



Survival and revival of Catalan civil law. From the Nueva Planta Decree to the Civil Code of Catalonia

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ABSTRACT

This article outlines the evolution of Catalan law over the three centuries spanning from the Nueva Planta Decree (1716) to the approval of the last book of the Civil Code of Catalonia (2017). During this time, Catalan law survived despite the Spanish State's various attempts to suppress it and to legally assimilate Catalonia into the law of Castile. The tenacity and perseverance of both Catalan jurists and Catalan society as a whole made it possible to conserve and revive this law, which is one of the features shaping Catalan identity.

KEYWORDS: Legislation, civil law, codification, jurists, self-government.

INTRODUCTION

On 8 February 2017, the Parliament of Catalonia approved the act on Book Six of the Civil Code of Catalonia on obligations and contracts. This act completed the venture launched in 2002 to successively approve the six books comprising the Catalan Civil Code, 300 years after the Nueva Planta Decree of the Reial Audiència of the Principality of Catalonia issued in 1716. Three centuries later, Catalonia completed a codification process that gave rise to its own Civil Code—a goal that was difficult to imagine even a few decades earlier—thanks to the persistence and invaluable efforts of generations of jurists. What may have seemed like a chimera—like so many others for Catalonia—became a reality, making amends for centuries of adverse history.

Catalonia's civil law is one of the features that characterises Catalan identity. This law has shaped Catalonia as a nation in its space in the world over the centuries. Catalonia's history is associated with law, and respect for the law and a passion for justice have been the hallmark of Catalans since time immemorial. The drive to have law triumph in the noblest of senses has prevailed at crucial junctures in Catalonia's history, often coming at a very high cost. The very birth of Catalonia as a nation is associated with legal actions. This association with law can be found in the first Usatges of Barcelona, regarded as

the first Catalan constitution. The *Cum Dominus* Usatge refers to the creation of law by Count Ramon Berenguer I. Somewhat symbolically, and as the swansong of a world coming to an end, these first Usatges were reproduced to close the last volume of the 1704 book of Constitutions and other laws of Catalonia, an extraordinarily beautiful work.¹ This precious volume, which contained the general Catalan law until then, is, in fact, what underlay the preservation and drive to revive it in subsequent decades.

The tricentennial of the Nueva Planta Decree and the approval of the last of the six books of the Civil Code of Catalonia is a good opportunity to look back and assess the survival and revival of Catalan law over time. This evolutionary process in the eighteenth, nineteenth and twentieth centuries has gone hand-in-hand with the history of Catalonia and experienced the same difficulties and opportunities, successes and failures as other realms of Catalan life. However, worth noting throughout this entire period is Catalan jurists' determination to maintain their own law, to prevent it from being suppressed and to revive it to the extent possible, adapting it to the circumstances at each point in time, with a clear awareness of being witnesses for the future, awaiting more propitious times. Catalan law has had to navigate from Bourbon absolutism to self-governance under democracy, a long, fraught period lasting centuries in an ever-changing social and economic context with a succession of political regimes and civil wars. In the words of Joan Coromines, this journey has been filled with 'bumps and bruises', but ultimately it has proven successful.²

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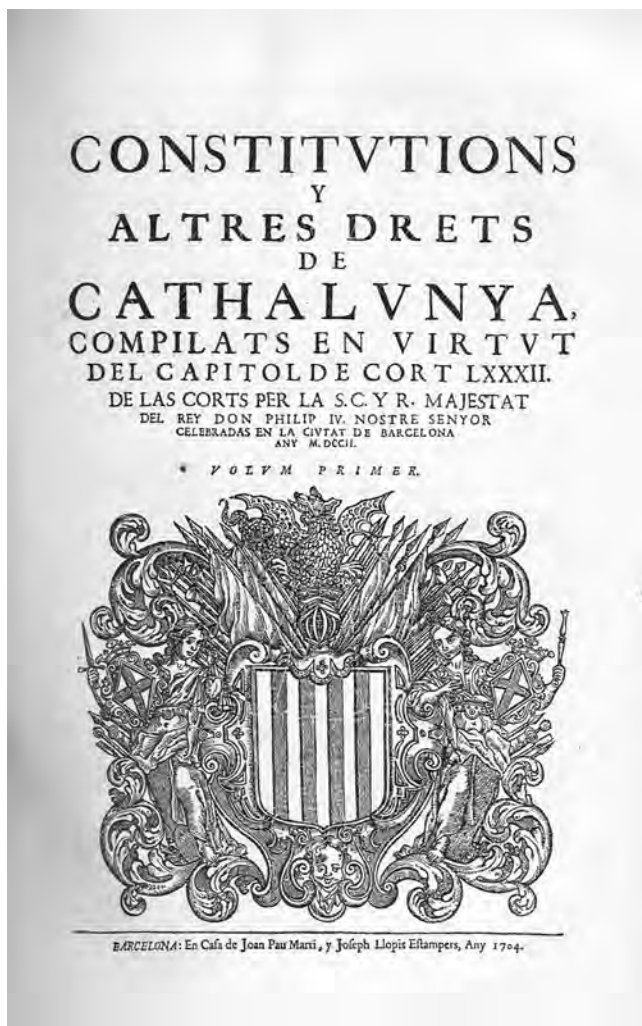


FIGURE 1. The 1704 book of the Constitutions and other laws of Catalonia.

In the pages below, we present the main milestones in this process of the survival and revival of Catalan law. We also retrospectively identify the constant features or elements that have characterised this period. First, however, we should mention the two main issues that have conditioned the fate of Catalan law from both an internal and external perspective. The first is the issue of suppletive law. Catalan law has historically been an incomplete system, given that it has been based on the existence of Canon and Roman law as the generally applied common law, over which Catalan law superimposed specific regulations to modify it. This was the dynamic of the reception of what was known as the *ius commune* in mediaeval and modern Europe's legal systems, which was particularly intense in Catalonia. Canon and Roman law were applied as Catalonia's own received law, alongside the singular exclusive provisions which had been approved over the centuries, called *ius municipale*.³ However, after the eighteenth century, the issue of suppletive law, or the co-existence of and interference among legal systems, spread to Castilian law, which strove to substitute and replace Canon and Roman law as the traditional suppletive laws

of Catalonia, and even to marginalise Catalan law in its own space. The second structural issue regarding Catalan law over time is the State's drive to centralise and standardise it, wielding different arguments at different junctures. It has sought to eliminate Catalan law and replace it with a single legal system based on the Castilian system, or when that was not fully possible to reduce it to its minimum expression as a set of unique institutions worth keeping. However, in this effort the State has come upon fierce resistance and sustained defence of Catalan law by the Catalan legal community.

In addition to the two constants outlined above, we can also point to other recurring issues that have conditioned the fate of Catalan law in the past three centuries. The first is the issue of the '*jutge de fora*' [foreign judge], that is, functionaries or jurists from elsewhere working in Catalonia but unaware of Catalan law, who often ignore and fail to apply it. Associated with that is the second phenomenon, namely the issue of training jurists in Catalan law at universities and the existence of doctrinal works outlining and studying this law which can be consulted to learn about it. The third factor is the ideology prevailing in each period on the survival and validity of Catalan civil law, which has spanned everything from absolutism to liberalism; centralism and federalism to autonomism; a religious to a secular State; conservatism to progressivism; in addition to the succession of civil wars, dictatorships and revolutions. All of these factors have had a clear influence on the course of Catalan civil law, in addition to the most important one: not having a state of its own.⁴

THE NUEVA PLANTA DECREE AND CATALAN LAW

The end of the War of the Spanish Succession with the victory of the Bourbon side led to the military occupation of Catalonia and the instatement of a new institutional order, the '*Nueva Planta*', a phrase that refers to the fundamental legislation that it established.⁵ The new authorities considered the Principality of Catalonia to be a conquered territory which became a *tabula rasa*, stripped of its legal and institutional past, where it could establish a new one by virtue of the right of conquest. The Nueva Planta Decree was accorded by the Royal Decree dated 9 October 1715 and was announced in the Royal Dispatch dated 16 January 1716.⁶ In practice, it entailed the abolition of the Catalan institutions of self-governance, particularly the Generalitat and Barcelona's City Council (*Consell de Cent*). Even though some elements of this earlier system were maintained, this signalled the death knell of Catalan public law, and it was only a matter of time before it would wholly disappear. Naturally, what did disappear was the idea of pactism, the traditional system of the mediaeval Catalan parliament, the Corts, whereby the king could not approve laws in Catalonia unless he had the consent of the three estates gathered in the parliament.

The Nueva Planta Decree of the Principality of Catalonia succeeded similar decrees in the Kingdom of Valencia and the Kingdom of Aragon in 1707, revised in 1711, and it preceded the one in Mallorca in 1716. The first 1707 decree contained a statement of principles, which was not included in the Catalan version. It claimed that as conquered lands, both territories came to be ruled wholly by the laws of Castile. The decree for Catalonia was approved at a later date, and its drafting was based on different studies, reports and deliberations which concluded that replacing all the laws wholesale and treating the Catalans as if they were wholly Castilian would not be possible and wise.⁷ On certain matters, such as civil law, the Decree maintained the validity of the preceding law. For centuries, the social and economic reality and especially family relations had been shaped by Catalan civil law, an influence that even encompassed the structure of cities and the country's landscape. Therefore, it seemed neither possible nor desirable to undertake a legislative modification of this scope, whose results would be uncertain and which would be extremely difficult to implement. For this reason, article 42 of the Nueva Planta Decree stipulated that the law contained in the book of Constitutions from 1704 be maintained in all matters that were not expressly covered by the new Decree's provisions. However, we should note that '*el justo derecho de conquista*' [the fair right of conquest] and the absolutist principle that underpinned the decree were also applied in this provision, which explicitly stated that the Constitutions of Catalonia should be considered re-established by the Decree. Thus, in a humiliating fashion, the legitimacy of traditional Catalan civil law now sprang from the new monarch's decision to re-establish it via the Nueva Planta Decree.

For practical purposes, and due to the outcome, this was the least harm that the Nueva Planta Decree did to Catalan law: it maintained the validity of private law. However, besides the symbolic issue of its abolition and re-establishment by the new monarch, the situation was clearly not the same as it used to be. The Principality ceased having institutions of self-governance, and the Parliament could not update this private law by approving new Constitutions. Furthermore, the law would be applied by judges who seldom had specific training in Catalan law within a context of repression of and hostility towards Catalan society, much of whose ruling class had to go into exile. This state of affairs marked the evolution of the application of Catalan civil law in the eighteenth century, which has often been considered a period of decadence compared to the seventeenth century, the golden age of Catalan law.⁸ Numerous invaluable legal works were published in the previous century, when Catalan public life had been governed by an extremely intense constitutional legal debate which served as the foundation for the political decisions to be taken.⁹ The legal decline in the eighteenth century was motivated by the defeat and subsequent decades-long military occupation of

the Principality of Catalonia,¹⁰ with repression and the legal class's lack of freedom to act as they had during the peak in the preceding century.¹¹

THE UNIVERSITY OF CERVERA AND THE TRAINING OF JURISTS

Of the many repressive measures taken by the new Bourbon authorities to subjugate the Principality of Catalonia, it must be mentioned the elimination of the former *Estudis Generals*, the existing Catalan universities, and the creation of a single new university in the town of Cervera. From then on, jurists were trained at this new university located in the capital of La Segarra, far from the country's most important urban nuclei and following the ideological precepts of the new absolutist regime. The University of Cervera was created in 1717, and it operated for over a century until the reinstatement of the University of Barcelona in 1842. Legal education was based on Roman and Canon law, which were regarded as the most prestigious and technically complex laws. Thus, Catalan law, which was often called '*ius municipale*' [local law], was not the main subject studied, as today we may assume it was.

The University of Cervera has generally been viewed negatively for a wide array of reasons, most of them motivated by the fact that its creation was imposed by Bourbon absolutism. The failure to study Catalan law and the dearth of monographic publications on it have specifically been cited as its negative qualities, along with the fact that the professors embraced the new doctrines of absolutism, in contrast with the traditional pactism that had prevailed just a few decades earlier.¹² Nonetheless, these negative assessments, often motivated by political reasons, have recently been revised, and the work of the jurists of Cervera has been given its due place,¹³ including scholarly figures who excelled there like Josep de Finesres i Monsalvo (1688-1777) and Ramon Llätzer de Dou i de Bassols (1742-1832).¹⁴

THE PENINSULAR WAR AND CATALONIA'S ANNEXATION TO THE FRENCH EMPIRE

The French Revolution brought about deep-seated changes all over Europe, including in the sphere of law. In the Spanish State, it gave rise to an attempted dynastic change and what was known as the Peninsular War. Specifically, the Napoleonic invasion meant the annexation of the Principality of Catalonia to the new French Empire, which was divided into four departments fashioned in the republican revolutionary manner. The annexation meant that Catalonia's institutional organisation and public law had to fit into the French legal system, just as civil law did in relations among individuals. Had it worked, the latter would have meant the abolition of Catalan civil law, as

happened in Roussillon, which became a new French department. Catalan language was once again used by the new authorities. These historical events, which are probably little known because of their brevity and the anecdotal way they have been treated, carried a strong symbolic component.

Despite Catalonia's formal annexation to the French Empire, the fact is that the new authorities did not achieve complete dominance over the territory. At the same time, the Junta General del Principat de Catalunya [General Board of the Principality of Catalonia] was established to organise the resistance against what was considered the invader and to fill the power vacuum that had been created. During those years, there were two courts operating in Catalonia as the outcome of the war being waged in Catalonia, the 'French' one and the 'legitimate' one. The French court, which was headquartered in Barcelona, applied the French Civil Code during the years it operated.¹⁵ The Catalan deputies representing the Principality, in turn, had travelled to Cádiz for the constituent debates which were to give rise to the approval of the 1812 Constitution, where they were able to defend the survival of Catalan law.

These events caused a great deal of upheaval on all levels, but they also fostered Catalan society's keen social and institutional awareness of the military occupation and repression in the preceding century. By the turn of the nineteenth century, Catalonia had undergone political changes and experienced relative freedom, which enabled it to question the absolutism it had experienced until then and consider changes that would have seemed impossible even quite recently, which also affected the survival of its own civil law.

THE UNIFYING IDEAL IN NINETEENTH-CENTURY SPANISH CONSTITUTIONALISM

With the Peninsular War, liberal ideas sprang up in the State, in contrast to the absolutist system of the *Ancien Régime*. The drafting and approval of the 1812 Constitution of Cádiz exerted a great deal of influence on the construction of a modern, liberal State which would promote major reforms in the fields of public and private law throughout the rest of the nineteenth century. The 1812 Constitution, following the French revolutionary model, contained the idea of legal unification. All the laws in force—especially civil, business, criminal and procedural—had to be codified together in modern laws.¹⁶

The codification of the law, as France had successfully and paradigmatically achieved, reflected the triumph of the ideas of the Enlightenment. Modern laws were needed to build a modern State. All the laws in force in a given field had to be compiled into a single legal text. A code should be a legal system systematically organised by topics, with precepts outlined in brief, precisely written articles. However, this legislative unification via material

codification also had to be territorial. This new law should be the only one, and it should be equal for all citizens, thus laying the legislative diversity of the *Ancien Régime* legal system to rest. For the Spanish State, this ideal had far-reaching implications, as it was taken as the basis for the proposed unification of the law of Castile. However, for Catalan jurists it posed the paradox that taking part in the new, modern codifying ideal meant giving up their own legal system and subjecting themselves to Castilian law.

The successive Spanish constitutions in the nineteenth century reproduced the codifying model of article 258 of the 1812 Constitution, with occasional variations. The slogan of '*Unos mismos códigos regirán para toda la Monarquía*' [The same codes shall govern the entire Monarchy] was repeated as a goal worth achieving, and the Catalan jurists' opposition was seen as the main obstacle. Just a few years before the Constitution of Cádiz, the State laws had been compiled in the 1805 *Novísima Recopilación de las Leyes de España*, in accordance with the legal compilation model from the *Ancien Régime*. Even though the criminal and trade codes and the Civil Procedure Law had been approved in the nineteenth century, putting an end to the last of the old Catalan laws that had not yet been repealed,¹⁷ the civil codification did not fare well. There was a series of different projects and attempts to draft a Civil Code, the most important one in 1851, which served as the model for subsequent projects. However, they all failed.¹⁸ Drafting a Civil Code was a complex undertaking because it affected family relations, successions, landownership and contracts for exchanges of goods and services. The option of transplanting the French Civil Code, as other countries did, was initially not possible, and the different projects undertaken encountered an array of difficulties, most notably Spain's political instability. The Catalan jurists' opposition to the unification of civil law, with the consequent repeal of Catalan law, has been highlighted as one of the main obstacles to this Spanish codification.¹⁹

This idea of approving a Spanish Civil Code became a constant in nineteenth-century legal life which the Catalan jurists had to endure. Regarding the actual application of Catalan Law, as soon as the Peninsular War ended, the question arose of what the suppletive law in Catalonia was under the terms resulting from the Nueva Planta Decree. In 1815, the Mayor of Figueres forwarded a consultation to the *Reial Audiència* [Appellate Court] on whether in the absence of specific regulation of the Constitutions and other laws of Catalonia, the laws of Castile or the traditional Canon and Roman law should be applied as suppletive, which were the ones Catalan jurists claimed in practice. This doubt posed to a foreign judge who was supposed to act in Catalonia gave rise to a series of reports and opinions on the issue at the request of the Council of Castile.²⁰ The different possible options regarding one of the most pressing issues in the survival of Catalan law hovered over the rest of the nineteenth century.

Of all the reports written, the one by four Catalan lawyers stands out: they openly expressed their support for traditional suppletive law remaining in force and outlined the main institutions of Catalan civil law, which distinguished it from Castilian law and were widely applied in the Principality. First, they asserted this general application in the practice of received Roman law, along with Canon law. Furthermore, they affirmed the validity of the principle of freedom when making a last will and testament; differences in kinds of wills; the acceptance of succession agreements; the compulsory one-quarter share for all children, which could be paid in cash; widows' rights; intestate succession; the validity of the system of separation of property within marriage; relations among neighbours stemming from the medieval regulations; emphyteusis or 'censuses' as a system for landownership and use; and many other matters, in addition to reaffirming the sense of justice or equity that informed Catalan law.²¹ The defence of the application of these ages-old institutions that were the hallmarks of Catalan law, along with the general application of Roman law and some elements of Canon law, were the foundations of the Catalans' claims during the years leading up to the codification process that had to be undertaken.²²

Later, after the Supreme Court was created in 1834, it confirmed the validity of the traditional suppletive laws. However, that did not prevent the issue of which civil law was applicable to Catalonia from being questioned periodically. Furthermore, the application of Catalan law gradually eroded due to the lack of institutions of self-governance and the inability to produce its own laws.²³ The general State laws approved after the Nueva Planta Decree were also applicable in Catalonia, whereas Catalan law had been left with no possible way of developing. However, we should highlight the importance of notaries in the survival of Catalan law, and even in the use of the Catalan language, unlike in the judicial sphere, where the Nueva Planta Decree banned the language.²⁴

Even though no important monographic legal works on Catalan law were published in the eighteenth century, this changed in the first half of the nineteenth century with the start of the seminal work by Pere Nolasca Vives i Cebrià (1794-1874) in 1832. The purpose of his work was to make Catalan law accessible by translating into Spanish texts from the Constitutions and other laws of Catalonia that could be considered valid, written in what was considered old Catalan.²⁵ The translation was accompanied by extensive notes explaining Catalan law, another major contribution of this work. Other monographic works on Catalan law began to appear soon thereafter and became extraordinarily important in its survival and application in practice.²⁶ Furthermore, Catalonia claimed its legal and institutional past any chance it could during this period, and it even asked for its law to be reinstated or for a return to the situation prior to the Nueva Planta Decree, such as in the texts of the 1760 and 1885 *Memorials de Greuges* and the 1892 *Bases de Manresa*, among many

others.²⁷ Despite the time that had elapsed, almost 150 years by then, the memory of the lost institutions was still quite vivid.

THE APPROVAL OF THE SPANISH CIVIL CODE AND THE CATALAN LAW ANNEXE

After several futile attempts, the first edition of the Spanish Civil Code (CC) was approved in 1888. It then underwent a major revision based on the mistakes detected, giving rise to the second definitive version in 1889. The CC was drafted drawing from a Bases Act dated 11 May 1888, which authorised the Spanish government to publish the Civil Code according to the conditions and bases established. The approval was the outcome of a long, complex, fraught process initiated with the purpose expressed in the 1812 Constitution of Cádiz. The Spanish codifying process had many different phases, but it became the source of prominent political disputes. This delay in the approval of the CC, unlike in nearby countries, was sometimes viewed as Spain's failure, attributed many different causes, with political instability and the necessary transformation of the landownership system with the disentailment process, and especially the opposition of the Catalan jurists, regarded as the determining factors.²⁸

For Catalan law, the approval and validity of the Spanish Civil Code signalled a very important change compared to the prior state of affairs, in which neither legal system was codified. This had both positive and clearly negative aspects. In a positive sense, it entailed giving up the idea of the immediate unification of all civil law in the State, with the consequent repeal of Catalan civil law. According to article 5 of the Bases Law of 1888, article 12 of the approved CC maintained the integral validity of Catalan civil law, both the specific applicable legal institutions and the entire system of sources, notably Canon and Roman law as suppletive, albeit with preference for the new CC.²⁹ On the other hand, even though the idea of a single civil code had to be tabled for the time being, there were future plans for Annexes in the CC of the regional civil legal systems, which were called the 'common' legislation. The regional civil law systems in the State were not abolished, but the goal was to conserve them as specialities or unique institutions in specific laws which would complement the general or common civil code for the entire State. The good news was that this would allow new Catalan civil laws to be enacted and formulated in a modern fashion. However, it also entailed its reduction to a series of unique institutions, banishing the idea of Catalonia's own legal system by stripping it of its tradition system of sources. Ultimately, while awaiting all of this to happen, Catalan law subsisted in its traditional formulation from 1704, with the application of Roman law and local law formulated in outdated language in books that were largely unavailable to practising jurists. This stood in contrast to the State civil law, which had been codified in a

modern, clear and precise fashion, so the knowledge and application of codified State law spread quickly, at the expense of Catalan civil law.

Despite the 1889 Spanish Civil Code's clarity regarding the validity of Catalan civil law with its system of sources, conflicts in its practical application by the courts were in no way a thing of the past. During the nineteenth century, a series of private laws were enacted that affected the scope of Catalan civil law. They include the Mortgage Act of 1861, the Notary Act of 1862, the Civil Marriage and Civil Registry Acts of 1870 and the Civil Procedure Acts of 1855 and 1881, in addition to the Commercial Codes from 1829 and 1885. Their general validity in the State sparked a controversy over the continued application of Catalan law as it was known until then by practising jurists. In the application of these and other laws, the position of the courts, especially the Supreme Court, was not always favourable to Catalan civil law, which generated staunch opposition from the Catalan jurists. Of the many controversies that arose due to the co-application of State and Catalan law, prominent cases are those on people's civil vicinity and the validity of the 1835 *Ley de Mostrencos* [Act on Acquisitions of the State] in intestate successions in Catalonia. These conflicts were further aggravated with the entry into force of the CC.³⁰

The Catalan jurists had salvaged Catalan law from the blow of the 1889 CC, but it had only been provisionally or temporarily maintained, with the sidenote '*por ahora*' [for now] in article 12. The regional civil law systems were not being repealed yet and were also supposed to be the subject of modernised regulation in new legal texts with articles, called *Apèndixs* [Annexes] to the CC, which were only supposed to contain the institutions of the regional civil law systems deemed worth conserving, with a clearly reductionist aim. The Annexes were a compromise solution between the stances for and against the codification and unification of civil law in Spain. The regional civil law systems that were supposed to have an Annexe were those of the former territories of the Crown of Aragon—Catalonia, Aragon and the Balearic Islands, with the exception of the Valencian Country—as well as Navarra, the Basque Country and Galicia.

Regarding Catalan law, the jurist Manuel Duran i Bas (1823-1907), a professor at the University of Barcelona, a lawyer and a minister of justice, among other posts, had made a compilation of regulations in his *Memoria acerca de las instituciones del Derecho civil de Cataluña*, published in 1883. This *Memoria* was preceded by an extensive introduction and contained 345 articles. Based on this text, numerous drafts of Annexes to the Civil Code for Catalonia were drawn up as legal texts with articles.³¹ Officially, a committee of jurists was assembled to write this Annexe, but an official project, based on Duran i Bas's *Memoria*, was not published until 1930. It should be noted that the majority of Catalan jurists were not very enthusiastic about the Annexe project, given that it meant the reduction of Catalan law, the repeal of the sys-

tem of traditional sources and its conversion into a series of specialities within the CC. With the approval of the Annexe, Catalan law was clearly going to lose its substantiveness.³²

THE MANCOMUNITAT DE CATALUNYA AND THE OFICINA D'ESTUDIS JURÍDICS

With the 1914 creation of the Mancomunitat de Catalunya, the first somewhat stable modern institution of self-governance since 1714, a Catalan institution was finally able to work on Catalan civil law. The Mancomunitat set up the Oficina d'Estudis Jurídics [Office of Legal Studies] in 1918 and placed the jurist Francesc Maspons i Anglès (1872-1966) at the helm. As one of the Mancomunitat's consultative bodies, it produced different monographic studies on Catalan law and issued reports and opinions. This office was created after the Institut d'Estudis Catalans in 1907, which also produced studies on Catalan law, along with other initiatives related to Catalan language and culture.

One important study from the office was the report entitled *El dret català i la codificació* [Catalan Law and Codification], which came out clearly against the approval of a Catalan Law Annexe in the CC due to its reductionist nature and instead advocated an extensive codification of Catalan civil law with the idea of approving Catalonia's own Civil Code.³³ The creation of the Oficina d'Estudis Jurídics was the *Renaixença*'s projection in the field of law

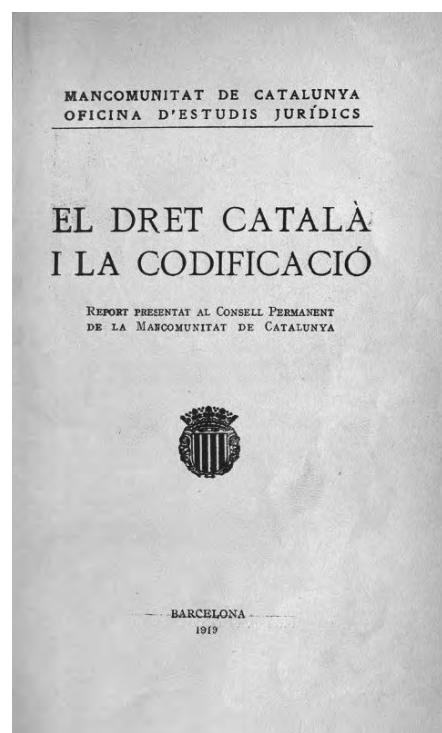


FIGURE 2. The study on Catalan law developed by the Oficina d'Estudis Jurídics [Office of Legal Studies] of the Mancomunitat in 1919.

and an expression of the renewed importance of legal studies in Catalonia in defence of the survival of Catalan civil law. A key role in this effort was played by the journal *Revista Jurídica de Catalunya*, founded by the Col·legi d'Advocats de Barcelona and the Acadèmia de Jurisprudència i Legislació de Barcelona in 1895, two institutions that had long spearheaded the defence of Catalonia's own law. Within this context, the first proposed Statute of Autonomy was drafted in 1919.

At the turn of twentieth century, studies on Catalan civil law started to blossom in Catalonia and served as the foundation for the claims to maintain it as opposed to the unifying, centralistic drive of the State government. The doctrines of the historical school of law that emerged in Germany, based on the works of Friedrich Karl von Savigny (1779-1861), had high standing among the Catalan legal community and provided a rationale for maintaining Catalan law and opposing the codification.³⁴ Among the works devoted to Catalan law from those years, three deserve mention due to their breadth and comprehensiveness. The first is the *Història del Dret de Catalunya* by Guillem M. de Brocà i Montagut (1850-1918), which appeared in 1918 and sought to outline both the historical and the current legal system.³⁵ The second is the *Código civil de Cataluña* by Josep Pella i Forgas (1852-1918) from 1916, which compared the articles of the SCC with the Catalan law considered in force and offered a comprehensive exposition of the latter.³⁶ The last one is the *Dret civil vigent a Catalunya* by Antoni Borrell i Soler (1864-1956) from 1923, published by the Mancomunitat's Oficina d'Estudis Jurídics, which outlined Catalan civil law in accordance with the modern framework of comparative law.³⁷ In parallel, we should also mention that in 1909 a facsimile edition of the 1704 book of Constitutions and other laws of Catalonia was issued by the Col·legi d'Advocats de Barcelona, which became the volume that symbolised and underpinned the survival and revival of Catalan law.

THE RESTORATION OF THE GENERALITAT AND THE 1932 STATUTE

The proclamation of the Catalan republic by Francesc Macià on 14 April 1931 led to the restoration of the Generalitat as Catalonia's institution of self-governance. The 1932 Statute of Autonomy, called the Statute of Núria, recognised the Generalitat's authorities in civil law, in accordance with the provisions of the 1931 Constitution from the Second Spanish Republic. After two long centuries, Catalonia had won back its legislative authorities and self-governance, so the Parliament of Catalonia was able to enact legislation in both public and private law and start building the Catalan institutional system.

The restoration of the Generalitat and the recognition of its broad regulatory powers in civil law entailed a paradigm shift compared to the immediately preceding state

of affairs, most notably the preceding dictatorship from 1923. Not only was the idea of unifying civil law in the State abandoned, but the Generalitat was also assigned the authority to enact civil laws without the constraints that had bound it until then. Even though it did not have full authorities, and certain matters were reserved exclusively for State lawmaking, the regulatory provisions paved the way for the Generalitat to legislate in civil law, so could enact its own policies in these matters.³⁸ The task facing the Generalitat to update civil law was enormous. First, it had to formulate its own law in accordance with modern legislative techniques and in updated language, while it also had to adapt the existing regulations to the new political, social and economic circumstances. With this purpose in mind, in 1932 the government of the Generalitat created the Comissió Jurídica Assessora [Legal Advisory Board], made up of prestigious jurists.³⁹

The government tasked the Board with coming up with draft legislation in public and private law, which would later be subject to approval by the Parliament of Catalonia.⁴⁰ Regarding civil law, the idea of approving the text of the Civil Code Annexe was abandoned, and the Generalitat chose instead to develop civil law via special laws, with its sights set on the future approval of a Civil Code of Catalonia. Catalonia's First Legal Conference held in 1936 issued an opinion on this. However, just like many other projects in those prodigious years, it would have to wait for better times.

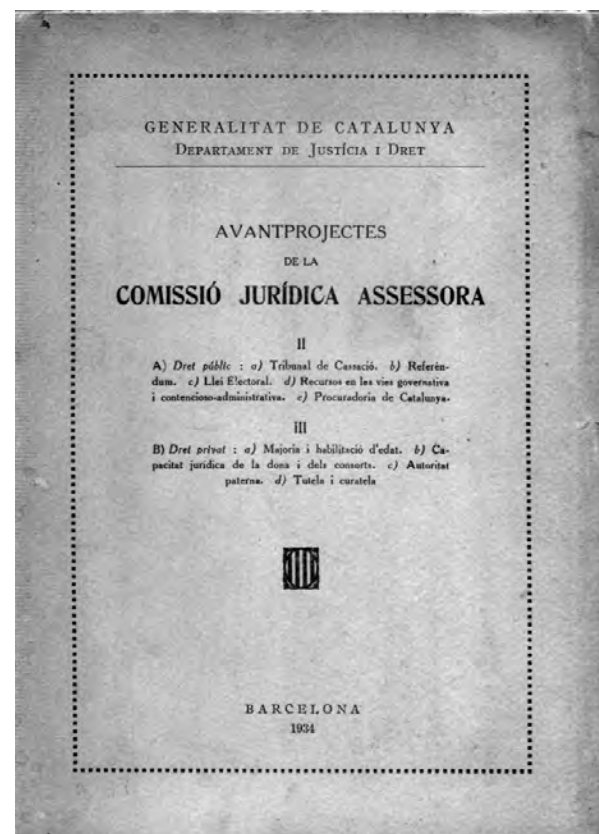


FIGURE 3. The draft bills of the Comissió Jurídica Assessora [Legal Advisory Board], published in two volumes in 1933 and 1934.

In civil law matters, the Parliament approved different laws that were extraordinarily important at the time. They include the Act on Majority and Authorisation of Age, dated 8 January 1934, which set the age of majority at 21, considerably younger than the age of 25 in Roman law and 23 in the CC. The Act on the Legal Capacity of Women and Spouses, dated 19 June 1934, signalled a major milestone in recognition of equality between men and women and was highly advanced for its time compared to other countries. The Act on Intestate Succession, dated 7 July 1936, established an order of succession that especially bore in mind the position of the widowed spouse. On another front, on 11 April 1934 the Parliament approved the Act on Rural Contracts, which addressed the issue of conflicts between the peasants who farmed the land and the landowners and allowed forced acquisition for the former in exchange for an indemnity. Due to its nature as agrarian reform legislation, this law was challenged in the Court of Constitutional Guarantees, the equivalent of the Constitutional Court at the time, which determined that the Generalitat did not have the authority to approve it, given that it was a social matter. Nonetheless, the Generalitat once again approved the law on 14 June 1934. The conflict over this rural contract law was at the root of the Events of 6 October 1934, which led to the declaration of the Catalan State. This, in turn, entailed dismissals and prison sentences for members of the government of the Generalitat and the suspension of the Catalan Statute until the victory of the Front d'Esquerres in February 1936 (Frente Popular in Spain), which stipulated amnesty for the Catalan politicians.⁴¹

The civil law efforts of the republican Generalitat inspired subsequent legislation, both the 1960 Compilation of Special Civil Law of Catalonia and that of the Parliament of the Generalitat Catalonia, which was reinstated in 1977. The Comissió Jurídica Assessora was dissolved via a decree dated 24 August 1936, and other government advisory committees on legal matters were established in its stead.⁴² The Parliament of Catalonia did not approve any acts during the Spanish Civil War, and the equivalent regulations were approved directly by the government of the Generalitat given the exceptional circumstances. Finally, the republican regional institutional system called for the creation of the Generalitat's own court to resolve appeals for cassation in Catalan civil law, along with other matters. This court was called the Tribunal de Cassació of Catalonia and it operated from 1934 until 1938.⁴³

THE 1960 COMPILATION OF SPECIAL CIVIL LAW OF CATALONIA

Once Franco's troops entered Catalan territory via Lleida, the new regime's authorities repealed the 1932 Statute with the Act dated 5 April 1938. This Act regarded the Statute as '*en mala hora concedido por la República*' [granted by the Republic at a low point] and determined that it had ceased being in force since the coup d'état on

17 July 1936. The Act stipulated that the legislative and executive powers befitting it were given back to the State as they were '*en los territorios de derecho común*' [in the Spanish common law territories]. The war did not end in Catalonia until February 1939. In addition to this general 1938 Act, specific legislation for Catalan civil law was approved on 8 September 1939 which sought to rescind all the acts, provisions and doctrines issued by the Parliament of Catalonia and the Tribunal de Cassació.⁴⁴

These two provisions expressed the Civil War victors' goal of eliminating any work by the republican Generalitat and reverting back to the state of affairs prior to the proclamation of the Second Republic and the restoration of the Generalitat. Even though the institutions of the Generalitat remained alive in exile, Catalonia's institutional system established with the 1932 Statute was dismantled. Regarding civil law, the regional legislation had been repealed and the new regime sought to erase the memory of the jurists who had applied it. That meant that the issue of regional civil legal systems was once again in flux and had to be dealt with. In 1946, a Congreso Nacional de Derecho Civil [National Civil Law Conference] was held in Zaragoza, authorised by the Ministry of Justice and organised by the Consejo de Estudios de Derecho Aragonés. The conference's conclusions included drafting 'compilations' of the civil law institutions called '*foral*'. These compilations were supposed to contain the regional civil law systems in force deemed worth conserving and adapt them to the present time. Once the compilations were published, disseminated and studied, the way to proceed towards the approval of what was called the *Código general de derecho civil español* [General Spanish Civil Law Code] would have to be determined.⁴⁵

A commission of Catalan jurists, including notaries, scholars, lawyers and judges, some of whom had actively participated in the defence of Catalan law in the past, was set up in 1948 with the purpose of drafting this Compilation, in accordance with the regulatory provisions approved. The initial work was based on the 1930 draft Annex to the CC, which, in turn, had been based on Duran i Bas's original *Memòria*. The commission came up with an initial preliminary compilation in 1952. This text later underwent a major overhaul to make it more ambitious, giving rise to a new text known as the 1955 Draft Compilation, which was more extensive and comprehensive and regulated the traditional institutions of Catalan civil law in a more modern fashion. This 1955 Draft Compilation was trimmed back as it passed through the State institutions, but it served as the inspiration for laws approved during the democratic period after the reinstatement of self-governance. The notary Ramon M. Roca Sastre (1899-1979), the former magistrate in the Tribunal de Cassació de Catalunya and a member of the republican Generalitat's Comissió Jurídica Assessora, played a very important role in drafting it.⁴⁶

The *Compilación del derecho civil especial de Cataluña* [Compilation of Special Civil Law of Catalonia] was ap-

proved as a State Law on 21 July 1960, a major milestone in contemporary Catalan civil law. This legal system was then compiled in a legal text with articles, that is, a single law drafted in modern language with a structure and systematics on par with the civil codes in comparative law.⁴⁷ The Compilation regulated the core institutions in Catalan law in practice, like the marital property regime, the law of successions and the institutions of patrimonial law. Still, given that it was a special legal system, it was an incomplete, fragmentary legal text and therefore far from the objectives expressed by the Catalan jurists in the past. It was approved within the context of a dictatorship and Catalonia's lack of freedom and self-governance and had a clearly conservative bias from different perspectives. It was conservative in a positive sense in that the compilers sought to conserve the Catalan civil laws they deemed valid, without adding any special innovations. Yet the conservative nature of the Compilation was also reflected specifically in the regulation of family law, which was clearly discriminatory for women and family outside of marriage, in line with the new political regime.

However, the compilers wanted to preserve the idea of Catalan law as a complete legal system, as it had been in the past, to the fullest extent possible. In addition to containing as many institutions as possible, it harnessed two important legal techniques to achieve this. First, it coined the notion of the Catalan legal tradition in article 1, which sought to avoid the indiscriminate application of the CC as suppletive law. It allowed this tradition, embodied in the old laws, customary law and doctrine, to be used to interpret the compiled law.⁴⁸ Secondly, the Compilation used the technique of substitution. Instead of repealing all the preceding laws, it claimed that the compiled laws substituted them; that is, they took their place under the terms of what was called *iuris continuatio*. In practice, however, the old laws were repealed, and traditional suppletive law was, too, but—with their sights set on the future—the technique of substitution was a way of showing that they were not giving up the goal completing Catalan law when it was possible.⁴⁹ The Compilations of Vizcaya and Álava (1959), the Balearic Islands (1961), Galicia (1963), Aragon (1967) and Navarra (1973) were approved around the same time as the Catalan Compilation.

The Compilation was a huge milestone in the application of Catalan law and its study and dissemination in practice.⁵⁰ Within this context, the Duran i Bas Chair devoted to studying Catalan civil law was created at the Universitat de Barcelona in 1962. Likewise, different works on the compiled law began to be published, and it became a topic covered in university classrooms and doctoral theses. One of the many initiatives generated by the Catalan legal system after the approval of the Compilation was the Second Catalan Legal Conference held in the autumn of 1971, in the waning years of the dictatorship, which sought to lay the groundwork for the future development of Catalan law.⁵¹



FIGURE 4. The Second Catalan Legal Conference, held in 1971.

THE REINSTATEMENT OF THE GENERALITAT AND THE EXERCISE OF AUTHORITY IN CIVIL LAW

In September 1977, the State government reinstated the Generalitat de Catalunya, which had been in exile since 1939. The Royal Decree-Law dated 29 September 1977, on the provisional reinstatement of the Generalitat, repealed the law dated 5 April 1938, which had, in turn, repealed the 1932 Statute. With this gesture, the State recognised the institution's historical continuity. On 11 January 1980, a new Statute of Autonomy of Catalonia entered into force, and on 20 March 1980 democratic elections were held for the Parliament of Catalonia. In the interim, the Spanish Constitution had been approved in December 1978. Catalonia once again had its own institutions of self-governance and the power to approve new public and private legislation, through which it could build its institutional system and enact its own policies within the framework of the powers it had been attributed. It should be said that the precise sphere and the delimitation of the powers between the State and the Generalitat have been the core issue in the exercise of self-governance since the reinstatement of the Generalitat, with the decisive position of the Constitutional Court, which had to issue an explicit opinion based on appeals filed by both the State and the Generalitat. In order to further self-governance and establish the precise sphere of their respective powers, a new Statute was approved in 2006.

After the Generalitat was reinstated and the Statute entered into force, Catalan legislation was no longer restricted exclusively to civil law and was able to encompass a wide range of areas. Today, over its more than 45 years of renewed self-governance, the Generalitat has created an important legal corpus, always as an autonomous region that has to respect the State's powers. Civil law is one of the matters whose powers are divided in both the 1978 Spanish Constitution and the 1979 and 2006 Statutes of Autonomy, which provide a continuous link between Catalonia's legal present and past. The 1978 Constitution guarantees the existence of regional civil le-

gal systems, which require ‘preservation, modification and development’ by the autonomous communities with regard to the State’s powers. The goal of unifying State civil law had clearly been set aside. By virtue of the provisions of the Constitution, in the 2006 Statute Catalonia’s power in civil law was limited only by the matters that the Constitution attributes solely to the State under all circumstances.⁵² Furthermore, the power over civil law is not considered merely a matter of self-governance, given that in the 2006 Statute civil law and language are included under the ‘historical rights’ of Catalan self-governance.⁵³

Regarding civil law itself, in 1984 the Generalitat amended the 1960 Compilation to adapt it to the new constitutional system of rights and freedoms, essentially to the principle of equality and non-discrimination. Furthermore, it included the Compilation in the new Catalan legal system with a version in the Catalan language. Once matters considered pressing had been amended, it began to implement a sweeping programme to amend and develop Catalan law to the maximum extent possible,⁵⁴ given that until then it had had to survive within the reductionist concept of being a set of fragmentary or special institutions. However, this action was met with steadfast opposition from the State government.

In the second half of the 1980s and during the ensuing decade, the Parliament of Catalonia approved a large number of civil acts using different regulatory techniques. The first is called the technique of special acts, in which the articles of the Compilation were directly reformed and replaced with others, and acts with their own substance were approved, that is, acts regulating matters that were only mentioned in the Compilation or that were regulated for the first time in Catalan law. Based on this experience, the idea of the sectoral codification of Catalan law began to be implemented. That is, given the major developments, it was deemed useful to compile all the existing Catalan laws into three sectoral codes, one devoted to succession law, another to family law and the last to patrimonial law. The goal with the approval of these sectoral codes was to leave the Compilation devoid of content so that it could finally be fully repealed. Based on these planned codes, in 1991 the Successions Code was approved, a text that had a major impact in practice, given that it contained comprehensive regulations on this civil law matter, which barred the application of the CC in Catalonia, in addition to the use of the symbolic term ‘Code’. In 1998, the Family Code was approved. This new code could not have the same comprehensive scope as the Successions Code, given that there are matters that the Constitution reserves exclusively for the State, such as the forms of marriage. Regarding patrimonial law, despite the approval of different special acts on that matter, ultimately this code was not approved.⁵⁵

The legislative development of civil law has come with a major resumption of publications and studies on Catalan law, including systematic commentaries on the laws,

university textbooks, monographs and articles in scholarly journals, as well as university instruction on Catalan law in the Catalan language. The increase in the courts’ practical application of this body of law is also worth noting, based on both growth in and knowledge of the legal system. The Tribunal Superior de Justícia de Catalunya, the highest court of cassation on Catalan civil law matters established in 1989, has played a crucial role in this practical application.⁵⁶

THE CIVIL CODE OF CATALONIA

The *Jornada cap a un Codi civil de Catalunya* [Workshop Towards a Civil Code of Catalonia] was held in late 1998, organised by the Department of Justice of the Generalitat, which announced the government project to draft a Civil Code of Catalonia.⁵⁷ With this purpose in mind, Act 29/2002, dated 3 December 2002, was passed, called the First Act on the Civil Code of Catalonia (CCCat). The act had two parts, the first one establishing the bases of the programme to codify Catalan law, and the second approving Book One of the CCCat. Regarding the structure and systematics of the CCCat, it stipulated that it was to have six books and would be approved in phases, with the idea of it being an ‘open code’ in which the different books could be approved successively, not via a single regulatory act. To do this, an innovative decimal system was established for the articles. Book One of the CCCat contains the general provisions, with what are known as the preliminary provisions of Catalan civil law, as well as the regulation of the institution of limitation periods. Book One entered into force on 1 January 2004 and was yet another major milestone in Catalan law because of the symbolic fact that it initiated the existence of a Civil Code and established modern, advanced laws on the matters regulated.

This first act of the CCCat was the subject of an appeal from the State government on the grounds of being unconstitutional, as the State denied the possibility that Catalonia’s civil law can be compiled in a regulation that was called and identified as a Civil Code, which, it claimed, was reserved exclusively for the State.⁵⁸ With the change of government after the March 2004 elections, the appeal was withdrawn, making it possible to carry on with the legislative work of the Civil Code. This codifying effort had been undertaken based on the studies written by experts at the Observatori de Dret Privat [Observatory of Private Law], created in 2000, which served as the aegis of the Comissió de Codificació de Catalunya [Catalan Codification Commission]. Fifteen years of prodigious work elapsed from the approval of the act on Book One in 2002 to the approval of Book Six in 2017, during which the act on Book Five on property rights was approved in 2006, the act in Book Three on legal entities and Book Four on succession law were approved in 2008, and the act on Book Two on the persons and family law was approved in 2010.⁵⁹

The CCCat is currently a far-reaching compilation of Catalonia's civil law which regulates most of the matters that should be in a Civil Code, according to the codifying ideal of the liberal era. This major legislative work has minimised but not fully eliminated two serious, constant weaknesses and threats in Catalan law: the issue of suppletive law and opposition from the State. However, despite the structural weaknesses of Catalan law, it is currently widely applied in practice, studied at universities and the subject of major scholarly works and knowledge transfer. The road travelled over these 300 years since the Nueva Planta Decree, including the approval of the CC, has been highly profitable and illustrates the potential of collective efforts undertaken by Catalan society with determination and a high degree of rigour. We have moved from a Catalan law whose existence has long been threatened to a legal system made up of a modern, high-quality Civil Code, the outcome always sought yet not always easy to achieve throughout this entire 300-year period, a feat worthy of celebration.

NOTES AND REFERENCES

- [1] The book of the *Constitutions y altres drets de Cathalunya, compilats en virtut del Capítol de Cort LXXXI de las Corts per la S.C y R. Majestat del Rey Don Philip IV. Nostre Senyor celebradas en la ciutat de Barcelona any M.DC-CII*. En Casa de Joan Pau Martí y Josep Llopis Estampers. Barcelona 1704, had three volumes, the third of which is devoted to superfluous, contrary and corrected provisions, and on the last page, in the section devoted to the prefaces, it includes the *Antequam* and *Cum Dominus* Usatges. The very last phrase in the entire volume encourages the survival of this law over time, connecting the ideas of finish and start, like an eternal loop: '*E los Usatges que mes lo Senyor Comte començen així*'. Regarding the history of this general compilation of Catalan law and the two preceding ones, see Josep M. FONT I RIUS. 'Estudi introductori'. In: *Constitucions de Catalunya. Incunable de 1495*. Generalitat de Catalunya. Barcelona 1988, pp. XI-CXXXVII; Josep M. PONS I GURI. 'Introducció'. In: *Constitutions y altres drets de Catalunya de 1704*. Generalitat de Catalunya. Barcelona 1995, pp. I-XX, both published as part of the *Textos Jurídics Catalans* collection, whose volumes are accessible online on the website of the Department of Justice of the Generalitat.
- [2] JOAN COROMINES. *Diccionari Etimològic i Complementari de la Llengua catalana. Volum I A - BL*. Curial Edicions Catalanes. Barcelona 1988, p. IX.
- [3] In accordance with Chapter 40 of the Corts of Barcelona of 1599, on '*Del Dret que s'ha de seguir en declarar les causes*', which set the system of sources of Catalan law and established that in the absence of Catalan law, Canon and Roman law and the doctrines of the doctors would be applied. The law applied generally in practice was clearly Roman law, and only in certain very specific cases was Canon law applied, even though normatively the latter was preferential over Roman law.
- [4] The bibliography on the history of Catalan law since the Nueva Planta Decree is currently quite extensive. Given the nature and length of this article, only limited, occasional references will be made to it. Likewise, the complete references on the laws and other legal provisions are not exhaustively included. Regarding general works, the following are essential: Guillem M. DE BROCA I MONTAGUT. *Historia del Derecho de Cataluña, especialmente del Civil, y Exposición de las Instituciones del Derecho civil del mismo territorio en relación con el Código civil de España y la Jurisprudencia*. Herederos de Juan Gili, Editores. Barcelona 1918. Anastatic edition from 1985 within the *Textos Jurídics Catalans* collection published by the Generalitat de Catalunya, with an 'Introducció' by Encarna ROCA I TRIAS and an 'Apèndix bibliogràfic complementari' by Antoni MIRAMBELL I ABANCÓ; Joaquim DE CAMPS I ARBOIX. *Historia del Derecho catalán moderno*. Bosch, Casa Editorial. Barcelona 1958; Lluís PUIG FERRIOL and Encarna ROCA TRIAS. *Fundamentos del Derecho Civil de Cataluña. Tomo I. Introducción al Derecho civil de Cataluña*. Bosch, Casa Editorial. Barcelona 1979; Pablo SALVADOR CODERCH. *La Compilación y su historia. Estudios sobre la codificación y la interpretación de las leyes*. Bosch, Casa Editorial. Barcelona 1985; Ferran BADOSA COLL. 'Introducció'. In: *Manual de Dret Civil Català*. Dir. Ferran BADOSA COLL, Coord. Joan MARSAL GUILLAMET. Marcial Pons. Madrid - Barcelona 2003, pp. 15-98; more recently, Lluís PUIG I FERRIOL. *Reflexions amb motiu del cinquantenari de la Compilació del dret civil de Catalunya: 1960-2010*. Generalitat de Catalunya. Barcelona 2010. The following work is essential in understanding the legal system prior to the Nueva Planta Decree: Víctor FERRO I POMÀ. *El Dret Públic Català. Les Institucions a Catalunya fins al Decret de Nova Planta*. Eumo Editorial. Vic 1987; as well as the overview by Santiago SOBREQUÉS I VIDAL. *Història de la producció del dret català fins al Decret de Nova Planta*. Universitat Autònoma de Barcelona - Col·legi Universitari de Girona. Girona 1981; and Josep SERRANO DAURA. 'Estudio introductorio'. In: *Leyes históricas de Cataluña. Vol I*. Agencia Estatal Boletín Oficial del Estado. Madrid 2024, pp. 1-390.
- [5] Cfr. Víctor FERRO I POMÀ. *El Dret Públic Català*, op. cit., p. 451.
- [6] The Decree was contained in the *Novísima Recopilación de las Leyes de España* from 1805, in Vol. II, Book V on *De las Chancillerías y Audiencias del Reyno: sus ministros y oficiales*, in Section IX on the *Real Audiencia de Cataluña*, dated 16 January 1716, and reference to a prior provision from the preceding 9 October.
- [7] The maintenance of Catalan civil law is considered to originate in the consultations and reports that were made to draft the Nueva Planta Decree, most notably the reports by José Patiño and Francesc Ametller, cfr. Josep M.

- GAY ESCODA. 'La gènesi del Decret de Nova Planta a Catalunya. Edició de la consulta original del "Consejo de Castilla", de 13 de juny de 1715'. *Revista Jurídica de Catalunya* 1982, pp. 7-41 and 261-348.
- [8] Regarding the application of the law by the courts in the eighteenth century, see Santiago ESPIAU ESPIAU and Pere DEL POZO CARRASCOSA. *L'activitat judicial de l'Audiència de Catalunya en matèria civil (1716-1834)*. Generalitat de Catalunya. Barcelona 1996.
- [9] Cfr. Hèctor LÓPEZ BOFILL. *Constitucionalisme a Catalunya. Preludi de modernitat*. Tria Llibres. Barcelona 2009.
- [10] This is clearly reflected in Víctor FERRO I POMÀ. *El Dret Públic Català*, op. cit., p. 450: 'No, les institucions de Catalunya no es neuliren amb el pas del temps ni s'apagaren amb l'absència dels sobirans. Tampoc no s'enrunaren per l'acció de forces internes que les haguessin minades i dutes al col·lapse, sinó que caigueren derrotades pel pes superior de les armes estrangeres' [No, the institutions of Catalonia did not languish over time, nor were they snuffed out by the absence of sovereigns. Nor were they wrecked by the action of internal forces that undermined them and brought them to the brink of collapse; instead, they fell defeated by the superior weight of foreign weapons.].
- [11] Cfr. Maurici PÉREZ SIMEÓN. 'Censura i autocensura a l'obra de Josep Finestres'. *Ius Fugit 2004-2006*, pp. 77-93, p. 92, for the specific project of writing a history of Catalan law, which was abandoned due to possible retaliation.
- [12] Cfr. Víctor FERRO I POMÀ. *El Dret Públic Català*, op. cit., p. 457, who asks how the conception of law could possibly have changed in such a brief period of time.
- [13] Cfr. Joaquim DE CAMPS I ARBOIX. *Historia del Derecho catalán moderno*. op. cit., p. 29; Lluís PUIG FERRIOL and Encarna ROCA TRIAS. *Fundamentos del Derecho Civil de Cataluña*, op. cit., p. 91.
- [14] About Josep Finestres and the Universitat de Cervera from the legal standpoint, see Maurici PÉREZ SIMEÓN. 'Estudi introductori, traducció, notes i índex'. In: Josep FINESTRES I DE MONSALVO. *Praelectio Cervariensis sive commentarius accademicus ad titulum Pandectarum de vulgari et pupillari substitutione*. Anastatic edition of the text published in Cervera in 1752 as part of the *Textos Jurídics Catalans* collection published by the Generalitat de Catalunya. Barcelona 2005, pp. 17-51; Josep D. GUÀRDIA CANELA. 'Josep Finestres i de Monsalvo i el Dret de Catalunya'. In: *Annals de l'Acadèmia de Jurisprudència i Legislació de Catalunya III* 2014, pp. 77-96.
- [15] This is one of the most interesting aspects from those years from the standpoint of private law; the *Code Napoléon* was even translated into Catalan, although this translation has never been located. It should be borne in mind that this French CC was used as an example for many subsequent European codifications, notably Spain's over the years. On this topic, see Pedro DEL POZO CARRASCOSA. 'La introducción del derecho francés en Cataluña durante la invasión napoleónica'. In: Ed. Johannes-Michael SCHOLZ. *El tercer poder. Hacia una comprensión histórica de la justicia contemporánea en España*. Vittorio Klostermann. Frankfurt am Main 1992, pp. 189-213; Albert LAMARCA I MARQUÈS. 'L'Administració de Justícia a Catalunya durant l'ocupació napoleònica (1808-1814). La traducció al català del *Code*'. *Pedralbes. Revista d'Història Moderna* 1995, pp. 279-307.
- [16] Article 258 of the 1812 Constitution stated: '*El Código civil y criminal y el de comercio serán unos mismos para toda la Monarquía, sin perjuicio de las variaciones, que por particulares circunstancias podrán hacer las Cortes*' [The Civil and criminal code and the commercial code shall be the same for the entire Monarchy, notwithstanding the variations that the Parliament may allow due to particular circumstances]. The same idea had previously been stated in article 96 of the 1808 Bayonne Statute: '*Las Españas y las Indias se gobernarán por un solo Código de las leyes civiles y criminales*' [Spain and its American colonies shall be governed by a single civil and criminal legal code].
- [17] On the procedural law that survived after the Nueva Planta Decree, see Jordi NIEVA FENOLL. 'El procés jurisdiccional català entre 1714 i 1835. Breu ressenya històrica'. *Revista de Dret Històric Català* 2004, pp. 29-89.
- [18] Specifically regarding the 1851 project, see Pablo SALVADOR CODERCH. 'El Proyecto de Código Civil de 1851 y el Derecho civil catalán'. In: ID. *La Compilación y su Historia*, op. cit. pp. 7-133; see, too, Lúdia ARNAU RAVENTÓS. 'El moviment codificador de mitjan segle XIX: la defensa del dret propi des de Barcelona'. *Barcelona Quaderns d'Història* 2004, pp. 203-217.
- [19] Cfr. Antoni MIRAMBELL I ABANCÓ. 'Escoles jurídiques catalanes i codificació', op. cit., p. 72 and forward; Ferran BADOSA COLL. 'Introducció', op. cit., p. 29; Lluís PUIG I FERRIOL. *Reflexions amb motiu del cinquantenari de la Compilació del dret civil de Catalunya: 1960-2010*, op. cit., p. 24.
- [20] This has been explored by scholars like Pere DEL POZO CARRASCOSA. 'L'aplicació del dret civil català a l'Audiència de Barcelona a la segona meitat del segle XIX'. In: *Materials V Jornades de Dret català a Tossa. Cent anys del Codi Civil des de Catalunya*. Ed. CÀTEDRA DE DRET CIVIL CATALÀ 'DURAN I BAS' UNIVERSITAT DE BARCELONA. Promociones Publicaciones Universitarias, Barcelona 1990, pp. 5-45; M. DE BROCÀ, *Historia del Derecho de Cataluña*, op. cit., p. 428; Ferran BADOSA COLL. 'Introducció', op. cit., p. 23. Regarding the 'alcaldes mayores', see Rafael CERRO NARGÁNEZ. 'La nómina de los alcaldes mayores de cataluña (1717-1834)'. *Ius Fugit* 1999-2000, pp. 45-74, p. 46 describes them as follows: '*Los alcaldes mayores eran jueces ordinarios de origen castellano, impuestos por la fuerza, y por lo tanto ajenos a su ordenamiento jurídico-foral*' [The *alcaldes mayores* were ordinary judges from Castile imposed by force and therefore outside their legal-foral system], although in his work he demonstrates that some of them were Catalans educated at the Universitat de Cervera, '*a pesar de la voluntad regia por castellanizar la magistratu-*

ra. Pero la distancia, el desconocimiento de la lengua y derecho civil catalán (no abolido) o el escaso salario fueron suficientes incentivos para disuadir a letrados foráneos de servir en varas del país durante mucho tiempo' [despite the royal aim to Castilianise the magistracy. However, distance, lack of knowledge of the Catalan language and civil law (not abolished) and low salaries were enough incentive to dissuade lawyers from elsewhere from serving as judges for much time].

- [21] The 1818 report is transcribed and reproduced in its entirety, along with the others that gave rise to the consultation, in Bienvenido OLIVER. *Estudios históricos sobre el Derecho civil en Cataluña*. Librería Española - Librería El Plus Ultra. Madrid - Barcelona 1867, p. 71; specifically, the lawyers claim the validity of Catalan law: '¿Qué inconvenientes, qué transtornos no resultarían a las familias en la derogación de estas costumbres, conservadas siglos hasta nuestros días! Ellas han sido el origen de nuestras habi-tudes, ellas son obra de la experiencia y de la observancia: ellas son adaptadas al carácter y a la situación del país y han sido hasta ahora el apoyo a la propiedad, la garantía de la paz y la tranquilidad de las familias; dulces objetos que buscan los hombres a la sombra de la legislación' [What inconveniences, what upheaval would come to the families by the repeal of these customs, conserved for centuries until today! They have been the origin of our habits; they are the outcome of experience and obser-vance; they are adapted to the character and situation of the country and until now have been the support for property, the guarantee of peace and families' peace of mind; sweet objects that men seek through legislation] (p. 81). The book also contains the report drawn up by Dr Ramon Llàtzer DE DOU I DE BASSOLS, on suppletive law, which actually states: 'tanta repetición de Constitu-ciones, de práctica de costumbres y de naturales en diferen-tes leyes, no parece que pueda dejar de obedecerse por la débil razón de que diez, veinte ó treinta Jueces que deben venir de fuera han de instruirse con los libros del país' [so much repetition of Constitutions, of the practice of own and customary law in different laws, cannot cease to be obeyed due to the weak reason that ten, twenty or thirty Judges who come from the outside should study the books of the country] (p. 106).
- [22] It is important to recall that this widespread application of Roman law, along with the unique institutions of Cat-alan civil law, often occurred similarly in other European territories. One example is Friedrich Carl VON SAVIGNY's 1840 publication of his celebrated eight-volume work *System des heutigen römischen Rechts* [System of Modern Roman Law] applied to the German territories, a work that was widely disseminated and published in a Spanish translation in 1878-1879, with a prologue by Manuel DURAN I BAS.
- [23] For a detailed examination of the issue of 'jutge de fora' and the use of Catalan law in the second half of the nine-teenth century, see Pere DEL POZO CARRASCOSA. 'L'aplicació del dret civil català a l'Audiència de Barcelo-na a la segona meitat del segle XIX', *op. cit.*, p. 21 and forward.
- [24] Joan EGEA FERNÀNDEZ and Joan MARSAL GUILLAMET. 'L'aportació dels notaris a la ciència jurídica catalana (se-gles IX a XIX)'. In: FUNDACIÓ NOGUERA. *Actes del I Con-grés d'Història del notariat català*. Barcelona 1994, pp. 277-320.
- [25] Pedro Nolasco VIVES Y CEBRIÀ. *Traducción al castellano de los Usages y demás derechos de Cataluña que no están derogados o no son notoriamente inútiles, con indicación del contenido de éstos y de las disposiciones por las que han venido a serlo, ilustrada con notas sacadas de los más clásicos autores del Principado*. Librería de Emilio Font - Librería del Plus Ultra. Madrid - Barcelona 1861, 2nd ana-static edition within the *Textos Jurídics Catalans* collec-tion published by the Generalitat de Catalunya - Parlament de Catalunya. 2nd ed. Barcelona 2010, with an 'Estudi in-troductorio' by Joan EGEA I FERNÀNDEZ, pp. XI-LII, and 'Notes de la segona edició facsimilar' by Ferran BADOSA I COLL, pp. XI-XXIV.
- [26] We should also mention the *Manual del Derecho civil vi-gente en Cataluña* by José Antonio ELIAS and Esteban DE FERRATER, published in 1843. For other subsequent works from the period, see Guillem M. DE BROCA, *Histo-ria del Derecho de Cataluña*, *op. cit.*, p. 459; Joaquim DE CAMPS I ARBOIX. *Historia del Derecho catalán moderno*. *op. cit.*, p. 228.
- [27] Cfr. *Memorial de Greuges de 1760. Projecte de Constitució de l'Estat català de 1883. Memorial de Greuges de 1885. Missatge a la Reina regent de 1888. Bases de Manresa de 1892*. Anastatic edition within the *Textos Jurídics Cata-lans* collection published by the Generalitat de Catalun-ya. Barcelona 1990, with an 'Estudi introductorio' by Josep A. GONZÁLEZ CASANOVA, pp. XI-XL.
- [28] This complex, laborious process has been the subject of many studies; see primarily Juan BARÓ PAZOS. *La codifi-cación del derecho civil en España (1808-1889)*. Editorial de la Universidad de Cantabria. Santander 1993.
- [29] Respect for suppletive laws was crucial for the survival of Catalan law, which could not be understood without it, as graphically explained by Lluís PUIG I FERRIOL. *Reflex-ions amb motiu del cinquantenari de la Compilació del dret civil de Catalunya: 1960-2010*, *op. cit.* On page 22 he says that 'pels juristes catalans, salvar el dret romà era sal-var el dret català' [for the Catalan jurists, saving Roman law was tantamount to saving Catalan law].
- [30] About these and other conflicts, Joaquim DE CAMPS I ARBOIX. *Historia del Derecho catalán moderno*. *op. cit.*, p. 140; Ferran BADOSA COLL. 'Introducció', *op. cit.*, p. 32; Lluís PUIG I FERRIOL. *Reflexions amb motiu del cinquan-tenari de la Compilació del dret civil de Catalunya: 1960-2010*, *op. cit.*, p. 29.
- [31] Lluís PUIG FERRIOL and Encarna ROCA TRIAS. *Funda-mentos del Derecho Civil de Cataluña*, *op. cit.*, p. 80.
- [32] Both Duran i Bas's *Memòria* and the official project of the 1930 Annexe were published in *Projecte d'apèndix i materials precompilatoris del Dret civil de Catalunya*.

- Generalitat de Catalunya. Barcelona 1995, with an 'Estudi introductori' by Antoni MIRAMBELL I ABANCÓ and Pau SALVADOR CODERCH, pp. XI-XXXII.
- [33] MANCOMUNITAT DE CATALUNYA. OFICINA D'ESTUDIS JURÍDICS. *El dret català i la codificació. Report presentat al Consell Permanent de la Mancomunitat de Catalunya*. Imprenta de la Casa de la Caritat. Barcelona 1919. See Albert BALCELLS, Enric PUJOL and Jordi SABATER. *La Mancomunitat de Catalunya i l'autonomia*. Proa. Barcelona 1996, p. 484.
- [34] In this sense, there has been mention of a 'Escola jurídica catalana' [Catalan Legal School]; cfr Antoni MIRAMBELL I ABANCÓ. 'Escoles jurídiques catalanes i codificació'. In: *Materials V Jornades de Dret català a Tossa. Cent anys del Codi Civil des de Catalunya*, op. cit., pp. 49-94; Lluís PUIG I FERRIOL. *Reflexions amb motiu del cinquantenari de la Compilació del dret civil de Catalunya: 1960-2010*, op. cit., p. 21.
- [35] Guillem M. DE BROCÀ I MONTAGUT. *Historia del Derecho de Cataluña, especialmente del Civil, y Exposición de las Instituciones del Derecho civil del mismo territorio en relación con el Código civil de España y la Jurisprudencia*. Herederos de Juan Gili, Editores. Barcelona 1918, op. cit.
- [36] Josep PELLA I FORGAS. *Código civil de Cataluña. Exposición del Derecho catalán comparado con el Código civil español*. IV Toms. J. Horta Impresor. Barcelona 1916-1918.
- [37] Antoni BORRELL I SOLER. *Dret civil vigent a Catalunya*. V Volums. Mancomunitat de Catalunya. Oficina d'Estudis Jurídics. Impremta de la Casa de Caritat. Barcelona 1923.
- [38] The talks compiled in the volume *Conferències sobre l'Estatut*. Acadèmia de Jurisprudència i Legislació de Catalunya, Barcelona 1933, were very valuable in terms of the different legal possibilities afforded by the Statute.
- [39] The Board's history was reported in the book by Enric ARGULLOL I MURGADAS, Tomàs FONT I LLOVET, Manuel GERPE LANDÍN, Oriol MIR I PUIGPELAT and Clara VELASCO RICO. *La Comissió Jurídica Assessora de la Generalitat de Catalunya. 75 anys d'història*. Generalitat de Catalunya - Viena Edicions. Barcelona 2011. See, too, Vicenç AGUADO CUDOLÀ. 'La Comissió Jurídica Assessora i l'autonomia de Catalunya durant la Segona República: la creació del sistema polític i institucional d'autogovern'. *Revista Catalana de Dret Públic* 2014, pp. 83-105; Jaume RIBALTA HARO. 'Autonomía y legislación durante la Segunda República en Cataluña. La actividad de la Comissió Jurídica Assessora de la Generalitat Republicana'. In: José M. PÉREZ COLLADOS and Tomàs DE MONTAGUT I ESTRAGUÉS, eds. *Los juristas catalanes y el Estado español*. Cátedra de Cultura Jurídica - Marcial Pons. Madrid - Barcelona 2017, pp. 237-290.
- [40] The different preliminary bills drafted were published in two volumes entitled *Avantprojectes de la Comissió Jurídica Assessora*. Generalitat de Catalunya - Publicacions del Departament de Justícia i Dret. Barcelona 1933 and 1934. A facsimile reproduction was made in 2008 on the seventy-fifth anniversary of the creation of the Committee and the thirtieth since the reinstatement, overseen by the same Comissió Jurídica Assessora.
- [41] Highly illustrative of this are the lawyer Amadeu HURTADO's reflections on his personal experiences. *Quaranta anys d'advocat. Història del meu temps. 1931-1936*. Ariel. Barcelona 1968; and the analysis by Albert BALCELLS. *El problema agrari a Catalunya. La qüestió rabassaire (1890-1936)*. 2nd ed. La Llar del Llibre. Barcelona 1983.
- [42] Cfr. Esther ARROYO I AMAYUELAS and Jaume RIBALTA HARO. 'El dret català en la Guerra civil i la "Comissió Tècnica-Assessora" de la Generalitat de Catalunya'. In: Dir. Ferran BADOSA COLL / Coords. Esperança GINEBRA MOLINS and Elena LAUROBA LACASA, *Estudis de dret català. Llibre homenatge a Antoni Mirambell i Abancó*. Atelier. Barcelona 2022, pp. 83-102.
- [43] The Tribunal de Cassació issued a total of 41 rulings on civil law matters written in Catalan, boasting high technical quality. They were published by Encarna ROCA TRIAS. *El dret català en la jurisprudència*. IV. Anys 1934-1937. Càtedra 'Duran i Bas'. Universitat de Barcelona, 1974; on the Tribunal, see more recently Federico VÁZQUEZ OSUNA. *La justicia durante la Guerra Civil. El Tribunal de Cassació de Catalunya (1934-1939)*. L'Avenç. Barcelona 2009.
- [44] Given that it was deemed that the first act dated 5 April 1938 only referred to the Statute and the administrative system, a new act was needed to complement it in order to explicitly repeal the civil law provisions considered 'far-reaching reforms'. The act stipulated that for Catalonia, would be reinstated 'the existing law in its entirety when the Statute was passed. Furthermore, citations of the rulings of the Tribunal de Cassació were banned and could not be invoked as jurisprudential doctrine in the courts, as if it had never issued rulings.
- [45] For a contemporary Catalan perspective on the Conference, Jorge OLIVAR DAYDÍ, 'El Congreso Nacional de Derecho Civil de Zaragoza'. *Revista Jurídica de Catalunya* November-December 1946, pp. 3-23. See, too, José Maria PASCUAL SERRES. 'Imposibilidad de llegar a la codificación única'. *Revista Jurídica de Catalunya* 1945, pp. 43-80, which includes a text written by 75 Catalan jurists addressed to the Dean of the Col·legi d'Advocats de Barcelona in defence of Catalan law, to be forwarded to the Congress in Zaragoza, which, despite the imminence of the war and repression, stated: '*Por su naturaleza, pues, el Derecho Civil Catalán debe ser respetado en toda su integridad y rechazarse todo intento que pretenda transplantar, extender o restringir sus instituciones, ya que éstas son ajenas a toda idea de intercambio con otras procedentes de los demás derechos civiles hispánicos*' [Due to its nature, therefore, Catalan Civil Law should be respected in its entirety, and any attempt to transplant, extend or restrict its institutions should be rejected, given that they fall outside any idea of exchange with others coming from other Spanish civil laws] (p. 81).
- [46] Of the many texts devoted to the figure of Roca Sastre, we should mention the profile written about him by Josep

- PLA. 'El notari Ramon M. Roca i Sastre i la Compilació del Dret (1899)'. In: *Homenots. Segona sèrie. Obra Completa. Vol XVI*. Editorial Destino. Barcelona 1981, pp. 405-436. The text of the 1955 Compilation project was published in 1956 in the *Revista Jurídica de Catalunya*, and its precepts were mentioned in rulings handed down by the Supreme Court even before it was approved. It has also been reproduced in *Projecte d'apèndix i materials precompilatoris del Dret civil de Catalunya*. Anastatic edition within the *Textos Jurídics Catalans* collection published by the Generalitat de Catalunya. Barcelona 1995, with an 'Estudi introductor' by Antoni MIRAMBELL I ABANCÓ and Pau SALVADOR CODERCH, pp. XI-XXXII.
- [47] See an overview on the fiftieth anniversary of its approval, Juan José LÓPEZ BURNIOL. 'L'impuls polític de la Compilació'. In: Col·legi de Notaris de Catalunya (Ed.). *La Compilació del dret civil de Catalunya. 50è aniversari*. Marcial Pons. Madrid - Barcelona - Buenos Aires 2012, pp. 25-43; Robert FOLLIA CAMPS. 'Significat i importància de la Compilació'. *Ibid*, pp. 183-199; Esteve BOSCH CAPDEVILA. 'La Compilación del Derecho civil especial de Cataluña: génesis, significado y ¿defunción?'. *Ius Fugit* 2009-2010, pp. 181-196.
- [48] On this notion, see the different studies compiled in the volume by Pablo SALVADOR CODERCH. *La Compilación y su Historia, op. cit.*; more recently, Albert LAMARCA I MARQUÈS. 'Comentari a l'art. 111-2 (Interpretació i integració)'. In: Eds. Albert LAMARCA I MARQUÈS and Antoni VAQUER ALOY. *Comentari al Llibre primer del Codi Civil de Catalunya*. Atelier. Barcelona 2012, pp. 47-72.
- [49] The studies of the Compilation by the jurists who participated in developing it and their contemporaries are interesting, such as those contained in ACADEMIA DE JURISPRUDENCIA Y LEGISLACIÓN DE BARCELONA. *Comentarios a la Compilación del Derecho civil especial de Cataluña*. Casacuberta. Barcelona 1961, and especially, Ramon M. ROCA SASTRE, *Estudios de Derecho civil especial de Cataluña*. Bosch. Barcelona 1983.
- [50] On the occasion of the fiftieth anniversary of the approval of the Compilation, scholarly and commemorative events were held, and studies assessing what it meant at the time were published, such as Carles E. FLORENSA TOMÀS (Dir.), and Josep M. FONTANELLES MORELL (Coord.). *La codificación del Derecho civil de Cataluña. Estudios con ocasión del cincuentenario de la Compilación*. Marcial Pons. Madrid - Barcelona - Buenos Aires 2011; Sergio LLEBARÍA SAMPER (Coord.). *Un codi per al dret civil de Catalunya: idealisme o pragmatisme? Estudis en commemoració del 50è aniversari de la Compilació*. José M. Bosch Editor - ESADE. Barcelona 2011; COL·LEGI DE NOTARIS DE CATALUNYA (Ed.). *La Compilació del dret civil de Catalunya. 50è aniversari*. Marcial Pons. Madrid - Barcelona - Buenos Aires 2012. Likewise, a monographic issue was published of the *Revista Jurídica de Catalunya* in April 2010, and in 2010 the *Revista de Dret Històric Català* also published the lectures held by Societat Catalana d'Estudis Jurídics, an affiliate of the Institut d'Estudis Catalans, on the occasion of the fiftieth anniversary of the Compilation.
- [51] The different talks and materials from the conference were published in the voluminous *Llibre del II Congrés Jurídic català*. Fundació Congrés Jurídic Català. Barcelona 1972.
- [52] The scope of this power has been a controversial issue and has led to different clashing stances described as autonomist, foralist and centralist, according to their conception of this power. The second, or foralist, position has won out in the jurisprudence of the Constitutional Court with the theory of 'connected institutions' fleshed out in rulings 88/1993 and 156/1993, which has validated the regulations on civil law approved by the autonomous communities, with specific exceptions. This issue has generated a vast trove of literature, specifically on these last rulings and the doctrine established: Ferran BADOSA COLL. 'La recent jurisprudència constitucional sobre les competències de les comunitats autònomes en dret civil'. *Iuris. Quaderns de Política* 1994, pp. 11-36; Jesús DELGADO ECHEVERRÍA, 'Doctrina reciente del Tribunal Constitucional sobre la competencia legislativa de las comunidades autónomas en materia de derecho civil'. *Ibid* pp. 37-76; Rodrigo BERCOVITZ RODRÍGUEZ-CANO, 'Competencias del Estado y de las comunidades autónomas en materia de legislación civil'. *Ibid*, pp. 77-110. However, neither the State's opposition nor the CC's jurisprudence have substantially hindered the Generalitat's development of Catalan civil law, despite the fact that specific articles have been declared unconstitutional. The Constitutional Court has claimed that the Constitution indisputably guarantees what it calls 'civil forality', that is, the existence of the civil laws of the autonomous regions. The Court has also ruled on the scope of Catalonia's power in ruling 31/2010 on the 2006 Statute, as discussed in many publications, such as Ferran BADOSA COLL, Joan EGEA FERNÁNDEZ and Encarna ROCA TRIAS in the monographic issue of the *Revista Catalana de Dret Públic* 2010, pp. 330-348. The most complex matter to disentangle is the statement in article 149.1.8 of the Spanish Constitution on the 'bases of contractual obligations', given that it appeared in article 15 of the 1931 Constitution. The Constitutional Court ruled on this last power in ruling 132/2019, which is extremely important because it mostly validates the constitutionality of Book Six of the Civil Code of Catalonia on obligations and contracts.
- [53] Article 5 of the 2006 Statute of Autonomy of Catalonia recognises what are called 'historical rights' with the claim that Catalonia's self-governance was also based on historical laws of the Catalan people, its ages-old institutions and the Catalan legal tradition. It also acknowledges that the Generalitat has a unique position in relation to civil law and the language, among other matters.
- [54] When defining this purpose, we should also mention the importance of the symposium held in 1985, published as the *Simposi de Dret Civil de Catalunya. XXV anys de la Compilació*. Generalitat de Catalunya. Barcelona 1989.

- [55] For a chronicle of this evolution, see Josep Maria PUIG SALELLAS. 'El desenvolupament de la competència legislativa en matèria civil'. In: Ed. Universitat de Girona. *L'exercici de les competències sobre dret civil de Catalunya. Materials de les Onzenes Jornades de Dret Català a Tossa*. Tirant lo Blanch. Valencia 2002, pp. 15-54.
- [56] To learn more about the evolution of Catalan law since the reinstatement of the Generalitat, one important source is the *Materials* from the *Jornades de Dret català a Tossa de Mar*, which are organised by the Institut de Dret Privat Europeu i Comparat of the Universitat de Girona and have been published nonstop from the third edition in 1984 to the latest one in 2023, with a volume devoted to *L'aplicació judicial del Codi Civil de Catalunya*. Girona. Documenta Universitaria 2023.
- [57] The talks were published in the book *Jornades cap a un Codi civil de Catalunya*. Generalitat de Catalunya. Barcelona 2000.
- [58] Cfr. Joan EGEA FERNÁNDEZ. 'Codificació civil i competència legislativa de la Generalitat de Catalunya'. *In-Dret* 4/2003; Ferran BADOSA COLL. 'Una anàlisi de l'ordenament civil català. El recurs d'inconstitucionalitat núm. 2099-2003 contra la Llei 29/2002, del 30-XII, Primera Llei del Codi civil de Catalunya'. In: CONSELL CONSULTIU DE LA GENERALITAT DE CATALUNYA I CONSELL DE L'ADVOCACIA CATALANA. *Autonomia i Dret: II Jornada*. Barcelona 2005, pp. 21-62.
- [59] Within the extensive bibliography on the Catalan codification process, see Santiago ESPIAU ESPIAU, 'La codificación del Derecho civil catalán en el proceso de unificación del derecho europeo'. *Derecho privado y Constitución* 2000, pp. 63-128; Miquel MARTÍN CASALS. 'El Codi civil de Catalunya en la cruïlla del dret privat europeu'. *Revista Jurídica de Catalunya* 2002, pp. 633-662; Lluís JOU I MIRABENT. 'El dret català: entre la Compilació i el Codi'. *Revista de Catalunya* 196/2004, pp. 32-61; Antoni VAQUER ALOY. 'El derecho catalán: presente y futuro'. *Revista Jurídica de Navarra* 2008, pp. 69-108; Esther ARROYO I AMAYUELAS. 'Civil Law in Spain is Plural, as Are Its National Civil Codes'. In: *The Making of the Civil Codes. A Twenty-First Century Perspective*, Eds. Michele GRAZIADEI and Lihong ZHANG Springer. Singapore 2023, pp. 31-49; ID. 'Competència autonòmica, competència entre ordenaments jurídics i codificació del dret civil català: un balanç'. *Revista de Dret Històric Catalana* 2010, pp. 167-213. To learn more about the Catalan civil law currently in force, a crucial publication is Joan EGEA FERNÁNDEZ, Josep FERRER RIBA and Esther FARNÓS AMORÓS (Eds.). *Codi civil de Catalunya i legislació complementària*. 17th ed. Atelier. Barcelona 2021.

BIOGRAPHICAL NOTE

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