

CASE 3- Marta Torrecillas

A POLLING SUPERVISOR WAS PHYSICALLY INJURED AND FONDLED BY SPANISH LAW-ENFORCING OFFICERS DURING THE 1ST OF OCTOBER'S REFERENDUM



Image from: El Pais 2 Oct. 2017

Ms. MARTA TORRECILLAS was physically injured and fondled by Spanish “Policia nacional” (National Police) officers on October 1, when she was at the polling station based in school Pau Claris in Barcelona. She was collaborating with the Government of Catalonia, the authority that convened the referendum. The National Police officers who went to that polling station used excessive force against the citizens who were there simply to vote, to collaborate with the organisation, or to perform their functions as polling supervisors.

Ms. Torrecillas said, the same day 1 October and in other later interviews that the National Police officers used physical violence not only against the people who were at the polling station but against objects, causing material damage to the school Pau Claris. She emphasized the contrast between the behaviour of those who were there willing to vote exercising democracy, and those who were there to stop voting from taking place “to defend the rule of law”: “It has to be seen what their democracy is like. Ours, was totally peaceful”¹.

¹ <https://www.elperiodico.com/es/politica/20171001/denuncia-agresion-dedos-tocamientos-colegio-ies-pau-claris-6324123>

1. The facts:

On 1 October 2017, Ms. Marta Torrecillas, together with many other citizens, was at the polling station located in the School Pau Claris, in Barcelona city. They were there in order to collaborate with the organisation on behalf of the Government of Catalonia (as Ms. Torrecillas was) or to defend the polling station by peaceful means. The media published several videos revealing that National Police officers showed up at the school and engaged in violent actions against the people who were there, clearly using excessive force.

Particularly in the case of Ms. Marta Torrecillas, there is recorded evidence of both the action that “Policía nacional” officers conducted against her on 1 October and of the statements she made to the media right after the police forces’ actions at the polling station she was at. In these statements she described the use of force and the fondling she suffered by those officers, which involved in her experience, a “degrading treatment”².

It needs to be specified that, in her first statements, Ms. Torrecillas maintained that she had the fingers of one hand broken one by one, due to the injuries the National Police officers inflicted on her, as she thought such was the case. However, it was confirmed later that the injuries they caused her weren’t fractures but a capsulitis, as she publicly stated after medical examination.

2. Before the facts:

On 20 September 2017 two cruise ships reached the port of Barcelona, with an indefinite number of National Police and Civil Guard officers in them. Theoretically there were between 4000 and 6000 officers, but the exact number has been kept secret. The “official” reason for the deployment of the State security forces was to prevent any referendum. Police forces took control of the port and the Barcelona Dockworkers Organisation complained about the militarization of their workplace.

Between 26 and 29 September 2017, citizens from different Spanish cities (Cordova, Toledo, Cadiz, Huelva and from the Headquarters of the “Guardia Civil” in Castelló) said goodbye to the vehicles transporting more law enforcement officers (mostly anti-riot police) to Barcelona in order to prevent the referendum. People cheered them up calling out: “¡a por ellos!”, what means “go get them!”.

The campaign being launched by the Spanish media, which was portraying a dehumanized image of pro-independence Catalans, intensified its tone before the referendum. On 10-07-2017, few days after Catalonia’s independence Referendum, the Secretary of State for Communication, Mrs. Carmen Martínez Castro, thanked the journalists on behalf of the Government for their role in the Catalan crisis. In a conference organized by two foundations, she stated that “the media is doing an extraordinary job”.

Spanish politicians launched publicly violent threats to Catalan elected representatives. An example of these threats is the one made by Pablo Casado, the former Communication Under

² <https://twitter.com/tardaobertatv3/status/914867406820003840?lang=ca>

Secretary of the Popular Party, on 9-10-2017: “Don’t let history repeat itself. Let us hope tomorrow nothing is declared because maybe the one who declares it will end up like the one who declared it 83 years ago” (a threat to Carles Puigdemont, the then President of Catalonia who is now in exile. This threat refers to the former President of Catalonia Lluís Companys Jover, arrested in exile by the Gestapo and returned to Francoist Spain after declaring the Catalan Republic in 1934. Companys was assassinated by Franco’s regime in 1940).

The day before the Referendum, Spanish Police syndicates gave a press conference ensuring there would be no violence the next day. The day of the referendum, official and non-official international observers and the Catalan police communications confirmed that the referendum on self-determination began in a pacific way and that the violence started with the aggressive intervention of the Spanish police forces.

3. Result of the facts

Ms. Torrecillas suffered a capsulitis on one hand when she was violently evicted from the school Pau Claris in Barcelona on 1 October. She also declared she had suffered breast fondling.

On 3 October the Spanish monarch ignored those injured by police ill-treatment and justified the violence against a part of the Catalan society. He did it in a televised speech at the end of that day, when Catalonia had been on an all-time high strike and on protest meetings. Even people wearing Spanish flags protested in Barcelona, accompanied by people advocating independence, against state-sponsored violence and the violations of civil rights.

Some Spanish authorities, such as the Minister of Foreign Affairs and Cooperation, Alfonso Dastis, started a campaign to discredit the injured people and all the victims of police brutality during the referendum. These allegations of fake news lead to a public statement made by the Council of Catalan Medical Colleges (13-10-2017). The Spanish Minister of Justice joined that campaign making fun of the personal issues of some injured people during the 1 October. The most conservative Spanish media supported the campaign.

Ms. Torrecillas filed a complaint for injuries and against moral integrity, with the aggravating circumstances of hate and ideological and gender motivation. This complaint was given permission to proceed³ by Barcelona Investigating Court No. 7 on February 2018.

4. Laws & good democratic practices violated by the Spanish State:

1. The Spanish law enforcement officers’ performance against Ms. Torrecillas, causing her physical injury and treating her in a degrading way, violates the fundamental right to life and to physical and moral integrity, a statutory right included in the Article 15 of the Spanish

³ https://www.elnacional.cat/es/sociedad/admitida-querella-tramite-marta-torrecillas_238575_102.html
https://www.ara.cat/politica/Admesa-querella-Pau-Claris-Barcelona_0_1960604050.html
<http://www.europapress.es/nacional/noticia-juez-admite-tramite-querella-mujer-denuncio-policia-le-roto-dedos-20180213122125.html>

Constitution. Fundamental rights cannot yield to the enforcement of a court order, even less in this case, where the court order to prevent the referendum submitted to the “maintenance of the social harmony”.

2. Consecutively, these same facts also violate the Universal Declaration of Human Rights (Articles 3 and 5), the European Convention on Human Rights (Articles 2 and 3) and the European Charter of Fundamental Rights (Articles 1, 3 and 4).

3. Threats to the freedom of political participation: the fact that the riot police had used violence against people exercising their right to vote shows the aim to restrain the fundamental rights of the citizens. The disproportionate use of force contrasts with the absence of political negotiations on the 1 October and the days before. Violation of the Article 23.1 of the Spanish Constitution and the Article 21 of the Universal Declaration of Human Rights.

6.1 Online references:

About building hate: a State action against Catalonia (in Catalan):

<https://www.vilaweb.cat/noticies/cronica-de-la-construccio-de-lodi-una-operacio-destat-contra-catalunya/>

About the rallies saying goodbye to the Spanish police forces going to Catalonia to avoid the referendum (in Catalan):

<http://www.regio7.cat/arreu-catalunya-espanya-mon/2017/09/27/guardia-civil-crits-por-ellos/435840.html>

Rajoy Pres chief thanked the Media for its role in the Catalan Conflict (in Spanish):

https://www.eldiario.es/catalunya/politica/MINUTO-Diada_13_685361458_13377.html

Association set up to demand responsibilities for the injured during the 1 October (in Catalan):

<http://unilateral.cat/2017/12/19/afectats-1-o-neix-una-associacio-per-exigir-responsabilitats-de-lu-doctubre/>

Spanish Minister of Justice makes fun about the injuries caused during the 1 October referendum (in Catalan):

https://www.elnacional.cat/ca/politica/rafael-catala-ferits-referendum-1o_214833_102.html

1 October victims take the police violence to European Parliament (in Catalan):

<https://www.rac1.cat/info-rac1/20180201/44449231186/les-victimes-de-l1-o-denuncien-al-parlament-europeu-la-violencia-policia.html>

6.2 Related documents and relevant legal reports:

Statement by the Council of Official Catalan Medical Colleges (in Catalan)

https://www.comb.cat/cat/actualitat/noticies/noticies_fitxa.aspx?id=paolJ%2F7syq7DWLn9lniZZA%3D%3D

European Convention of Human Rights, arts. 3 10 and 11, on the prohibition of torture, degrading or inhuman treatment, freedom of expression and to peaceful assembly (in English).

https://www.echr.coe.int/Documents/Convention_ENG.pdf

Arts. 5, 19, 20, 21 Universal Declaration on Human Rights, regarding the prohibition of torture, degrading or inhuman treatment, freedom of opinion and expression, right to peaceful assembly, right to participate in political life.

https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf

Arts. 7, 9.3, 19, 21, 25 International Covenant on Civil and Political Rights regarding pre-trial detention, freedom of opinion and expression, freedom of peaceful assembly, right to participate in political life.

<https://www.ohchr.org/Documents/ProfessionalInterest/ccpr.pdf>

Code of Conduct for Law Enforcement Officials, adopted by General Assembly resolution 34/169 of 17 December 1979.

<https://www.ohchr.org/Documents/ProfessionalInterest/codeofconduct.pdf>