



*Spain's struggle with a new statute*

# How much power for Catalonia?

BY JOHN BARRASS

**On** March 30, 2006, by a vote of 189 to 154, Spain's lower house of parliament approved a bill that will give more powers to the region of Catalonia. The bill must now go to the Spanish senate, and then return to Catalonia for a referendum.

The act divided Catalonians — although the Catalan legislature voted overwhelmingly in favour of the proposed law. The coming referendum should bring out that debate in full.

The new autonomy bill, known as “the Statute,” had been previously approved by 90 per cent of the Catalan legislature. The Statute would increase funding for Catalonia from the central government and prevent some court cases from being appealed to Spain's highest court.

The Statute was first introduced in the legislature of Catalonia's regional government, now ruled by a left-wing coalition led by the PSC, or Socialist Party of Catalonia. The coalition was elected in November 2003 after 23 years of rule by Jordi Pujol, the former pragmatic leader of the moderate Catalan nationalist party *Convergència i Unió*. Pujol's government was adept at netting many a federal catch in the way of concessions and transferred competencies through bargaining with the Spanish central government under the socialist-led coalition headed by José Luis Rodríguez Zapatero and the former coalition government under conservative José María Aznar. However, hard-line nationalists of the left were still hungry for more recognition of their “nation” status — expressed in terms of history, language and cultural identity — and for larger tax drawbacks.

The proposed reform of Catalonia's Statute of Autonomy was sponsored by the ruling coalition of socialists, hardline nationalists and Greens, led by Pujol's successor, socialist Pascual Maragall, and supported by Pujol's nationalists, at present the main opposition party in the Catalan assembly.

As EU funding for Spain decreases from a torrent to a trickle, Catalonia will receive 2.5 billion fewer Euros, a cash cushion which had thus far helped the assembly finance its programs.

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*Spanish Prime Minister José Luis Rodríguez Zapatero shakes hands with Catalan politicians Joan Saura (left) and Joan Herrera (right).*

The controversial new Statute aims to sustain this level of spending by Catalonia and finance it by contributing less to the central Spanish government, using the argument of the “fiscal deficit” — the money the autonomous communities lack to carry out their services to the public.

This move, critics argue, would turn progressive taxation on its head. Income tax and corporation taxes are paid at the same rates in Catalonia and the region of Extremadura. But Catalonia is one of Spain's wealthier regions. Some

economists claim this region contributes around eight per cent more tax revenue to state coffers than it receives from the central government in services. Though falling short of the new Statute's initial demands, Spanish central government concessions — if the Statute is amended and the law for financing autonomous communities is amended — will allow Catalonia to keep 50 per cent of all income tax and Value Added Tax (VAT) levied in the region and 58 per cent of revenue raised from fuel, tobacco, alcohol and other vices. These percentages will be raised over time to their new higher levels. The agreement could also include an additional sum of three billion Euros in promised public work schemes for Catalonia.

Spain's finance minister, Pedro Solbes, has suggested that the tax-sharing agreement could be extended to other regions. This move would transfer an extra 20 billion Euros a year to regional governments, thereby depleting the Spanish government's finances by 15 per cent.

## ***A “government by the minority”?***

Not everyone is pleased by these measures. The vagaries of parliamentary representation are criticized by the socialist leaders and the conservative opposition alike: Zapatero and his socialists — the *Partido Socialista Obrero Español* or PSOE — are twelve seats short of a majority, so they need the support of the Catalans in Congress in Madrid, and Maragall (26 seats short) needs the hardline nationalists, the *Esquerra Republicana de Catalunya* (ERC) in the Catalan assembly. Thus, by proxy, the Spanish Government is seen to be in thrall to the secessionist ERC. Luis María Anson, founder of *La Razón* newspaper, said that “the Constitution should be redrawn to establish an electoral system whereby a majority of any political stripe isn't subject to nationalist

blackmail." An extreme statement, but it underlines the inordinate power wielded by the ERC, which represents just 16 per cent of the Catalan electorate or 2.5 per cent of all Spanish voters. Anson is a controversial figure on the right in Spain, but his *La Razón* is one of six major Spanish daily newspapers.

Esquerra leader Carod-Rovira took a much tougher stand than assembly President Pujol. Demonised by Madrid's right wing press for holding secret meetings with ETA terrorists in Spain's Basque Country (there are some Spaniards who boycott Catalan goods for this and other reasons), the combative Josep Lluís Carod-Rovira said the new Catalan Statute has been watered down to an unacceptable degree. While Statute proposals were still being bartered in Madrid, Carod-Rovira led a pro-independence march in Barcelona on February 18, under the slogan "We are a nation and have the right to decide." The march organisers claimed a million-strong turnout at the time, but head-count specialists reckoned the crowd numbered a maximum of 70,000.

But the political representatives in Catalonia could be out of sync with the electorate. While 89 per cent of Catalan deputies in the assembly — representing a notional 87 per cent of the electorate — voted on September 30 for the new Statute in the assembly, an opinion poll shortly thereafter found that 49.4 per cent of Catalan respondents did not consider Catalonia a nation, compared with 46.8 per cent who did.

### **Rights, collective and individual**

"The Catalan Statute reform project contains enough elements to strip individual rights of any meaning," wrote political commentator Jorge Vilches. Many legal experts are in agreement. For instance, Francisco José Hernando, president of Spain's High Court and General Judicial Council, has stated that he is "seriously worried" about Statute reform. Some draft demands would be hard to enforce, such as how might Catalan competencies in immigration matters be implemented within the two EU treaties: the Schengen Agreement and the Treaty of Rome?

The Constitutional Court has decided to delay an examination of the Statute while its articles are hammered out by a select committee. If approved by the Constitutional Court, the new Statute will be put to a referendum in Catalonia. Meanwhile, the conservative party in Madrid — the *Partido Popular* — has been collecting signatures, some four million so far, supporting a nationwide referendum on the question of the acceptability of the regional Statute. But the petition for such a referendum is doomed to be more of a public relations move because, for the outcome of the petition to have any impact, it would require a fundamental change in the law and because of devolution referenda precedents elsewhere.

The most contentious points of the new Statute proposal are reinforced protections for the Catalan language, revised tax redistribution and the-buck-stops-here judicial powers for Catalonia's High Court (*Tribunal Superior de Justicia de Catalunya*), considerably increasing its powers. If adopted, it would mean that certain cases could not be appealed to Spain's supreme court.

### **Justice peeps round the blindfold**

In defending the revised Statute proposals, Catalan assembly minister for justice, Josep Maria Vallès, claimed it is mistaken to think that "Catalonia will have a separate judiciary which replaces Madrid's constitutional court with the regional high court as Catalonia's highest judicial authority."

The justice minister said that "what the new proposal does seek is the right of the Catalan government to have full power over non-judicial staff and to have a limited say in a number of judicial appointments, but not the full power to make them."

He maintained that "courts and judges in Catalonia would continue to be organised and appointed according to, and continue the enforcement of, Spanish law."

The minister insisted that this is not an extreme measure. "This is neither a separate judiciary, nor even the federal-state judicial system that exists in Canada, Germany and the United States."

However, Vallès' defence of the Statute can be challenged on two counts. Regarding the appointment of judges, a high level of Catalan language skills will be "a determining merit," which could prove to be a euphemism for the exclusion of non-Catalan judges and magistrates. Secondly, the right to appeal to Spain's Constitutional Court will not be available in the vast majority of cases in which constitutional rights are not involved. So the final recourse for commercial litigation and fraud cases, for example, will be within the Catalan justice system, where the cases will be heard by a Catalan judge in the Catalan language (with courtroom translation into Spanish if requested).

Another critic of the proposed law, Euro-MP Aleix Vidal Quadras, of the Spanish conservatives, warned that Spain's Constitutional Court could become swamped with litigants claiming abuses, especially in language and industrial affairs, as Quadras contends that such abuses are already happening.

### **International limelight**

The attention of the global media turned briefly to Catalonia around last New Year's when Lieutenant-General José Mena said that Article 8 of the Constitution, which empowers the military to defend Spain's territorial integrity, could be used against Catalonia and its moves to arrogate greater powers. This sabre-rattling elicited some sympathy for the Catalanist cause, but also exposed regional politicians to the kind of rough-and-tumble commentary that they are unused to from the local press.

*Ciutadans de Catalunya*, a group of centre-left intellectuals, planned to change their pressure group into a fully-fledged political party. It will be interesting to see if, in the next election, the non-nationalist *Ciutadans* garner substantial support among an estimated 500,000 folks who abstained from voting in the last election. That is the party's goal. If they won as many as twelve seats, they would have the balance of power in the assembly. Such an outcome would likely put a halt to any further erosion of rights of non-Catalans in Catalonia. ⑥