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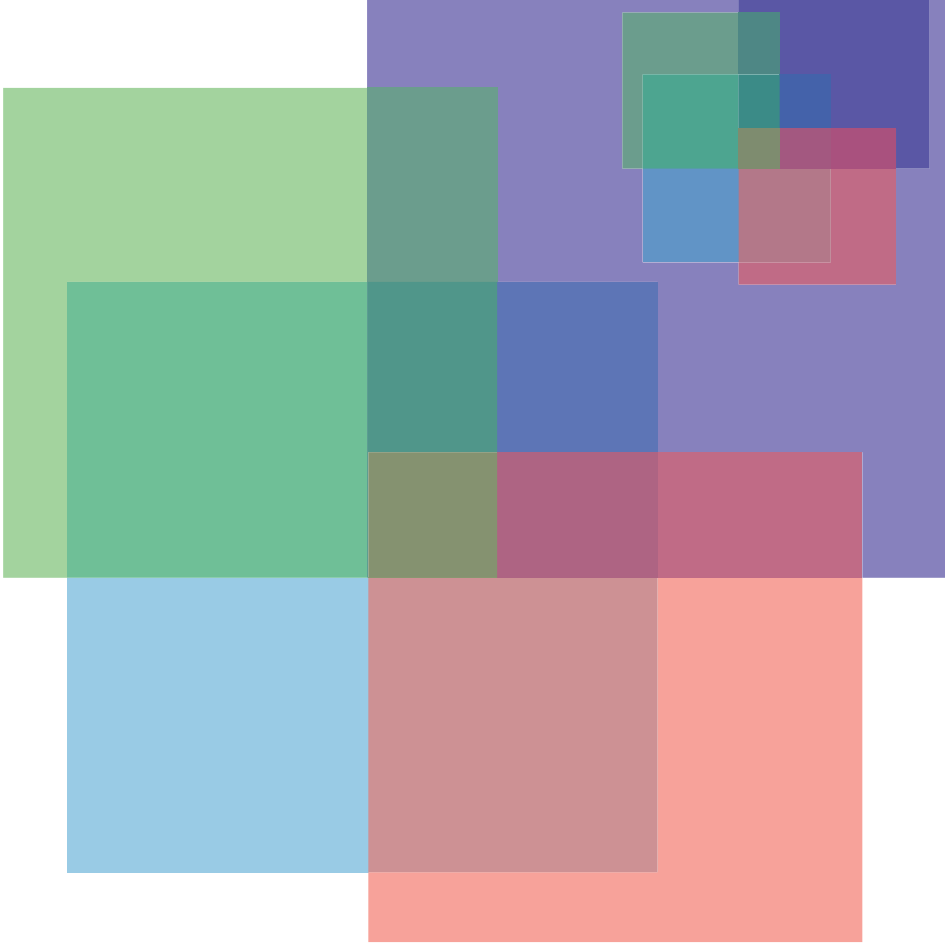

CHAPTER 5

Crime or dissent? Notes on the criminalization of protest in Brazil and Spain

*Luísa Acabado**

Introduction

In this chapter, I argue that the contemporary legislative penalization of social protest uses a grammar of human rights to justify attempts to normalize contentious politics. The main idea is to expose some of the main features of two state initiatives restraining protesters' rights, unveil its grounds and foresee its impacts. I undertake this attempt taking into consideration my personal experience as a criminal lawyer acquainted with protest prosecutions and trials.

In the first part of this chapter, I will explore the idea of a right to protest in international human rights law, framing its concept and taking into consideration some of the more relevant fragilities of the western modern legalist approach to human rights, based on the concrete right to protest example.

The second part presents a critical outlook on two cases that exemplify recent legal initiatives restraining protesters' rights: (i) the Spanish reform on legislation regulating protest, with a particular focus on the Organic Law on the Protection of Citizens'

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Security (LPCS), and (ii) the Brazilian discussion leading to the enactment of Law 13.2060 of 16 March 2016 redefining terrorism.

The objective is to expose these initiatives as examples of the hegemony of human rights as a discourse to restrain human rights and present the criticisms triggered from a politics *for* human rights (Baxi, 2005: xiv), appraising some of the most relevant reactions already known.

In the third part, I will expand on the theoretical framework of the Penal State (Wacquant, 1998) as a *technique for the invisibilisation of social "problems"* in order to frame the above-mentioned examples as attempts to invisibilise contentious dissent, shielded by 'security' as a politic *of* human rights (Baxi, 2005: xiv), outlining its foreseeable impacts on social movements' strategies.

1 The right to protest in international human rights law

As an individual or collective method of expressing dissent, protest involves "non-routinized ways of affecting political, social, and cultural processes" *(*della Porta, 2006: 165).

For the purpose of this chapter, I will consider "protest" as a gathering of any number of people regardless of forms of organization or authorization (thus covering planed or spontaneous activities) as well as their peaceful or eventually violent character.[1] This notion includes marches, *sit-ins*, distribution of leaflets, exhibition of banners or any kind of slogans, as well as *symbolic disruptive direct action* (Mead, 2010: 11) such as occupations or blockages.[2]

[1] Explicitly covering assemblies that are initially peaceful but subsequently involve acts of violence, including acts of violence that are severe and widespread and endanger public order (such as riots).

[2] See Fenwick (2002: 424) for an extensive classification of protest from *peaceful persuasion to forceful physical obstruction and violence* or Tarrow (2011: 99) for an ordering of social movement's repertoire of contention between disruption, violence, and contained behaviour.

Even if it is somehow difficult to draw a line between a right to protest or 'resistance' as *mass popular action, which rejects and challenges ideologies and structures of power supporting domination or oppression* (Douzinas, 2014: 86) and the so-called revolutionary radical socio-political change, this chapter is focused on non-revolutionary political dissent. This means I am targeting the ability of individuals to freely express their political dissent or opinion in civil society, not including the divide between resistance and rebellion (Douzinas, 2014: 86) or protest and direct action (Mead, 2010: 11) in the present analysis.

Scholars usually justify the need to protect the right to protest as a measure of democratic maturity, emphasising the ability to participate in different forms of political protest as a safety-valve in the five-year period in between elections (Mead, 2010: 1), or as a direct means of allowing democratic participation to occur outside election periods (Fenwick, 2002: 422). As Verta Taylor and Nella Van Dyke (2004) stress, the possibility to mobilize creative repertoires of action to protest is fundamental to enable the participation of non-routine political actors.

Inhibition or over regulation in relation to protests indicates a state's tendency to be repressive regarding civil liberties.

Although international human rights instruments have no legal provision putting forward the right to protest, it is commonly accepted that it typically involves the exercise of two closely connected rights — the right to freedom of expression and the right of peaceful assembly — that are inscribed in all human rights instruments[3] and are usually seen as foundational for democratic societies. The right to freedom of expression precedes the right

[3] See, respectively, articles 19 and 20 of the 1948 Universal Declaration of Human Rights (UDHR); 19 and 21 of the 1966 International Covenant on Civil and Political Rights (ICCPR); 10 and 11 of the of the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR); 13 and 15 of the 1969 American Convention on Human Rights (ACHR); 9 and 11 of the African Charter on Human and Peoples' Rights (ACHPR); 11 and 12 of the 2000 Charter of Fundamental Rights of the European Union.

of peaceful assembly[4] and they both have roots in modern *jus naturale* theories and in the struggle for personal freedoms in the XVIII and XIX centuries.

I emphasize that an attentive look into a right to protest on the crossroad between the rights to freedom of expression and peaceful assembly allows a move beyond the traditional approach characterising civil and political rights as individualistic, more fundamental, and easier to implement and to define than economic social and cultural rights and dependent on mere cost-free inaction.

Firstly, collective action (as a way to express protest or dissent) exemplifies an entanglement between individual and collective rights. Secondly, the right to protest has no hard-core definition unlikely to be disputed. Thirdly, even if civil and political rights are supposed to serve negatively to protect the individual from excesses of the state, as Helen Fenwick notes (2002: 78), freedom of assembly may not merely be secured by an absence of interference by the public authorities; states may have positive obligations to intervene in order to avoid any interference with freedom of assembly. From another perspective, just as for economical social and cultural rights, resources are demanded. It is not costless to ensure that state bodies, public servants or police officers protect participation in political life and costs cannot only be asserted in a direct sense (Galligan and Sandler, 2004: 35).

The previous notes contribute to an overall idea that civil and political rights are not a *systematic agenda of "negative liberty"* (Berlin, 1969: 130; Ignatieff, 2000: 323).

Variations on the exact content of the right to protest are clearly understandable when we mention some of the restrictions commonly set to its fulfilment, such as requirements of warnings or

[4] Both rights can be tracked back to 1791 First amendment to the US Constitution. Before that, the 1689 England's Bill of Rights already established the right of 'freedom of speech in Parliament' and the French Declaration of the Rights of Man and of the Citizen, of 1789, specifically affirmed freedom of speech as an inalienable right.

administrative authorizations to march, demonstrate or assemble in public places; compliance with schedule or spatial restrictions; obedience to constraints imposed on itineraries; duties to respect, cooperate or obey state security forces; obligation to respect order and to ensure the normal functioning of institutions or services; requirements on certain items of clothing like the ban on the use of masks or articles similar to balaclavas that conceal personal identity.

And, even if both rights called to substantiate a right to protest admit lawful restrictions necessary for national security, public order, public health or morals, or the rights and freedoms of others (the so called "claw back clauses"[5]), it is more than evident that the state's responses to protest frequently violate demands of legitimacy, proportionality or necessity.

Apart from the Steven Barkan (2006) research agenda addressing the criminal proceedings arising from political dissent, studies on the policing of protest such as the work of della Porta and Reiter (1998) are the most common analyses on reactions of states to political dissent. From a different perspective, in the next section I propose a critical outlook on state legal initiatives restraining protesters' rights.

2 The Spanish and Brazilian reforms in context

Considering the current trend in criminalising collective action and trivializing the state of emergency (Ricardo Peñafiel: 2015),[6] there are numerous examples of repressive and unlawful legislative state reactions to protest. My selection was based on the fact that both the Spanish and the Brazilian proposals came

[5] See for example the wording of articles 19.3 and 21 of the ICCPR or 10.2 and 11.2 of the ECHR.

[6] Peñafiel (2015) highlights how the exercise of a fundamental right to protest is considered a threat to democracy through the analysis of four types of legitimation of repression of collective actions in Quebec, Chile, Ecuador and Venezuela.

from the executive powers governing the corresponding countries,[7] and raised reactions that were particularly mediatised during the last couple of years.

The content of the Spanish and the Brazilian reforms is clearly different. The Spanish initiative is a broad intervention on several laws while the Brazilian is a mere redefinition of the notion of terrorism, a redefinition that can also be appraised in the 'Spanish case'. The main resemblance is that both initiatives are grounded on a concept of security as an effective means to combat threats to democracy and guarantee the free exercise of human rights.

Both initiatives are not set in stone, and this analysis is necessarily provisional and schematic insofar as it tackles legal developments and reactions that are on-going and unfinished.[8]

2.1 The Spanish gag laws

The Spanish 'leyes mordaza'[9] (gag laws) are a set of legal reforms that have taken place since 2014 involving the regulation on private security providers, the reform of the criminal code and the LPCS.

The Law on Private Security[10] follows a trend to privatise security activities based on the belief that security as a *social value* will be reinforced by sharing competences with private actors.[11] Its

[7] The Spanish Organic Law 4/2015, of 30 March 2015, on the Protection of Citizens' Security is the result of a proposal presented by Mariano Rajoy's Government and the Brazilian project was presented by two Ministers of Dilma Rousseff's Government.

[8] Both reforms have already been approved, but they may be revoked by an eventual forthcoming parliamentary consensus in that sense.

[9] The expression is inferentially used to name the whole reform jointly or the LPCS on its own.

[10] Law 5/2014, of 5 April 2014, available at https://www.boe.es/boe/dias/2014/04/05/pdfs/BOE-A-2014-3649.pdf

[11] According to the preamble «Security, understood as a basic pillar of coexistence pursued by the public power of the state under monopoly regime, both in its preventive and investigatory arms, finds the realization of security activities by other social partners or private stakeholders an opportunity to be strengthened and a way to articulate the

importance is reinforced by the fact that, one year later, the criminal code reform equates private security guards to public servants for the purpose of the commission of criminal offences against authorities.

In what concerns the criminal code reform,[12] there are three main features to understand its impact on the right to protest. First of all, there is a reform on the legal types of crime related to attacks on public authorities, resistance and disobedience. Those crimes are broadened to include their commission against private security agents acting under the supervision of relevant law enforcement authorities, and enlarged by the inclusion of a new type of crime punishing lack of respect or due consideration for authorities.[13]

Moreover, there is a change in the regulation of 'public disorder'. On the one hand, the elements of the legal type of crime are altered to transform the specific intention of endangering public peace from an element of intention into an element of fact[14] broadening the scope of punishment. On the other hand, there is a new type of crime punishing the invasion or occupation of a public or private legal entity's domicile, causing relevant disturbance of the public peace or entity's regular activity, and new circumstances of qualification are added to cover facts committed during a demonstration or a gathering.[15]

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recognition of citizens power to create or use private security services with the profound reasons on which the public security service is based» (translated by the author). All quotations were translated by the author.

[12] The reform is devised by 2 laws from 30 March 2015: Organic Law 1/2015, revising the Criminal Code, available at https://www.boe.es/boe/dias/2015/03/31/pdfs/BOE-A-2015-3439.pdf, and Organic Law 2/2015, available at https://www.boe.es/boe/dias/2015/03/31/pdfs/BOE-A-2015-3440.pdf, altering the section of terrorist offenses.

[13] See article 556, nr 2.

[14] The new redaction of article 557 punishes the disturbance of public order irrespective of the specific intention of endangering public peace that was previously demanded.

[15] See article 557 bis, third subparagraph.

Thirdly, during 2015, the Spanish Criminal Code was also reviewed to include a new definition of terrorism[16] that emphasizes the intention of the perpetrators, establishing that the commission of any serious crime affecting main juridical values will be considered terrorism, when carried out with the purpose of: (1) overthrowing the constitutional order, eradicating or severely destabilizing the functioning of political institutions or economic structures of the state; (2) seriously disturbing public peace; (3) seriously destabilizing the functioning of an international organization; (4) provoking a state of terror in the population (or part of it).

The LPCS «envisages the regulation of a plural and diversified set of acts, of a distinct nature, aimed at protecting citizen security through the protection of people and property and the maintenance of civil peace»[17]. The preamble of the law presents citizen security as the guarantee to freely exercise rights and freedoms recognized and protected by democratic constitutions, and therefore as an essential element of the rule of law. It regulates personal documentation and identification; proceedings for restoration and maintenance of citizen security; the powers of security administrative police and a sanctioning regime for categorised infringements.

The categorisation of administrative offenses distinguishes between very serious, serious and minor infringements, describing an impressive amount of actions that give rise to an automatic fine,[18] in case they are not independently investigated in a criminal proceeding (the administrative proceeding is thus subsidiary towards criminal proceedings). To display the potential for repression of

[16] Article 573 was inspired by the framework decision (2002/475/JHA) and amending decision (2008/919/JHA) that define terrorist offences, as well as offences related to terrorist groups or offences linked to terrorist activities, and set down the rules for transposition in EU countries.

[17] See article 1.

[18] Infringements will be sanctioned according to the classification with fines from 30.001 to 600.000 euros (very serious); 601 to 30.000 (serious) and 100 to 600 euros (minor).

protest inscribed in the LPCS, I will describe the most relevant behaviours framed as infringements in the following paragraphs.

One of the four very serious infringements described in article 35 contemplates the promotion or organization of non-reported or forbidden assemblies or demonstrations in basic services facilities or proximities, as well as the intrusion on those facilities, in case there is danger to life or physical integrity.

Article 36 categorises 23 serious infringements. Among them, at least ten have relevant impact on protest: disturbing citizen security in public events (nr 1); seriously disturbing citizen security during assemblies or demonstrations in front of political institutions (nr 2); disruption in streets, public spaces or facilities producing a serious deterioration of citizen security (nr 3); obstructing the performance of public functions (by authorities, civil servants or statutory corporations) (nr 4); resisting or disobeying a person in authority or agents of such persons (nr 6); refusing to dismiss assemblies or demonstrations when legitimately requested by the authorities (nr 7); disturbing an assembly or demonstration (nr 8); trespassing basic services facilities causing disturbances to its operation (nr 9); lack of cooperation with State security forces and bodies in investigating offenses or preventing citizen security disturbance (nr 15); as well as the non-authorized use of images and personal or professional data of authorities or members of the State security forces endangering their personal or familial security (nr 23).

Finally, from the seventeen minor infringements set in article 37, at least six target protest: assembling in places of public transit or demonstrating in breach of the law (nr 1); non-compliance with restrictions imposed to pedestrian circulation or itinerary during public acts, assemblies or demonstrations causing minor alterations (nr 3); lack of respect or consideration towards members of State

security forces and bodies protecting security (nr 4[19]); occupation of or permanence in property against the owner or tenant's will as well as road occupation(nr 7); climbing buildings or monuments without authorization (nr 14); removing fences or any other elements used to establish security perimeters (nr 15).

The fact that infractions automatically receive administrative sanctions means there is no judicial review unless there is suspicion that a criminal offence[20] has been commissioned setting up what Garcia calls an administrative criminal law for the enemy (2015: 171). The law also provides for the creation of a central registry for infringements against citizen security which will enable control over recidivism[21] introducing the idea of a database for administrative infringements.

The highly controversial character of the reform emerges from its wording and reactions grounded on the content of freedom of expression and peaceful assembly were quick to come.

Non-judicial reactions brought together a broad range of institutional[22] and non-institutional actors[23] arguing the reform is problematically dissuading freedom of expression and peaceful assembly due to an excessive use of administrative sanctions, together with the use of ambiguous and diffuse concepts and the ban to use images of public authorities.

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[19] One of several anecdotal examples of this particular infringement is the fine applied to a truck driver for having called a police officer 'colleague', at: http://www.diariosur.es/malaga-capital/201508/05/mordaza-multa-euros-camionero-20150805184222.html, accessed on 30 December 2015.

[20] In that case, the administrative procedure will be sustained until the criminal decision is taken and continued afterwards.

[21] Recidivism is one of the aggravating circumstances together with the use of violence, threat or intimidation or undertaking activities with covered face preventing identification (see article 33).

[22] The Spanish gag laws were the object of critical remarks shared by the UN Special Rapporteur on the rights to freedom of peaceful assembly and association, the Council of Europe Commissioner on Human Rights and United Nations Human Rights Committee.

[23] One of the most creative initiatives was a demonstration with holograms

Judicially, two appeals[24] on grounds of unconstitutionality[25] are pending in the Spanish Constitutional Court and, on a regional level, an application has been lodged at the European Court of Human Rights (ECHR), claiming that article 36.23 of the LPCS violates the right to freedom of expression.

2.2 The Brazilian (re)definition of "terrorism"

Law 13.2060 of 16 March 2016 is an amendment to the 2013 law on criminal organizations[26] establishing that the law will be applicable to terrorist organizations, and putting forward a definition of terrorist organisation.

The legislative proposal's statement of reasons (PLC 101/2015) mentioned that *terrorist organizations are one of the biggest threats to human rights and strengthening of democracy, a scenario* that should compel Brazil to benefit from world debates and create a law to protect individuals.

Terrorist organizations are defined as "those whose preparatory or executory acts occur for reasons of ideology, politics, xenophobia, discrimination or prejudice based on race, colour, ethnicity, religion or gender aiming to provoke terror exposing people, property, safety or public peace to danger".

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[24] The Parliament of Catalonia brought an action of unconstitutionality against articles 35.1; 36.1,2,8, 23 and 37.7 of the LPCS and another action was lodged by over 50 Members of Parliament against articles 36.23 and 371.3.7 of the LPCS.

[25] As many other national constitutions, article 102 of the Spanish Constitution of 1978 provides a special status to the IHRL establishing that 'The norms relative to basic rights and liberties which are recognized by the Constitution shall be interpreted in conformity with the Universal Declaration of Human Rights and the international treaties and agreement on those matters ratified by Spain'.

[26] Law nr. 12.850 of the 2nd August 2013 defining criminal organization and regulating its investigation, means of obtaining evidence, correlated criminal offenses and criminal proceeding, available at http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/l12850.htm

One of the first wordings of the PLC 101/2015 defined terrorism as the "practice by one or more individuals [of a set of classified actions] inspired by political or ideological reasons". Thus, the main innovation is an attempt to define the concept of terrorist organization, referring to political or ideological reasons as a typified reason for the commission of acts of terrorism.

To fully acknowledge the purpose of restricting public protest, one must note that the previous wording of the article already established that the law was enforceable against international terrorist organizations, whose actions occur or seemed likely to occur in Brazilian territory.

The first reactions to the PLC 101/2015 were so strong that a paragraph explicitly excluding the application of the law for individual or collective conducts within demonstrations, social movements or trade unions was added. Still, the wording is not unquestionable, and remains contested because the definition allows many activities, currently acknowledged as being criminal, to be re-designated as terrorism, and encompasses a number of forms of public protest. Reactions were immediately felt. One of the criticisms made during the discussion of the legislative proposal may be found in a manifest repudiating the initiative[27] that presented it as a step backwards in terms of political participation, predicting its use against social movements.

3 Policies *of* human rights?

Even if the content of the cases is clearly different, a close reading of the LPCS preamble and of the explanatory letter accompanying the draft which gave rise to Law 13.2060 of 16 March 2016 reinforces the idea that the universalization of a human rights

[27] The manifest, *online* at http://cartamaior.com.br/?/Editoria/Politica/Manifesto-de-repudio-a-tipificacao-do-terrorismo/4/34688, was signed by several different personalities and more than 90 associations.

discourse forces those who openly or covertly oppose the fulfilment of a right to protest to use it as a discourse. As Santos (2014: 22) notes, we are witnessing *the increasing massive violation of human rights in the name of human rights, the destruction of democracy in the name of democracy.*

There is nothing innovative in the use of human rights as a *grammar of governance* (Baxi, 2005: 15). The analysis of the multiplicity of readings allowed by human rights concepts and norms is transversal to the work of several scholars. Upendra Baxi's work is particularly valuable in understanding the dynamics between inclusion and exclusion in human rights practices.

Exploring the distinction between statecraft politics *of* human rights as a means for legitimation of governance and domination and the politics *for* human rights or practices of human rights activism as a tradition of the oppressed (2005: xiv), Baxi acknowledges the hegemonic function of the former consisting of *making whole groups of people socially and politically invisible* (2005: 46). His argument is not only historical (explaining the transition from a modern to a contemporary human rights paradigm) but also analytical towards the multiplicity of actions assembled under the authority of human rights.

Considering the different concrete forms a protest may assume, and foreseeing the several different restrictions it may be submitted to under regulations like those exemplified, human rights assume the role of a 'floating signifier' as something that political actors *want to co-opt to their cause in order to benefit from its symbolic capital* (Douzinas, 2000: 255).

In this context, the penalization of protest works as an invisibilisation tool. The possibility of having committed an administrative or criminal offense blurs one's agency as a dissident or protester, labelling his acts as mere transgression.

Elaborating on the features of law-enforcement policies targeting the dispossessed, Loic Wacquant explores the idea that

penalization laws serve as a *technique for the invisibilisation of* "social problems" (2009: xxii), and puts forward a threefold utility of the penal apparatus (2008: 16; 2009: 7). I argue this is embedded and redirected towards protest by the LPCS when (i) it bends those recalcitrant to ideological discipline by increasing the cost of dissidence with fines varying between one hundred and six hundred thousand euros; (ii) neutralizes disruptive elements through the immense obstacles imposed on any initiative; and (iii) reaffirms the authority of the state in daily life through vague concepts of 'order', 'risk of damage' or respect.

As an impressive attempt to invisibilise dissent, the above-mentioned laws are shielded by an idea of 'security' as politics *of* human rights (Baxi, 2005: xiv).

Reflecting on the punitive turn of a Neo-Darwinist state against categories of dispossessed people in the USA, Wacquant (2009: 243) considers it not as a response to the growth of crime or violence but rather as a strategy to impose a regime based on dissocialized wage labour. Wacquant's Penal State finds its premises on the rise of neoliberalism, imposing a "right to security" that finds its consecration in the need to maintain a performance of strength felt by a state progressively emptied of its social economic functions (*idem*). His analysis perceives penal expansion as a core component of the retooling of public authority conveyed by an *alarmist, even catastrophist discourse on "insecurity"* (2009: 2).

Perceiving 'security' as a broadened concept invoked in increasingly non-military issues, such as politics and home affairs (Peoples, 2010), scholars stress its performativity. As Buzan says «in security discourse, an issue is dramatized and presented as an issue of supreme priority; thus by labelling it as security, an agent claims a need for and a right to treat it by extraordinary means» (1998: 26).

The introduction of security as the guarantee to freely exercise fundamental rights, and therefore as an essential element of the rule of law as staged in the LPCS, or the presentation of terrorist

organizations as a major threat to human rights occurring in Law 13.2060 of 16 March 2016, perform that role through the binarism "liberty *versus* security".

On the same track, while referring to the anti–terrorist legislation promulgated following the UN Security Council Resolutions adopted after 9/11, Santos (2007: 7) mentions a state of exception coexisting with constitutional regularity that «hollows out the civil and political content of basic constitutional rights and guarantees».

This 'securitization trend' is transversal in both examples. On the one hand the Spanish gag laws, besides extending security tasks to private actors and broadening crimes related to disobedience and 'public disorder', have in the LPCS a major example of an ideological prevalence of 'security' over freedom of expression and peaceful assembly (Garcia, 2015: 171). On the other hand the draft which gave rise to Law 13.2060 of 16 March 2016 included ideological reasons in a definition of terrorism aimed at preventing threats to human rights and strengthening democracy.

From a different perspective, protest and dissent are invisibilised through the penal drive also because it mangles their intervention potential by reducing repertoires of action. By targeting legitimate acts of political dissent as *a threat to the general security* these initiatives may produce what Donatella Della Porta (2006: 247) calls the normalization of protest as "normal politics", allowing stigmatization and repression of "uncivilized" forms of contentious politics by the police.

Final comments

This chapter intended to expand the notion of a right to protest questioning its usefulness for those who intend to publicly express political dissent and for those who want to regulate and restrain political activism. Notwithstanding its strong foundations within the right to freedom of expression and the right of peaceful

assembly, variations on the exact content of the right to protest make it an easy prey.

I used two particular state legislative proposals located in Spain and Brazil to explore the use of a grammar of human rights to justify, on one hand, the restrictive regulation of protest by means of penalization of conducts through the amplification of criminal concepts and the recourse to administrative criminal law, and the securitization trend on the other. Drawing on these legislative initiatives, I argue that rather than a contradiction between a human rights discourse and authoritarian practices imposed by security drives, the contemporary penalization of social protest finds its feeding ground within the human rights discourse itself, using it for a normalization of contentious politics. Taking into consideration some main features, such as the extension of security activities to private stakeholders; the reformulation of crimes against public authority; the redefinition of 'terrorism' on ideological premises, or the creation of a broad range of administrative sanctions exempt from previous judicial review, the two major trends I highlight are penalization and securitization.

As I outlined, the Spanish reform on legislation regulating protest and the Brazilian discussion leading to the definition of terrorism by Law 13.2060 of 16 March 2016 are interesting examples of the hegemony of human rights as a discourse to both restrain and protect human rights. They perform a very restrictive state approach to protest, menacing the potentialities of political intervention of non-routine political actors.

While the application of the dynamics of securitization allowing the appeal to an extraordinary penalization would find it much more difficult to succeed without performing a protection of human rights, different actors challenging such reforms are also invoking the substantive content of human rights to sustain their demands.

On-going attempts to challenge the legal initiatives I addressed are grounded on the content of freedom of expression and peaceful assembly and unveil these initiatives as steps backwards in terms of political participation.

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