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Between a Principled and a Consequentialist Logic: Theory and Practice of Secession in Catalonia and Scotland

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Abstract

This paper inquires into whether the three types of arguments usually formulated in the normative literature on the legitimacy of secession—i.e. communitarian, choice and remedial arguments—are articulated (or not) by separatist parties in Catalonia and Scotland. It concludes that these actors do use such arguments, but they tend to merge them in different combinations making a pluralist case for independence rather than developing monist reasoning as most political philosophers do. Furthermore, it finds a fourth type of argument which is under-theorised in the relevant literature. This is an instrumental argument whereby independence is depicted not as an end in itself, but as a means to achieve better welfare and governance for the national population. It further proposes a fourfold theoretical scheme that links communitarian and choice arguments to a principled logic based on the belief in the existence of an absolute right to self-determination and remedial and instrumental arguments to a consequentialist logic that legitimates secession on the condition that it serves the achievement of specific ends.

Keywords: secession, self-determination, minorities, Catalonia, Scotland.

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Introduction

In recent years Western Europe has faced the revival of separatist demands in specific regions. Campanella (2014) asserted that 'secessionism is on the rise all across Europe', Palacio (2012) argued that 'in both Catalonia and Scotland, calls for independence are growing once again—an indication of conditions not only in Spain and the United Kingdom, but in the European Union as a whole', and Bardos (2013) concluded that 'the rise of separatism in Western Europe over the past decade [contradicts] the conventional view that democracy and economic prosperity mollify nationalist tensions and aspirations' (Bardos 2013).

Western European nationalism and separatism have been thoroughly studied. The ground-breaking works on stateless nationalism of Keating (1996) and Guibernau (1999) (see also Birch 1989; Harvie 1994) have later been complemented by party politics analyses focusing on specific aspects such as: the role of ethno-regionalist parties as ethnic entrepreneurs (De Winter and Türsan 1998); the relationship between stateless and regionalist parties and European integration (Elias 2008); the positioning of such parties along the left-right and centre-periphery divide (Massetti 2009); the influence of devolution on state and sub-state national identity (Guibernau 2006) as well as on peripheral and state-wide parties' strategies (Alonso 2012); and the transition of such parties from 'protest to power' (Elias and Tronconi 2011; Hepburn 2009).

Little attention has however been given to the specific normative arguments used by separatist parties to make their case for independence. Some empirical approaches (Barktus 1999) have proposed a useful distinction between the cost/benefits of

membership and the cost/benefits of secession, which has been later applied to particular cases such as Scotland (see Lynch 2003). Looking at party discourses in Flanders and Northern Italy, Dalle Mulle (2016) did highlight the existence, and relevance, of an instrumental argument about self-determination, as we will do below.[1] Yet, most of the empirical literature on secession and ethnic conflict has ignored discourse and mainly focused on rational choice, institutional or party politics approaches (Horowitz 1985; Hechter 2001; Pavkovic and Radan 2007; Alonso 2012). This is also true for another body of literature concerned with the subject of secession, that of normative political philosophy. While several authors have addressed the normative foundations of legitimate secession—see Moore (1998) for a review and next section for further detail—few, if any, have tried to bridge the gap between theory and practice. The goal of this paper is to fill such a gap by inquiring into how normative arguments formulated in theoretical reflections on the legitimacy of secession are articulated (or not) by separatist parties in their official propaganda.

To do that, we focus on separatist actors in Scotland and Catalonia. Since 2011–2 these two regions have been confronted with social and political demands for self-determination that have led to an official independence referendum in the former, in 2014, and an unrecognised one in the latter on the same year, followed by an early regional election in 2015 that local actors tried to portray as a 'plebiscite on independence'. Although very different in terms of the degree of recognition and legitimacy that these self-determination processes have enjoyed, they offer a fruitful opportunity to compare two campaigns for independence and therefore constitute a

suitable ground to evaluate empirical arguments for secession in light of the existing normative literature.

The paper is structured as follows: section one provides a summary of theoretical approaches to secession and singles out the main arguments for legitimate external self-determination formulated in political philosophy; section two describes the methodology and sources used; section three presents the empirical material; section four critically discusses the empirical results and tries to provide an analytical framework to better link the existing normative literature seen in section two with the empirical reality examined in section four.

1. Theoretical Perspectives on Secession

In his seminal conference of 1882, Ernest Renan (1882) argued that a successful national project relies upon two fundamental pillars. On the one hand, a shared memory about a common past and, on the other hand, a contemporary expression of will and consent to live together under the same political structure. This twofold nature remains as an underlying characteristic of modern nationalism, either at the state or sub-state level. In the Spanish context, Núnez-Seixas (2001) argues that state nationalism seeks legitimacy on the basis of 'historicist' elements of a common past as well as on a conception of the 1978 Constitution as the embodiment of the collective will of the Spaniards to live together as a single nation. As for the United Kingdom, despite the tensions between the consolidation of a sense of 'Britishness' and the existence of its constitutive home nations, a long common history of political unity, on the one hand,

and shared institutions, on the other, are often considered as the main foundations of the UK's national project (Colley 2005).

Normative theories of secession building upon the belief in the existence of a primary right to external self-determination can also be read according to this twofold nature of nationalism (Moore 1998). For communitarian theories, also known as ascriptive or national theories, the question is which are the groups—if any—entitled to self-determination. A given community is deemed to bear the right to self-determination when it can be defined as an 'encompassing' group, understood as a key determinant for individuals to develop their significant identities and self-realisation possibilities (Costa 2003; Kymlicka 1995; Margalit and Raz 1990). From a historical perspective, communitarian theories are compatible with the conception of modern nations as agents of democratisation that fundamentally contributed to replacing the old social and power structures of the *Ancien régime* (Greenfeld 1996; Hechter 2001). However, this approach raises a number of controversial questions related to the difficulty of reaching a consensual definition of what a nation is (Connor 1978). A further limit of this approach has to do with the practical concern about the impossibility for each alleged nation to become a state, both in terms of available physical space (Buchanan 1997a; Gellner 1983: 47) and because individuals feel often attached to different, overlapping identities (Miller 1997; Moore 1997).

On the other hand, associative or democratic arguments, also known as 'choice theory', put the emphasis on the right of any territorially concentrated group of free individuals to democratically decide the territorial boundaries of their government. Here, the

morality of secession has to do only with potential externalities for third parties and there is no need for a moral justification of secession as such beyond a democratic majority principle (Beran 1984; Philpott 1995). This approach is strictly related to liberal democratic ideas about the conception of individuals and the civil contract that underpins a legitimate government based on consent. From this perspective, individuals are the best judges of their own interest and they can thus freely choose the boundaries of government by democratic means without any need for external causes to justify their decision.

Normative theories have also discussed a third approach that does not take for granted the existence of a primary right to self-determination, thus rejecting communitarian or choice arguments. This 'remedial' perspective argues that secession is legitimate only when specific circumstances apply and as a last resort based on a 'just cause'. In its hardest version, this occurs only in case of massive and persistent violations of human rights or the occupation of a previously independent state (Buchanan 1991, 1997b). One of the limits of this hard approach to 'just cause' theories is that, by definition, it practically excludes the possibility of a viable case for unilateral secession in minimally democratic states. Democratic states are indeed expected to offer self-government arrangements or other deliberative mechanisms aimed at channelling self-determination demands. As a consequence, the existence of such mechanisms decreases the legitimacy (and in theory also the strength) of secessionist demands. However, the literature has also discussed whether a right to unilateral secession is justified when such scenarios are not met in democratic contexts, for instance, in the case of the permanent minoritisation of a specific group, the unfulfillment/violation of self-government

arrangements and/or the failure of recognition of cultural/national difference (Patten 1999, 2002; Seymour 2007).

While communitarian and choice theories build on a principled logic, remedial theories are grounded on a consequentialist one (see section five for further detail). In the following sections, we will look at how the arguments mentioned above are reflected and articulated in the rhetoric of the most important separatist actors in Scotland and Catalonia. As we will see below, real life actors tend to mix such arguments, while at the same time adding what we will refer to as 'instrumental arguments', which consist in defining independence not as an end in itself, but rather as a means to obtain better welfare and governance for the national population.

2. Timeframes, Sources and Methods

Before going into detail with the analysis of the parties' discourse, we need to briefly describe the periods chosen, the sources used and the methodology followed. In the Scottish case, the timeframe is quite straightforward. The Scottish National Party (SNP)—the dominant nationalist actor in the region—won an absolute majority at the 2011 Scottish parliamentary elections and immediately implemented its campaign pledge to organise an independence referendum before the end of that Parliament. Such a referendum was then held on 18 September 2014 with the agreement of the British government. The timeframe analysed in this paper therefore goes from the 2011 Scottish election to the 2014 independence referendum. Things are a little more complicated with regard to Catalonia, since the Spanish government has never

sanctioned the self-determination process there—which is actually still on-going—and it is therefore harder to find a clear endpoint for our analysis. The starting point can reasonably be assumed to coincide with the 2012 regional election, when, giving in to popular mobilisation, the then President of the autonomous community, Artur Mas, officially ushered the issue of the organisation of an independence referendum into regional politics. Awaiting the independence referendum unilaterally announced by the Catalan government for 1 October 2017 (which at the time of writing this paper has not occurred yet), two events can be used as proxies for the Scottish referendum: the civic consultation organised in November 2014; and the early Catalan elections held in September 2015. With regard to the former, after the ban imposed by the Spanish Constitutional Tribunal on a proper referendum, local authorities presented the event as a civil society initiative. Despite the overwhelming victory of the independence option (about 80% of participants voted in its favour) turnout was equal to only 37% of the region's electorate. At the 2015 elections, by contrast, turnout was high (75%) and about 48% of residents voted for pro-independence parties. Furthermore, in an attempt to circumvent the obstructionism of the central government, Mas had called the election with the specific aim to present it as a plebiscite on the region's independence. Although non-separatist parties refused to abide by this logic, separatist actors campaigned overwhelmingly on the constitutional issue (Martì and Cetrà 2016). Hence, this election can reasonably be assumed as the best proxy for an independence referendum in the region.

We mostly relied on political manifestos and brochures produced by the main independence parties in these two regions during the period under study and likely to

provide insights on the parties' views on independence (all are cited in the reference list). The actors studied are the SNP in Scotland, *Esquerra Republicana de Catalunya* (Republican Left of Catalonia, ERC), *Convergencia Democratica de Catalunya* (Democratic Convergence of Catalonia, CDC, later *Partit Demòcrata Català* PDCAT), their coalition for the 2015 election *Junts pel Sí* (United for Yes), and *Candidatura d'Unitat Popular* (Popular Unity Candidacy, CUP) in Catalonia.[2] We also integrated texts from the SNP-led Scottish government and declarations issued by the main pro-independence actors mentioned above in the Catalan Parliament. As one can immediately see, there is an asymmetry in the number of actors taken into account for each region. This is because the Catalan nationalist camp is much more fragmented than the Scottish one, where the SNP has enjoyed a near monopoly over Scottish independence.

How did we read such sources? Being interested in the subtleties of the parties' reasoning over independence we have decided to use a qualitative form of content analysis based on the approach used by Mudde (2000: 18–24), This entails a selection of the body of sources to be analysed; the construction of dimensions along which party arguments can be organised homogenously; and the reconstruction of the 'causal chains' of concepts making up the ideological arguments under study. The last two points require further elaboration. Our qualitative analysis entails a form of open coding that, while allowing to classify arguments into predefined categories, it also makes room for the possibility that the sources reveal new relevant arguments to be added to those established a priori. More specifically, the analysis will be uni-dimensional, since it only concerns the parties' reasoning on independence, and within such dimension we

will look at coherence or variation between the parties' arguments and those formulated in the political philosophy literature. The replicability of the study is ensured by the rigorous citation of the sources—most of which are available online.

3. Arguing for Secession in Scotland and Catalonia

As we will see below, arguments for independence in the public debate usually overlap rather than being presented separately. Contrary to normative theories that tend to focus on which is the key argument that could justify a unilateral secession, nationalist movements tend to build a political discourse combining different types of arguments for secession. Moreover, as we will see later (see section five for further detail), these movements tend to add an instrumental argument not explicitly formulated in the theoretical literature.

Scotland

In the Scottish case, the self-government demands formulated since the early 1970s under the banner of 'devolution' of powers to the region built on a much longer history of institutional and administrative autonomy. Moreover, the political project of the United Kingdom allowed for the national recognition of its constituent nations at a symbolic level. After the failed referendum of 1979, devolution, including an autonomous parliament with tax varying powers, eventually came into being in 1999, under the Labour government of Tony Blair. The newly-established Scottish Parliament obtained a wide range of competences and, in the medium term, allowed the SNP to

make a transition from ‘protest to power’, thus facilitating the realisation of its pro-independence agenda, especially after the 2007 regional election (Hassan 2009; Lynch 2002).

The notion of a political union of distinct entities underpins the political discourse in favour of secession. In essence, the SNP’s argument for independence is based on the idea of recovering Scotland’s sovereignty, since the union with the rest of the United Kingdom does not serve Scottish interests anymore. The national character of Scotland is never really put into question and, as a consequence, the pro-independence discourse tends to emphasise democratic and instrumental aspects rather than communitarian ones (Scottish Government 2013a: viii). National arguments remain unchallenged and serve as an almost pre-political background supporting more instrumental considerations that warrant independence on the grounds of the positive social impact that this could have on Scottish society, notably a ‘more democratic’ country aiming at improving citizens’ well-being (Scottish Government 2013a: 40).

The text that launched the National Consultation on the independence referendum in January 2012, *Your Scotland, Your Referendum*, clearly reflected this approach and set the tone for later party declarations on the reasons why Scotland needed independence:

> ‘Scotland is not oppressed and we have no need to be liberated. Independence matters because we do not have the powers to reach our potential. We are limited in what we can do to create jobs, grow the

> economy and help the vulnerable. We shouldn't have a constitution which constrains us, but one which frees us to build a better society. Our politics should be judged on the health of our people, the welfare of young and old and the strength of our economy' (Scottish Government 2012: 2).

There, the party quite clearly suggested that the main reason behind the drive for independence had to do with 'creating jobs, grow the economy and help the vulnerable', thus making an instrumental case for independence. The white paper 'Scotland's Future' certainly is the most comprehensive text explaining why Scotland should become an independent state. There, and similarly to the above text, the Scottish government argued that 'democracy, prosperity and fairness are the principles at the heart of the case for independence' (Scottish Government 2013a: 40).

The first principle, democracy, is emphasised at the beginning of the document[3] as the overriding one because, with independence, 'the most important decisions about our economy and society will be taken by the people who care most about Scotland, that is by the people of Scotland' (Scottish Government 2013a: i). At a first look, this seems to be a clear example of a choice argument, whereby people declare independence on the basis of pure democratic deliberation. Yet, at a closer look, it relies on two assumptions: first, that the British government does not care, or care less than the Scots, about Scotland (thus referring to a remedial logic) and, second, that there are key differences in values and attitudes north and south of the border (which touches upon communitarian principles). The former assumption is underpinned by references, made later in the text, to the so-called 'democratic deficit', i.e., the idea that Scotland has

often been ruled by British governments which did not obtain a majority in the region and enacted policies detrimental to the Scottish economy and society:

> ‘Being able to decide our own government really matters. The costs of decisions being made at Westminster are being paid by families and communities across Scotland. Many of the consequences will be long-lasting: as a direct result of the Westminster Government’s welfare changes, the child poverty rate in Scotland is predicted to rise to 22.7 per cent, equivalent to an additional 50,000 children by 2020. None of this needs to happen. These consequences are a direct result of Scotland getting governments we did not vote for’ (Scottish Government 2013a: 41).

This links to soft remedial arguments made in the theoretical literature about the limits of self-government when the secessionist unit denounces an unfair condition of permanent minoritisation within the parent state. Scotland’s economic and social problems are thus framed as the result of bad Westminster management, while independence is suggested as a logical solution because—it is argued—if the people of Scotland were in charge, they would tailor policy around Scotland’s needs and inform it with their own values—implicitly assumed to be different from those of the rest of the UK. All this is deemed to lead to a more prosperous and fairer society, which thus connects the democratic principle at the heart of the SNP’s case for independence with the other two: prosperity and fairness (Scottish Government 2013a: 40–42).

The argument about independence being key for improved prosperity is based on the acknowledgment that Scotland has an enviable stock of first class human and natural resources. The party quotes the highest number of high-rank universities as compared with countries of similar size as evidence of the former, and the oil resources and tidal wave potential with regard to the latter. Yet, in contrast to other small and well-endowed countries, such as Norway for instance, Scotland has consistently underperformed—the party provides quantitative estimates of this gap. In a paper published in May 2013, *Scotland's Economy the Case for Independence*, this simple conclusion (if Scotland had been independent it would have performed as other similar small European countries) enables the SNP's government to accuse the British government of ineffective management: 'the paradox we face is that despite all of these strengths, we are not as successful as we should be. The one-size fits all policies implemented by the Westminster based Government are not generating the growth or delivering the social cohesion that Scotland should be enjoying' (Scottish Government 2013b: 26). Independence is thus presented as the only solution, since, wide as it may be, devolution will never give Scotland all of the competences it needs to realise its full potential (Scottish Government 2013a: 42–43). Once again one can see here an instrumental argument going hand in hand with a (very soft, see next paragraph) remedial one—i.e. the need to put an end to London mismanagement.

The Scottish Government's paper *Scotland's Economy the Case for Independence* also anticipated many of the economic arguments made in the white paper. Two aspects are interesting with regard to our discussion. First, the government did not accuse Westminster of actively discriminating against Scotland, but simply of being driven by

the interests of other parts of the UK, especially the South East and London. Thus, in line with the above declaration that Scotland is not oppressed, the case has rather lain in the need to do away with the one-size-fits-all economic policy of successive British governments. To this effect, the paper also quoted London's official acknowledgement that 'the dynamics of small economies are inherently different from larger economies such as the UK' (Scottish Government 2013b: 7). Hence, according to the SNP, Scotland would have been marginalised by its union with a much bigger partner (England) rather than overtly discriminated against, thus offering an economic version of the, usually more political, 'permanent minority' argument seen above. Second, the document, as others later on (see Scottish Government 2013c), provided considerable data aimed at showing the advanced nature of the Scottish economy and how it would perform better outside the UK. It was thus aimed at providing clear and concrete evidence of the instrumental case for independence in order to conclude that 'the proposition at the heart of this document is thus not just that Scotland can afford to be independent. It is that independence is an essential step if we are to build a better, more prosperous and fairer country' (Scottish Government 2013b: 3).

The third principle on which the case for independence has been made in Scotland, fairness, puts into question not only the results (un)delivered by successive Westminster governments, but rather the economic model itself. As asserted in a document published by the Scottish Government in November 2013:

> 'the Scottish Government believes that there are also key weaknesses in the UK economic model, which threaten the stability of the Scottish economy in

> the long-run. Firstly, there is increasing income inequality both at the household and intra-UK regional level. Secondly the growth model pursued by successive UK governments of high levels of consumption funded by borrowing at the expenses of trade and investment, is not a solid base for sustainable growth' (Scottish Government 2013c: 34).

The problems with the British model of growth are that it threatens equality and cohesion and it is too concentrated on the financial sector and the city of London, thus being unsustainable in the long-term and weak to systemic shocks. By contrast, independence is deemed to allow Scotland 'to pursue a more productive, resilient and fairer economic model. A model focused on delivering long-term sustainability and economic opportunity for all and not a targeted few' (Scottish Government 2013c: v). The paper further shows that Scotland is already less unequal than the UK and quotes the Fiscal Commission Working Group suggesting that income inequality can hamper economic growth in the long-term, thus offering an economic, besides a moral, argument in favour of a more equal society (Scottish Government 2013c: 30, see also Scottish Government 2013d: 30; 2014a: 6). Yet, it is important to note that the idea that an independent Scottish government will necessarily enact policies oriented to build up a more equal society once again presumes the existence of societal differences between Scotland and the rest of the UK, with the former being more on the left. Such an assumption implicitly refers to communitarian theories, whereby independence is legitimised on the belief in the existence of a distinct encompassing community providing individuals with a cultural context for meaningful action and on the will to preserve it (Margalit and Raz 1990).

To conclude, as clearly formulated in the 2014 document, *Scotland's Future: It's in Your Hands* (Scottish Government 2014b: 7), the SNP has consistently argued that 'independence is not an end in itself' but rather a means to build up a more democratic, more prosperous and fairer society, as an alternative to a Union that has grown increasingly unequal and concentrated around the priorities of London and the South East. Principled arguments based on communitarian and choice theories are not absent, but remain in the background. Soft remedial arguments are present and widespread, but often overtaken or complemented by instrumental ones.

Catalonia

The traditional goal of Catalan nationalism was to reach a stable accommodation within Spain by means of achieving significant levels of self-government. After the recovery of democracy in 1978, the decentralisation of the state was expected to result in a quasi-federal system that could advance towards a multi-level governance allowing regional units even to participate in international organisations including the European Union. However, the State of the Autonomies did not prevent the development of further demands for self-government in regions such as Catalonia or the Basque Country. On the other hand, at the central level, the autonomic system also featured a strong tendency towards homogenising policies that resulted in increasing tensions around the accommodation of minority nations (Maiz, Caamaño, and Azpitarte 2010; Serrano 2013). As a result, Catalan nationalism progressively moved towards a pro-independence platform. This turn builds upon the claim that the state did not

appropriately recognise the Catalan nation despite significant levels of autonomy, but also increasingly emphasises a democratic component closely linked to remedial and instrumental arguments.

The turn towards independence is well reflected in the process for the modification of the Statute of autonomy of the Catalan community launched after 2003 and the subsequent events. The draft voted by the Catalan Parliament included some far-reaching proposals, such as the definition of Catalonia as a nation. However, the final text needed the approval of the Spanish Parliament and major parties opposed this formulation and other aspects of the Statute. Several articles were thus amended by the Spanish Parliament and, in particular, the reference to the nature of Catalonia as a nation was moved to the preamble of the Statute to mark its status of a political declaration without any legal implication for self-government arrangements. The alleged unwillingness of the state to recognise the national character of Catalonia and, in particular, the June 2010 ruling of the Constitutional Tribunal over sensitive aspects of the new Statute is deemed to have fuelled a nationalist mobilisation claiming that independence is the only way to obtain such recognition (for more on this process see Guibernau 2013; Marti and Cetrà 2016).

One of the main features of this new nationalist repertoire is the use of broad encompassing concepts such as the 'right to decide', that allow combining different dimensions of the notion of self-determination—often in ambiguous terms (Serrano 2015). The reference to such a 'right to decide' encapsulates a particular configuration of communitarian, democratic and remedial arguments that can be found in different

public statements at the party and parliamentary level. The resolution passed in the Catalan parliament in September 2012, for instance, incorporates a unilateral shift based upon this encompassing notion of a popular mandate for the exercise of a 'right to decide', by means of which the 'People of Catalonia can freely and democratically determine their collective future' (Catalan Parliament 2012: sec. I, art. 5). The unilateral approach to secession is legitimised on the national character of Catalonia and its 'inalienable right to self-determination, as a democratic expression of its sovereignty as a nation' (Catalan Parliament 2012: sec. II, art. 4) and, additionally, on the acknowledgment that the state not only refused to 'respect the will of the Catalan people', as expressed in the Statute of 2006, but in fact 'launched a recentralising offensive violating' regional competences (Catalan Parliament 2012: sec. II, art. 1). Rather interestingly, in light of communitarian, choice and remedial arguments, the resolution devotes almost three quarter of its content to explaining how an independent Catalonia will improve policy in a wide range of areas, from classical elements of cultural recognition to social welfare, equality of opportunities, health and education (Catalan Parliament 2012: sec. V). In other words, independence is not only a legitimate goal based on some just principles, but it is also presented as a mechanism that correcting the 'fiscal plundering' of the state will improve the well-being of the citizens, with Catalonia becoming 'a country with one of the most solid and viable welfare states in Europe' (Catalan Parliament 2012: sec. V.2.2, art. 2).

This instrumental argument adds to the three classical factors justifying secession in a way similar to Scotland. Claims of an unfair treatment by the state in different aspects such as financial resources, fiscal transfers or public investment in a general context of

recentralisation are deemed to show, according to the pro-independence narrative, how the prospects for self-government within Spain are insufficient to meet Catalonia's public policy needs (Serrano 2015: 98). From this perspective, secession becomes the most adequate goal to pursue the policies that best suit the region, broadening the traditional focus on communitarian and democratic claims to an instrumental argument based on the positive effects of independence.

This mix of communitarian, democratic, remedial and instrumental arguments is clearly visible in the parties' manifestos. In its 2012 programme CDC (then still part of the *Convergencia i Unio* coalition), formulated the concept of 'national transition', i.e., a process where key 'structures of state' were to be strengthened or built, aiming at the creation of 'a state of its own within Europe'. In the text, this national transition is presented more as a process of state-building than an event, a process which is legitimated on the unlikelihood of a viable accommodation within Spain, although the possibility of some eventual arrangement with the state is not ruled out altogether (CiU 2012: 15). The emphasis remains on the exercise of the 'right to decide' in a broad sense, understood as the expression of the democratic will of the 'Catalan people' to choose their political future, but still conveying a will to negotiate with 'the Spanish State, the European Union and the international community' (CiU 2012: 13). This reasoning is followed by an extensive set of public policy proposals with a communitarian conservative flavour to welfare policies and a liberal ideological platform for economic reforms, aiming at 'protecting and promoting our identity' but also emphasising the need of 'a state of our own to live better' (CiU 2012: 16).

However, it is in ERC's manifesto for that election where this emerging configuration of arguments for independence is articulated most clearly.

The party's manifesto for the 2012 Catalan elections begins with the acknowledgment that the people of Catalonia have showed, as never before, the conviction that 'the independence of our country is essential to continue to exist as a nation, to defend the social rights of the citizens, to realise all our potential as a country and to guarantee the continuity of the welfare state' (ERC 2012: 4). Three main elements are suggested to lie at the core of people's support for external self-determination: an issue of recognition and survival of the Catalan nation, in line with communitarian theories; a matter related to the citizens' basic democratic rights to decide about their future, related to choice theories; and the state's refusal to accept a new framework of accommodation for Catalonia, which pertains to soft remedial approaches. Furthermore, the text frames independence as a necessity to 'defend social rights' and the welfare state and the opportunity 'to realise' the country's 'full potential', which confirms the importance given to instrumental arguments.

Within ERC's combination of arguments for independence, the nature and intensity of its denunciation of cultural and national oppression stand in stark contrast with those used by the SNP (ERC 2012: 9). Central to this argument is the attempt to portray the Spanish government as denying the Catalan population its most basic democratic right, i.e., the right to vote, which makes the party's case for independence in line with the choice but also with remedial theories, that is, as a last resort because the state not only

rejects the possibility of further autonomy but it is also deemed not to fulfil existing self-government arrangements.

Yet, as mentioned above, *Esquerra* has also based its case for independence on socio-economic instrumental arguments. The 2012 manifesto openly subscribes to the idea of independence as the only way out of the economic crisis. The overriding reason underpinning this claim lies in the denunciation of a structural fiscal exploitation whereby the Spanish state is deemed to have deprived the region of 8% of its GDP per year, on average, since 1986. These resources would not only enable the *Generalitat* (Catalonia's regional government) to cancel the cuts to basic services imposed by the Spanish executive, but also to finance the conversion of the region's economy from the Spanish model based on cheap credit, domestic demand and low-quality employment, to that followed by more advanced European states relying on high-quality manufacturing and employment.[4] In other words,

> 'the main meaning that *Esquerra Republicana* attributes to independence is the willingness to make people's lives better. We know that the fiscal plundering imposed by the Spanish state leads to a social plundering when it deprives us of our revenues. And, also, it deprives us of the right to decide over public policies that aim at expanding welfare and equality of opportunities' (ERC 2012: 41).

After the 2012 elections, the new Parliament approved a number of resolutions that eventually led to a non-binding consultation held on 9 November 2014. The main

resolution issued during this period is the 'Declaration of Sovereignty' of 25 January 2013, which was approved by CiU and ERC but also by the former communists' coalition of *Iniciativa per Catalunya-Verds* (ICV, Initiative for Catalonia-Greens) and partially by the CUP. The parliamentary declaration argues that, because of the impossibility to find a stable accommodation within Spain and after massive civil society demonstrations, the Parliament has a mandate to hold a referendum on independence despite state opposition. According to the text, an independent state will not only offer Catalonia the opportunity to be recognised as a nation, but will also be an instrument for 'more progress, welfare and equal opportunities for all its citizens' (Catalan Parliament 2013: 1). These two consequentialist elements—the opportunities that independence would bring in terms of welfare and the unilateral approach as a last resort given the opposition of the state to negotiate a referendum—reflect the culmination of a rhetorical shift that, starting from communitarian and choice arguments, progressively incorporated remedial and instrumental arguments for secession.

In the early elections called for 27 September 2015, CDC and ERC (together with a number of small parties and movements) joined into an electoral coalition named *Junts pel Sí* (Together for Yes). The combination of different arguments for independence is well reflected in the introductory part of the coalition's electoral manifesto, which associates the necessity to exercise self-determination by democratic means to the fact that Catalonia 'belongs to a hostile State' while emphasising that independence is an opportunity for a more 'flourishing' and 'fair' society (Junts pel Sí 2015: 10). The manifesto explains how Catalonia is facing an economic and political crisis, where the

'right to decide' emerges as the 'new central issue' (Junts pel Sí 2015: 15). These three elements are closely linked to instrumental, remedial and democratic arguments for secession, and it is worth noting how the communitarian element does not appear as a separate item in this discursive configuration. The instrumental argument emphasises the necessity to develop public policies to address the negative impact of the economic crisis on poverty, social exclusion and inequalities, realising the full potential of Catalonia. Secondly, from a remedial perspective, secessionists argue that more just social policies have not been adopted because of the unfair treatment of the state in fiscal terms (the so-called *fiscal deficit*), lack of public investment, recentralisation policies and the unfulfillment of self-government arrangements (Junts pel Sí 2015: 22). Lastly, in this context secession is presented as a democratic demand coming from a majority of Catalans that is deemed to legitimately take the form of a unilateral process, with the early elections of 27 September 2015 being 'the full expression of democracy and of the Catalans' right to decide' (Junts pel Sí 2015: 16).

The particular shift towards arguments emphasising the positive effects of independence is well reflected in the structure of the manifesto. There is a first section detailing the electoral programme, introducing the reasons that have led to a unilateral scenario and the subsequent steps towards independence in case a sufficient majority votes for it (Junts pel Sí 2015: 30–34). However, this first block only represents a minor fraction of the document. The two remaining sections (Junts pel Sí 2015: 35–121) describe the main features and the 'benefits of an independent state' (Junts pel Sí 2015: 21). This emphasis on the positive outcomes of independence is further developed in the long sections of the manifesto devoted to explaining the institutional design and the

legislative agenda of the new state concerning the structure and policies of the welfare state (Junts pel Sí 2015: 35–39; Junts pel Sí 2015: 55–75).

Beyond mainstream political parties, represented by CDC and ERC, the 2012 election also witnessed the emergence of the CUP, a grass-roots coalition of far-left, pro-independence and anti-capitalist groups that obtained three seats in the Catalan Parliament. A defining feature of the coalition's platform is the emphasis on the link between national and social emancipation. However, it is not clear whether this is a normative statement (i.e. the two *must* go together) or whether there is a causal relationship between them (i.e. national liberation *stemming from* social liberation and/or vice-versa). The ideological background of the coalition rather tends to favour a unilateral process of independence as a way to achieve the national recognition of the 'Catalan Countries' in front of 'occupying states' (France and Spain) and a European Union that do not represent workers but rather capitalist interests (CUP-Alternativa d'Esquerres 2012:9).

The emphasis on the relation between national and social struggle lingers on in the more complete manifesto published ahead of the 2015 election, where the coalition added to its anti-capitalist rhetoric a list of measures to be implemented in the new independent state, with five out of nine proposed measures referring to welfare, economic and environmental policies (CUP-Crida Constituent 2015: 5). However, no clear justification for independence is provided and, as in the previous text, although a reference is made to the need to accompany national liberation with social emancipation, the meaning remains unclear (CUP-Crida Constituent 2015: 7–8). Hence,

communitarian arguments linked to the national character of the Catalan Countries are a fundamental basis of the CUP's political platform, and, as a consequence, remedial considerations justifying secession due to the state's lack of recognition do not play a significant role in the coalition's rationale. However, even in the case of this minority segment of the pro-independence movement, instrumental arguments are, albeit ambiguously, an important part of the political discourse justifying secession.

4. The Legitimacy of Secession: A New Justification?

In the theoretical section, we have relied on the threefold conventional typology of arguments for legitimate secession: communitarian, choice and remedial. However, our analysis strongly suggests a number of caveats that must be addressed for theories of secession to be useful beyond abstract, normative debates. First, the empirical evidence presented here has revealed the existence of a fourth type of arguments. This group, that we have called 'instrumental', refers to the effects of secession understood as a political tool for social well-being, economic prosperity and democratic improvement. It clearly applies to a context where consequentialist arguments from a strict remedial approach, such as massive violations of human rights, severe discrimination or the occupation of a previously independent state, can hardly be found because of the existence of minimally democratic conditions (Dalle Mulle 2016: 225). Although this is still compatible with the theoretical approaches seen in section two—in fact there is an argumentative continuity between instrumental and second wave remedial approaches concerning arguments about the failure of recognition by the state or the unfulfilment of self-government arrangements—, instrumental considerations nonetheless follow a different

rationale, closer to no-fault rather than to just cause arguments in a way similar to the parallelism drawn by Beran with the divorce metaphor used by Buchanan (1993: 92).[5] In this context, according to Beran (1998: 40), the legitimacy of secession is not built upon an objective case of unfair treatment but rather as the democratic exercise of the right to free political association, particularly if it also broadens citizens' wellbeing and expand their possibilities for self-realisation. Yet, as seen in the introduction, albeit mentioned, such an instrumental approach remains substantially under-theorised in the literature.

Second, this fourth type of argument brings to light how there are two different types of rationality underpinning arguments for secession. On the one hand, a principled rationality is associated to communitarian and choice theories. Under the logic of secession as a primary right, these two theories are linked to fundamental questions of democratic and collective rights that are deemed to justify the legitimate establishment of a new state based on the will and consent of its members, where citizenship is something more than a mere civil contract, as it requires a sense of 'community membership' (Marshall 1992[1950]: 40). Thus, from our perspective, communitarian and choice arguments are not two isolated but rather intertwined elements that go hand in hand by a matter of principle: a self-recognised *demos* that has a right to freely and democratically decide the boundaries of the political community. On the other hand, remedial and instrumental arguments share a consequentialist logic, as they are concerned with the best means to achieve a particular end. The emphasis on the logic between means and ends clearly resembles the notion of instrumental rationality, and

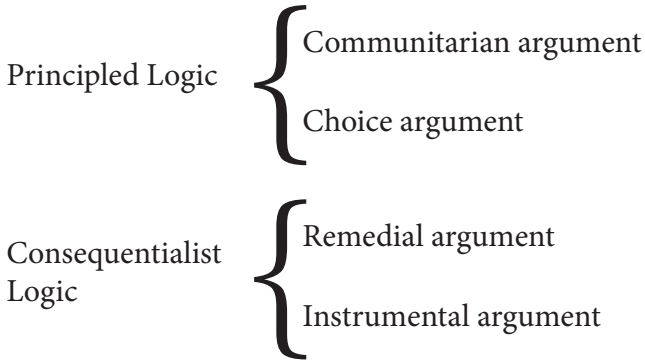
this also accounts for the concerns over the effects of secession in the sense of whether their consequences are reasonable in terms of costs and benefits.

Third, in our view this framework also overcomes a tendency in the normative literature to approach secession according to the logic of first-order theories. Following Gutman and Thompson's (2000) distinction, first-order theories try to solve moral problems by arguing against rival approaches. From this perspective, the aim of a successful theory is to establish the relevant principle that must guide the analysis in a given theoretical problem. However, the evidence presented here suggests that secession theories would benefit from a second-order theory approach, that is, building upon primary theories in order to develop a consistent framework able to combine different but to some extent compatible principles (Gutmann and Thompson 2000: 162). In this vein, we suggest that the traditional triad found in the normative literature could be replaced with an integrative scheme made up of the four types of arguments mentioned above divided into two pairs according to the different rationalities that inform them (Figure 1). Thus, the principled logic, that to some extent resembles Weber's ethics of conviction, informs the communitarian and choice arguments. This principled logic conceives of self-determination as a primary right descending from the mere fact of being a nation (that is, having the quality of an encompassing community) and of being a collectivity of individuals capable of making democratic choices. The morality of this approach belongs to the tradition of the Kantian categorical imperative, in the sense of independence being an end in itself that is justified as the result of a general moral principle. On the other hand, following the same line of reasoning, the consequentialist logic falls closer to Weber's ethics of responsibility whereby independence is justified

not as a matter of right, let alone a categorical imperative, but it is conditional on either putting an end to a situation of suffering (in our cases softly defined) according to a remedial perspective, or on allowing the realisation of considerable material advantages in terms of governance and welfare in line with an instrumental approach. This instrumental rationality connecting means and ends is closely linked to the Kantian notion of the hypothetical imperative, with secession being a desirable outcome by virtue of its effects and not so much based on moral arguments. In our view, these insights can provide a fruitful avenue for further research, where a pluralist rather than monistic understanding of pro-independence arguments should contribute to exploring how different claims relate to each other in a coherent whole.

Thus, if theories of secession intend to contribute to a better understanding of the legitimacy of secession, the role of instrumental arguments must be incorporated to the analytical framework used in this field. Real world separatist actors in advanced democratic societies seem to have understood long ago that, if they want to expand support for external self-determination beyond the niche of unconditional secessionist voters, they have to make a sound instrumental case for independence. Although we are fully aware that the purpose of normative philosophy is to analyse the legitimacy of arguments for secession rather than to examine of how these arguments are formulated by real-world actors, we think it necessary for normative philosophy to be grounded in real-world discourses. Hence, normative philosophers should engage with such instrumental arguments and ponder upon their legitimacy.

Figure 1 – The legitimacy of secession according to real world separatist actors



Conclusion

We started our inquiry by wondering whether the main arguments made in the literature on legitimate secession are used by real world actors—in this case nationalist parties in Catalonia and Scotland. We found that these actors do use those arguments, although they tend to merge them in different combinations, rather than trying to develop monist theoretical reasoning as political philosophers do. In other words, real life actors are much more pluralist than political philosophers in making their case for independence and combine arguments in sometimes untidy and non-hierarchical ways. Furthermore, we found that the three types of arguments usually discussed in the normative literature are not exhaustive, since the parties analysed here make consistent reference to a fourth type. This is an instrumental argument whereby independence is depicted not as an end in itself, but as a means to achieve better welfare and governance for the national population. Also, their claims have a dynamic character that can change over time or depending on the specific context/audience to which they are addressed. Arguments about the preservation of national identity remain a fundamental pillar for self-

determination demands, but this prominent role is increasingly shared with choice, remedial and instrumental considerations. This scheme works even in different contexts such as Scotland, where national recognition in symbolic terms is not at stake, and Catalonia, where communitarian and choice arguments linked to the recognition of the Catalan nation and its right to decide about its future have played a more important role. More specifically, while in the Scottish case, instrumental arguments have prevailed, in the Catalan one we can note the coexistence of one principled argument (about the democratic choice of the Catalan people to decide about their future) and an instrumental one, both referring to the aspirations of the Catalan people rather than to their common past. Hence, if normative theories intend to contribute to a better understanding of the legitimacy of secession, they need: first, to abandon monistic thinking and embrace a more pluralist understanding of pro-independence arguments by exploring how different claims relate to each other in a coherent whole; second, to take into account the instrumental arguments illustrated in the previous section.

A relevant question to be incorporated into the research agenda over the legitimacy of secession building on the fourfold scheme presented here is why our case-study parties, and nationalist movements more in general, make such an instrumental argument. Bearing in mind that the purpose of our paper is not to formulate and test explanatory hypotheses, but to open up new research prospects, we will propose here three reasonable explanations to be discussed more thoroughly in future studies.

The first has to do with context. In the Scottish case, because of the region's symbolic recognition as a nation, resulting from the very definition of the United Kingdom as a

‘Union’ of different nations, questions of national recognition do not play a fundamental role in the secessionist repertoire. This thus paves the way to alternative discursive strategies based on instrumental considerations. The situation however is different in Catalonia. The ambiguity of institutional arrangements embedded in the Constitution, which recognise the existence of ‘nationalities’ while at the same time proclaiming the unity and sovereignty of the Spanish nation, makes that recognition remains an unresolved issue. This explains why communitarian and choice arguments appear more frequently and strongly in Catalonia’s debate as compared to Scotland’s. However, instrumental—mostly welfare—arguments do play a key role. We argue that their presence is better understood for internal reasons linked to the socio-demographic characteristics of the region, notably the presence of a very substantial body of immigrants coming from other Spanish regions—as well as, more recently, from abroad—that would be hard to mobilise on the basis of communitarian arguments. Appealing in communitarian terms to a population with dual identities and a high number of individuals with non-Catalan origins could hamper the possibility of building up a viable majority. Instrumental considerations thus arise as a valid option to bypass identity issues.

The second factor has probably to do with electoral dynamics. As shown by studies in both Catalonia and Scotland (Curtice 2014; Curtice 2013; Eichhorn and Paterson 2014; Henderson, Jeffery and Liñeira 2015; Muñoz and Tormos 2015; Serrano 2013), instrumental considerations linked to the economic consequences of independence are the most important variable, along with subjective national identification, explaining support for external self-determination. Such instrumental considerations are especially

relevant for people with dual identities, or so-called 'conditional supporters' of independence, which makes up most of the local population. Whether the adoption of instrumental arguments on the part of separatist parties is a simple adaptive strategy or the reflection of a wider societal concern is difficult to say. In any case, it contributes to explaining why separatist parties use them.

Finally, such primacy of instrumental economic considerations in voters' preferences (and in party discourse) can also be explained with reference to a third, more historical and structural, factor, i.e. the increasing importance of the economy in people's everyday life and the widening role of the state in boosting and regulating it since the end of the Second World War. As pointed out by Michael Postan already at the end of the 1960s, 'in all European countries, economic growth became a universal creed and a common expectation to which governments were expected to conform' (Postan 1967: 25). This point has also been confirmed by Gianfranco Poggi (1990: 139), who argued that 'in all Western industrial societies, since the Second World War, the political process has come to revolve chiefly around economic issues—primarily, *which* state policies can best promote industrial growth, and how the attendant burdens and the resulting advantages should be distributed within the population'. If one agrees with Michael Keating (2009: 207) that 'nationalists tend to adopt the language and categories of their times and their claims reflect what is normatively legitimate and institutionally possible', it is no wonder that instrumental arguments pertaining to the economic consequences of independence have become an overriding topic in the propaganda of separatist parties in an age when state legitimacy has come to revolve mainly around how well a state can steer the national economy and promote welfare.

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[1] As compared to Dalle Mulle (2016), this paper expands the analysis to other cases (Scotland and Catalonia instead of Northern Italy and Flanders) and links it to the normative philosophy literature.

[2] For reasons of scope we decided to focus on political parties and not to include civil society organisations.

[3] See also SNP 2012: 1; Scottish Government 2014a: 1.

[4] Note as both the SNP and ERC have criticised the model of development pursued in the parent state.

[5] With regard to the non-normative literature, one can clearly see a correspondence between the remedial and instrumental arguments analysed here and the cost of membership and benefits of secession proposed by Barktus (1999).