we want to propose a change we have to do so using arguments and proof, that is, by influencing the factors that the individual has taken into consideration when forming their own beliefs or opinions and not, for example, by manipulation.

Likewise, taking an individual's decisions seriously consists of allowing them to accept the consequences of these decisions. In other words, they must allow these consequences to be incorporated into the course of their lives. However, and this is very important for the issue at hand, unlike beliefs, it is not admissible to offer arguments or proof unless they refer to the beliefs that underpin the decision. I wish to underscore the importance of this because it connects – even terminologically – with the right to decide. The idea is for people to take decisions with dignity, regardless of the reasons why they decide.

³⁶ In fact, this is nothing other than what the European Court of Human Rights says: the only rules on what political parties can defend is that the means they use be legal and democratic and that the changes they propose be compatible with the fundamental democratic principles (ECHR ruling dated 30 June 2009). On the other hand, in her testimony to the Parliament's study commission on the right to decide dated 26 November 2013, Mercè Barceló reminded us of the position of Constitutional Court in Ruling 48/2003, which states that any idea, even one that runs counter to the Constitution, can be defended as long as it is put forward with respect to democracy and fundamental rights, given that the Constitution does not enshrine a "militant democracy". The formal reason for sustaining this is that the Constitution admits that any of its precepts can be modified.

This is a vital point in understanding the underpinning of contemporary democracies in their proper measure: the legitimate vote regardless of the reasons that each person may have for voting one way or another.

So what do these principles mean for the topic at hand? Fulfilling the principle of the autonomy of the person means being sensitive to the life plans that each individual has freely chosen. Respecting the principle of the inviolability of the person means that a series of individuals cannot permanently be used with the argument that they are a minority. Finally, valuing human dignity requires the State to take adult citizens' free expressions of their will seriously. In short, if for any reason adults believe that it is extremely important for them to decide on their collective political future, then their desire must be taken into consideration. Otherwise, they would become a permanent minority dominated or treated with unjustified paternalism.

But are all of these arguments mere "philosophy"? Were we not talking about the legal principles recognised in the Constitution? Well, let's talk about them. Does the Constitution recognise these principles as ideal rules and necessary links shaping identity? Indeed, they are recognised in the Constitution. We can find them there, and in quite a prominent place: "The political powers are in charge of promoting the conditions so that the freedom [...] of the individual and the groups to which they belong is real and effective" (article 9); and "The dignity of the individual [...], the free development of the personality [...] are the underpinning of the political order and of social peace" (article 10).³⁷

What is more, it should be borne in mind, for example, that the Treaties of the European Union recognises them explicitly by relating them to respect for minorities. Thus, in article 2 we can read: "The Union is founded on the values of respect for human dignity, freedom, democracy, [...] and respect for human rights, including the rights of persons belonging to minorities".³⁸ Before concluding, what remains is to examine the proper weighing of the principles that shape a liberal democracy, like the one defined by the Constitution, with the principle of national sovereignty. After what I have just said, it should be clear that the weight of this latter principle is not enough to prevent the consultation, but it means that the citizens from the rest of the state should participate in it in some way.

This participation can be accomplished by these citizens' representatives in the Parliament, which would be done, in my opinion, by accepting any of the ways in which the right to decide in the sense that I am using it here could be constitutionally articulated. Both the way contained in article 92, directly, and

³⁷ Regarding the relevancy of this article, it has been said that "without hyperbole, this article in our Constitution can be regarded as the *cornerstone* of the entire legal system that it institutes", in Ruiz-Giménez Cortés & Ruiz-Giménez Arrieta (2006).

³⁸ I have taken the citation from the consolidated versions of the Treaty of the European Union and the Treaty on the Functioning of the European Union, whose rules, as is common knowledge, belong to the Spanish legal order by virtue of article 96.1 of the Constitution. They also serve as the interpretative criteria, according to the provisions of article 10.2 of the Constitution. Earlier, we saw that precisely the appeal to the hermeneutic rule contained in this article was used by the Constitutional Court to argue for the use of the evolutive interpretation that I am defending.

the way contained in article 150.2 through Catalan law 4/2010, call for this participation whether by proposing, delegating, transferring or authorising participation via referendum. The appeal to national sovereignty cannot weigh so much as to render useless the call for a consultation on such an essential issue for the development of the people who live and work in Catalonia because of their inviolability and dignity. In an interpretation that can bring these principles to their extreme, the ways that the Constitution stipulates allow the consultation to be held among the Catalans, while they also make it possible for non-negligible participation by the democratically elected representatives of all Spanish citizens, in order for the principle of national sovereignty to be honoured the way it deserves to be, weighed proportionally to the other relevant principles.³⁹

6. Conclusion

Throughout this article I have shown that if we accept that the Constitution, through different principles viewed as ideal rules, enshrines a liberal democracy, then there are good reasons to believe that it does allow the Catalans to be consulted on their political future, including a question on independence. These reasons entail understanding that an evolutive interpretation that upholds a dense conception of democracy is the most appropriate means to weigh the relevant principles a fair, balanced fashion. This is a way of evolving without losing identity, a way of resolving the challenge facing those who wish to have a Constitution on par with today's times, a Constitution which, to use the Constitutional Court's own words, does not become "mere rhetoric". In this way, it could fulfil the maxim that Pindar left us centuries ago: "Learn what you are and be such" (Pindar, 1987: 125).

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³⁹ This does not exclude the possibility of using the way of a potential Catalan law on non-referendum consultations should the State block a referendum. This is because a consultation on independence whose subject is the Catalans is not banned by the Constitution; there is at least permission for it in the weak sense, as argued above.

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