SYMBOLIC VIOLENCE AND THE PENALIZATION OF THE PROTEST

LA VIOLENCIA SIMBÓLICA Y LA PENALIZACIÓN DE LA PROTESTA

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Abstract

This article discusses the use of law and order discourses, agents and institutions in the management of the protest. Social movement studies literature on the police management of the protest and the effects this has on mobilization is reviewed to this end. Notions from the sociology of punishment are incorporated in order to argue for the pertinence of exploring these issues in terms of processes of penalization. A complex vision of punishment is used to question the widespread understanding that there is now less violence involved in protest management: I turn to symbolic violence, and spectators as interpreters of penalization to open new lines of inquiry. To illustrate the types of situation for which these conceptual shifts might productively be applied I refer to examples of mediated political discourse, police action and presence, and the modification and application of legal texts during the last wave of protest in Spain.

Keywords

Bourdieu; Durkheim; punishment; repression; social movements.

Resumen

Este artículo plantea una discusión conceptual sobre la gestión de la protesta a través de las instancias vinculadas con la ley y el orden. Para ello, primero se repasan los estudios que prestan atención a la gestión policial de la protesta y sus efectos en la movilización. Se plantea la pertinencia de usar nociones provenientes de la sociología del castigo y plantear esta cuestión en términos de procesos de penalización. Este enfo-que se usa para cuestionar la idea de que ahora hay menos violencia en la gestión de la protesta. Para ello recurro a la noción de violencia simbólica y propongo prestar más atención a los espectadores como un ob-jetivo de la penalización. Para ilustrar estas propuestas se utilizan ejemplos del discurso político mediatizado, de la actuación y presencia policial y de la modificación y aplicación de textos legales durante la última ola de protestas en España.

Palabras Clave

Bourdieu; castigo; Durkheim; movimientos sociales; represión.

Over the last decade an international wave of protest against neoliberal policies has taken place (della Porta, 2015), indeed, in countries like Spain there were also political crises, crises that were actually about the particular way in which politics had been institutionalized (see Díez and Laraña 2017; Portos 2016). Young people were the protagonists of a good part of social mobilizations in Spain. These people had been unable to participate in the configuration of the parliamentary monarchy negotiated in the transition to democracy. For a number of reasons (Romanos 2011: 334-335), while the mobilization of a generation previously perceived to be apathetic and depoliticized came as a surprise, so too did the government's reaction and that of several official bodies, whose way of handling the protest was, in many senses, at odds with a healthy democratic system. This article sets out to contribute to the theoretical discussion by analysing three aspects of this way of handling the protest, which resorted to institutions and discourses more typical of crime management (mediated political discourse, police action and presence, and changing laws).

With this work, I hope to contribute to the conceptual discussion on the relationship between the state and social movements. Even though this approach may be reductive (Earl 2011: 262-263; Ferree 2004: 86-87), I will concentrate on the state mechanisms linked to crime management at demonstrations. This is mainly because I am interested in focusing on punishment. To do this, writing from the perspective of sociology of punishment, I take social movements out of the spotlight and leave them in the periphery for a time, focusing instead on state action, particularly punitive state action. I aim to take into account the actions of government, legislators and police, but not only because of how this can contribute to the understanding of social movements, their opportunities for success, or the internal restructuring they entail; I think that temporarily taking a broader perspective brings elements to light that may be of use to the literature on repression and social movements, even if this is only in terms of the type of empirical material that can be used to study repression (Oliver 2008: 19). In this article I propose three shifts in relation to the most common approaches.

Firstly, I shift the focus from physical violence to symbolic violence. There is a consensus that a reduction or softening in the use of physical violence by the state (especially the police) has taken place, but this does not necessarily mean that the state uses less violence. As I argue below, the state appears to be increasingly resorting to forms of symbolic violence. In light of this, a broader perspective on the police must be adopted, along with a wider understanding of the agents and institutions involved and of the forms this violence takes, forms which are increasingly being linked to communication processes and social categorization. Although my focus lies in and around the protest, I intend to suggest some of the benefits of taking things that happen outside demonstrations into account.

Secondly, due to the increase in symbolic violence, I suggest that characterizing state action as repressive, although this is still fair, may involve underestimating its productive effects. Seeing the control of protests as repression alone makes sense if we are interested in its impact on collective action. However, if we hypothesize, following Durkheim, that punishment is not oriented primarily towards the social movement (who are more likely to be conquered than convinced by threats and repression) but rather at those people who do not have the police after them, we can take into account the impact repression has on those who watch as spectators. This third shift involves considering the effect of the penalization of the protest on spectators.

In order to explore some of these ideas and highlight the potential advantages of the approach proposed, this article focuses on the wave of protests that took place in Spain from 2011 to 2014: bringing into dialogue with each other academic sources, newspaper articles, statements from politicians, and analyses of the legal changes introduced.

THE STUDY OF STATE REPRESSION AND SOCIAL MOVEMENTS

Repression and mobilization

Repression has been an object of study in social movement studies for some time, but the amount of conceptual development and empirical attention paid to it has varied. Since the 70s at least, influential authors such as Charles Tilly (1978) emphasized the state repression of social movements and the links between this and different political regimes, however, for the most part, this topic did not begin to receive close attention until the 90s (Tarrow 2011: 28). The renewed attention paid to repression is largely attributed to the publication of a series of works by Donatella della Porta (1996; della Porta and Reiter 1998). Della Porta highlighted the relevance of studying specific aspects of states' responses to protest. To this end she focused on one specific variable ("police handling of protest events") as an indicator of the State's openness to the demands of social movements. As a methodological strategy, della Porta focuses on one type of state agent (the police) and a specific event (demonstration / protest). Thus, the models for police management of demonstrations were systematically studied as an indicator of the structure of political opportunities, and in order to show the direct effects that they had on the form and development of the demonstrations and of the social movements themselves (della Porta 1996: 62-66).

This line of research has produced a good amount of empirical material, primarily in the form of case studies. Some have taken on the task of proposing which factors or variables influence the police control of the protest to attempt to understand what shapes different police actions, while others have focused on the effects of this police action on movements, in what could be referred to as the literature on the relationships between repression and mobilization (Davenport 2005). There have been all sorts of results: linear results (repression increases mobilization, repression diminishes mobilization), curvilinear results (in the form of a U and an inverted U) and unclear results (usually where two opposing tendencies - mobilization and demobilization - cancel each other out) (see Earl 2011: 266-268). These results are very useful for homing in on the contingent and political nature of the effects of the police control of demonstrations, but it does not seem that scientific laws and patterns can be expected to establish univocal relationships between variables in this area.

On the concept of repression

Conceptually, however, della Porta's operationalization (which is reasonable from a methodological perspective) seems to have led to a rather narrow understanding of the state response to the protest, which largely focuses on the face-to-face interaction between police and protesters (Earl 2011: 265; Oliver 2008: 3-4). So, despite the fact that della Porta herself (1996: 62-66) introduces repression as one of the many elements to be studied in relation to the police management of political dissidence (taken as an indicator of the state's degree of openness to the demands of social movements), coercion at demonstrations and its effects on the development of social movements is the main issue to have been investigated.

Others have purposely tried to escape the notion of repression. For example, Jennifer Earl (2006) proposed replacing the term repression (which she considers to be biased and centred on the protesters' perspective) with the "social control of the protest". This concept is supposed to accommodate the study of the less direct forms of control, take non-state actors into account, and extend the temporal scope to what happens before and after demonstrations.[1] Earl proposes that paying attention to who exercises this control, how it is exercised, and its level of visibility is necessary to achieve this end. In this way she hopes to surpass approaches that reduce this phenomenon to whether it poses a threat or offers an opportunity to social movements (which indeed, accounts for most of the research in this field). In what follows, I attempt to bring these approaches into communion with contributions from the sociology of punishment in the hope that this might help rethink some of the main components of social movement studies literature and the sites and processes considered pertinent to it[2].

ON THE REDUCTION OF STATE VIOLENCE: SYMBOLIC VIOLENCE

The reduction of the use of physical and lethal violence

The literature that has dealt with the police control of the protest unanimously points to the discontinuation in the use of lethal weapons (pistols, for example) in favour of the use of other weapons that do not normally cause death (tear gas and rubber bullets). This process, primarily put into practice after World War II, has been accompanied by changes in the way the police deal with demonstrations, shifting from a reactive protest control model to a protest management model that involves less aggression (Marx 1998; della Porta and Reiter 1998). Simply put, these changes to the police's way of dealing with protests, the weapons they can use, and the conditions for this use, have led to a soft-policing protest control model, which differs from the previous model, now described as hard-policing.

Objections to this assumption can also be found: some studies indicate that police action depends primarily on the aggressiveness of the protesters, and that, therefore, aggressive police control continues to exist depending on the demonstrations (Soule and Davenport 2009: 16), and other, more nuanced studies suggest the coexistence of both policing models within the same demonstration being used at different times and against different types of protesters, in a process of selective incapacitation (Blay 2013; della Porta and Reiter 1998: 8). Still others point out that given the hyperincarceration of the African-American population in the wake of the civil rights movements, it is difficult to argue that social movements are being subjected to a softer form of control when imprisonment directly prevents the articulation of groups (Oliver 2008) and even, at a more basic level, excludes people from political citizenship by not allowing them to vote in elections (Uggen and Manza 2002). This article, in line with these studies, is concerned with what is being taken into account in discussions on the control and repression of the protest.

This analysis of the police handling of the protest does not cast any doubt on the existence of state violence, but rather takes note of how qualitative changes have led to a reduction in the use of institutional violence and of the fact that although police control may be heightened (due to more technologies capable of identifying people, for example), in general it is less violent (or resorts to dialogue more frequently and to lethal weapons less so).

I am interested in the type of violence being discussed, where the relationship between the state and the control of dissidence is said to be less violent these days. Approaching the question in terms of whether the management of political dissidence

is more or less violent nowadays can be very pertinent. However, this approach can be blind to other processes that are not as obvious, and even uses of violence that are not identified as such. These uses of violence influence both directly and indirectly the articulation of the protest (one of the concerns in the literature), as well as the conception and understanding of the movement itself, and thus of its demands. Moreover, retaking the idea of della Porta, they can be a good indicator for understanding the state and its relationship with citizens.

The transformation of violence

The work of Norbert Elias (1939) on the historical transformation of the accepted forms of violence may be of use here. Indeed, Elias relates the pacification of public space to the formation of modern states and their attempts to gain monopoly on violence. He notes that the state uses the threat of violence to dissuade non-state actors from using violence, and how that transforms relationships between groups and sublimates violence in socially acceptable forms (for example, the use of table manners in court society).

The historically changing nature of the sensitivities that determine whether violence is considered acceptable or not has already been incorporated into to the study of punishment, most famously by Pieter Spierenburg (1984) and John Pratt (2002), and is considered one of the main currents in the sociology of punishment (see Garland 1990: 213-247). Although it has been most fruitfully applied in historical analyses, i.e. the journey from public executions to the use of the prison, it can also serve to understand the transformations of police powers. One important issue highlighted by Elias is the significance of visibility, and some studies have applied this to punishment to explain the rise of punishments that are less visible (like the prison). Today, for example, some acts, like the police stopping and searching somebody, can be considered legitimate and non-violent if performed behind doors or at police stations, their visibility being what determines whether they are deemed "civilized" or not. This sensitivity, and the need to transform practices and language stemming from it, may contribute to a more nuanced understanding of the transformations of state violence in its dealings with social movements. It can make it easier to trace these transformations, as this violence can be perpetuated in ways that are considered acceptable and it does not seem violent to us.

In this regard, the scope and the presence of the media with its capacity to report on what happens at demonstrations visually, is understood to have had a considerable influence on the transformation of police models, the selection of weapons (Marx 1998: 257) and the increase in undercover police interventions. The fact that police actions that are usually unseen have been made visible could have something to do with the transformation of the police control of the protest, imposing serious restrictions (legal and cultural) on police action. Nevertheless, other factors are also involved, such as a heightened perception of the legitimacy of protest, the development of institutional channels for the protest, and the fact that protesters employ less aggressive means (Soule and Davenport 2009). Thus, Elias' works can help increase our awareness of socially acceptable forms of violence which, in fact, we do not always perceive as violent.

Symbolic violence

In this sense, I find Pierre Bourdieu's notion of symbolic violence particularly useful. The term refers to those forms of violence that are not recognized as such, and that actually get their strength from the fact that they are not identified or perceived (Bourdieu 1997; 1977). Symbolic violence, above all, works at the level of perception, no deliberate attempt is made to "hide" repressive acts: it is part of the relationships of domination, and takes its strength from the structural homology between social conditions and the representation that is made of them (Bourdieu and Wacquant 1992: 39-41). Our way of understanding actions, which involves applying schemes and mental dispositions formed and acquired from within relationships of domination, and which tend to represent those relationships as natural, makes it difficult to perceive certain conducts as violent, to the extent that they are not violent in practical terms.

Using the concept of symbolic violence makes it is easier to observe the productive nature of punishment, which is sometimes just as important as the repressive one, as well as its material and symbolic components (González-Sánchez 2017: 70-73). The social movement studies literature tends to focus on repression (Earl 2006: 129), and this may be appropriate for the research objectives in question. However, within the sociology of punishment, studies into the productive effects of punitive state action have produced results that are just as fruitful as studies into repressive effects (for instance, disciplined bodies, urban architecture, moral panic, and concepts for tackling social problems). Perhaps combining the study of productive effects with the study of repression can elucidate types of violence and effects of the state control of political dissidence that may be being undervalued.

This is not a question about opposing repression to production, but of understanding that they act intertwined in an overlap of material and symbolic elements. An analytically timely separation may overshadow the fact that when a police officer bashes a protester with a truncheon, the material repression of an individual takes place alongside the symbolic production of a social category that makes it more likely for other people to interpret the event in a given

way. This social category is not automatically and un-equivocally imposed on the whole world. The blow may subsequently be subject to usage by both sides (police and protesters) in a struggle over the meaning of the act (police abuse against peaceful protesters or proportionate use of force against violent radicals) (Bourdieu 1982: 88; 1977: 94), but it is important to remember that they do not have the same capacity to have their discourse accepted as the "official" version of the event.

So, it might be useful to stop talking about repression and use a broader concept. David Garland proposes using the concept of "penality" to refer to "the complex of laws, processes, discourses and institutions" related to criminalization processes (Garland 1990: 10). This makes it possible to concentrate on all police activity, not just repressive interventions, and on the use of the penal system in terms that go beyond police-protester interaction. The idea of "penality" refers, in descriptive terms, to the use of agents of the penal system and discourses associated with crime and delinquency to manage a situation. Thus, the use and presence of police at demonstrations may be justified by the existence of temporary potential disruptions to order and legality, but this does not mean that penalization is not taking place (this depends to a certain extent on the justification offered for the police presence and their disposition, as well as how protestors are categorised); in fact using the term penalization can be positive in analytical terms. Just as drugs can be managed through medicalization, or education, or penality, political dissidence expressed at demonstrations and collective actions may receive different political responses. If procedures associated with crime and its control are used to handle protests (though it is unusual for them to be used exclusively, since protests rarely obtain an answer from just one part of the bureaucratic field), the penalization process, which is more extensive and complex than police intervention, ought to be studied (and let us not forget that not all police interventions are penalizing in and of themselves).

The study of repression (particularly in its material form) has been remarkably thorough and has produced fruitful insights and knowledge. Without denying its importance, indeed, while emphasizing it, I focus more on the symbolic violence than on the physical. Just as the existence of the media can foster restrictions to the types and quantity of state physical violence exerted on social movements, it also facilitates the use of new forms of symbolic violence and penalization on social movements.[3] This is particularly important when you consider that symbolic power operates at the level of knowledge and perception, rather than on physical bodies (Bourdieu 1977: 91-92). Thus, developing the study of broader forms of penalization and their communicative effects appears advisable. So too does studying the specta-

tors (though this is often absent from the literature) since they are crucial for an understanding of the penalization and mobilization strategies adopted (in terms of the forms they take and in order to better understand their meaning).

THE PENALIZATION OF PROTESTERS IN DEMOCRATIC REGIMES

State violence in a democracy should not be used against people for expressing, defending or pursuing political ideas unless this involves committing criminal acts. As democratic values are established in a society, the sensitivity about what is acceptable violence in the management of demonstrations changes: rendering inacceptable the use of physical violence, or the penalization of a group, where this is perceived to be because of its political ideas.

Social categorization and mediated political discourse

Symbolic violence mainly acts at a cognitive level, and at the level of understanding. In this case, the state stands out with its unequalled power of nomination, both in terms of issuing official classifications (i.e. identity cards, qualifications and criminal sentences) and in terms of the production of discourses (Bourdieu 1982: 67-71).[4] Because this sort of violence owes its strength to the fact that it is not usually recognized as such, it may reasonably be expected to be less costly to the government, since it does not clash with people's sensitivities regarding what is and is not allowed to the same degree. Approaches that relate the use of state violence against social movements to its high political cost could potentially benefit from taking this into account.

Tools from social movement studies literature can be of use in the study of these processes, of which framing is probably the most commonly applied (see Benford and Snow 2000), and its importance was acknowledged early on (della Porta 1996: 64-65). Some say that framings tend to work because they resonate with cognitive dispositions (Oliver and Johnston 2000: 41): that is, historical interpretation schemes that are internalized differently by people according to their social position and trajectory, which also predispose them towards action, and may prevent certain potentially violent assertions from being perceived as such, or enable them to go unnoticed. The literature has largely applied framing to the activity of social movements. Below I propose the relevance of studying government discourses and actions (see Noakes and Johnston 2005: 18-19), especially state punishment, as a collective action frame of particular effectiveness, because it has much credibility (its word is what makes things "official") and because it represents the community through acts of delegation (Bourdieu 2012). Given the scope and focus of this

article, only some of the framing processes will be set out in order to offer examples of how penality can work to exert symbolic violence over a social movement. Non-discursive messages (such as police presence or the application of one set of laws instead of others) are to be discussed below, but here I will focus on mediated political discourse.

Even so, in democracy "citizens doing politics" are "non-suitable enemies" (Maroto Calatayud 2016: 61). One important framing process of the dozens identified in the literature, relates to the discussion about who the others are, and in the case of Spain, this appears to be based on adversarial framing (Benford and Snow 2000: 616). So, significant efforts appear to have been made to define protesters as "suitable enemies", and in order to achieve this, protestors are denied the possibility of self-definition and instead the term "anti-establishment" has been bandied about, placing them outside the democratic playing field and attempting to remove them from the collective *us*. In this way, a process that tries to alter what protestors *are* takes place. At the *Indignados* demonstrations the extra vulnerability of young people to these processes and their scarce symbolic capital for countering them was evident: in order to discredit a fairly broad movement with an unusually high diversity amongst protesters (see Calvo et al. 2011) "anti-establishment youths" were constantly alluded to. This sometimes involved going to extreme lengths, such as associating some of the main associations of the protest cycle with ETA (with terrorism). It was even suggested that protestors were trying to kill police officers.[5]

It is important not to confuse framing processes with ideologies (Oliver and Johnston 2000). One good example to illuminate this issue, in which a one-off dispute takes on a much wider meaning, is the framing process around Spain's existing democracy. Through the recourse and appeal to 1978 (the year the constitution that underpins and consecrates the transition process was approved), the protesters, on the one hand, and the politicians, on the other, located their disputes in a much broader struggle: that of the democratic model itself. Although both sides accepted this framing, the frames used to refer to it and describe it indicated strong ideological differences. On the one hand, the demonstrators referred to "ending the regime of 78" (which calls to mind the significant continuities between Franco's regime and the transition) (Díez y Laraña 2017: 232-238), while the government referred to the "spirit of 78" (which usually refers to dialogue, consensus and non-confrontation). These framings were supposed to amplify the dispute and transform it into a broader discussion (Benford and Snow 2000: 624). In addition, they appeal to the emotional and community feelings fundamental to mobilization (Goodwin et al. 2000: 22) that can make the communicative function of penality more effective, as I explore in relation to Durkheim later on.

Another aspect of the framing process has to do with prognosis, and it is directly linked to the fact that the government set out to use agents and institutions linked to law and order, in both discourse and practice. The solution offered points to the nature of the problem (criminal, non-political), and the nature of the social movement is insinuated. This effort to reconceptualize the legitimate interlocutor as dangerous and, indeed, linked to crime and delinquency, does away with the need to sit down to discuss the content of the demands of a social movement, as there is but one appropriate response to crime: law and order. Thus, by means of the application of a securitarian logic, a deeply political movement is depoliticized (Hirst 1975: 220).

Changing how a group of people is perceived can be particularly difficult and costly, and sometimes, as this is an active process, it is not successful. In these cases, another subject of dispute, in which state agents and institutions make efforts to impose meaning, revolves around what these citizens *do*, as opposed to what these people "really" are. For example, in the case of specific collective actions, political discourse in the media often uses a frame relating to the motivations of the protesters. The most significant case can be seen in relation to the 25 September 2012 action called "Surround Congress", which was a symbolic action to signal the perceived crisis of citizenship. The government representative referred to it as a violent act and a "disguised coup d'état" days before the action, and this served as a frame that, in addition to trying to transform the action of the protesters (from peaceful protest to coup d'état), also transformed the subsequent police actions (starting with a justification of the presence of 1,350 riot police and the subsequent dispersion of protestors using violent physical means) (see Fernández de Mosteyrín 2012: 1142-1143). Another noteworthy case in the period was that of the *escraches* (where groups would call impromptu protests to target powerful individuals rather than institutions) which appeared represented in warlike terms and compared to Nazi tactics (Seijas 2015: 80).

It is also interesting to pay close attention to the conceptualization of police actions: where images show police striking citizens, police actions can be defined as non-violent, for example, by using euphemisms from legal-bureaucratic language: "the application of regulatory measures", "proportionate use of force", or the classic "responses to assaults" from "violent protestors" (where, in the act of legitimizing police action, protesters are delegitimated). The use of euphemistic language associated with the law or professional practice acts as a sort of circular justification of the actions of those professionals and is characteristic of the operation of penality (see Cohen 1985: 394-399). Thus, when someone says, "a policeman hit me," the answer "their use of force was

proportionate" involves a mere change of conceptual frame that, nevertheless, seems to justify a violent act through denial, despite the fact that this is merely being redefined in bureaucratic language.

Thus, whether certain actions are violent or not is under dispute, and it is easy to see that it does not depend on the actions themselves: an act may be violent when carried out by citizens and something else when the police do it. It is my view that analytically it would be beneficial to treat this legitimate violence as violence in order to better understand both the police and the protesters. In this regard, much is to be gained from paying more attention to C. Wright Mills' "vocabularies of motives" that are present in state actions linked to punishment (Melossi 1990: 205-211).

All this appears to indicate that into the Spanish debate about public policy, the state model, and representative democracy, the government has attempted to impose a master frame based on crime, that uses a signifier to point to certain institutions and agents as the right ones to handle the protests (Oliver and Johnston 2000: 50), in this case, police and punishment. Through allusions to the fight against crime and dangerous disruptive elements, less noble ends are pursued, such as the persecution of political ideas (Simon 2007: 271).

Police presence and intervention

It is also worth bearing in mind that police presence itself communicates: it comes with very visible symbols, from uniform colour to riot police militarization. The presence of these symbols has cognitive and emotional resonances for the dispositions we acquire. This provides the police with symbolic power to define actions, people, and situations that does not require the coercive use of power (whether physical or not) and that, in fact, is not perceived as such (Loader 1997: 3). The police have an almost unparalleled capacity to define a group of people as suspicious with their presence (although their mere presence may not be enough as it is always interpreted within its cultural and political context). Police display and their deployment form part of their presence - this is particularly true in the case of the meaning of riot police at protests.

The role played by the police in their dealings with a social movement, as I explore below, goes far beyond the social movement. It influences, to name one example, the meaning of a protest. Even where no physical act of violence takes place, a large police presence, where police appear ready for intervention, helps define a group of citizens as suspicious and, in part, enemies of the state (that is, of the collective or society).[6] The huge police deployment around the Spanish congress in 2012 with the blue lights from the riot vans generated an environment of alarm and sent a message about the demonstration as dangerous, even before it began. That is, police presence and disposition in itself helps to define the nature of the political protest, in a process akin to what is referred to in the literature as diagnostic framing (Benford and Snow 2000: 615). Indeed, this type of symbolic violence is supported by broader cultural conceptions of the meaning of the police and their status as "the" institution for managing crime and handling criminals.

In addition, in a period such as 2011-2014, where the police are also materially supported by the state, which increased the budget for riot materials by more than 1,700% and even created a new anti-riot support force,[7] the idea that the police are the appropriate institution to handle protests is reinforced. Part of the basis for the protests themselves were the cuts in health and education that involved, to name one example, excluding 900,000 people from the right to medical assistance: the message sent is that, in times of crisis and "necessary public spending cuts," hiring police is more important for the state than enabling access to healthcare.

Of course, the symbolic effects of police presence and intervention are not automatic, their persuasive capacity and the meaning of the symbols in play may vary according to whether a person participated in a given demonstration or not, for example. Here I would like to point out that symbolic effects are particularly strong for spectators or non-participants in collective action. And yet, a good part of police credibility (and, therefore, the potential for categorizing other groups through their intervention) depends on consistent representations of their roles, which need to be in line with those assigned socially (to enforce and obey the law) (Goffman 1959). In an attempt to dispute the meaning of police actions during the cycle of protest studied here, protesters began uploading photos and videos from their phones that showed the severity of some of the forms of physical violence employed by the police. All in all, the meaning of police action is not determined. Efforts were thus made to respond to attempts to criminalize social movements and, also, to try to devalue the police (in other words, to dispute their meaning and question their symbolic power). The official response was to refuse to investigate whether riot police were actually acting in ways that were not permitted by the law, and to attempt to ban people from sharing images of the police.

In the following section I discuss legal modifications relating to the penalization of the protest that involve criminalization (e.g. prohibition of the uploading of photos of a policeman hitting a protester) and decriminalization (such as facilitating the (already typical) police practice of forcing people to delete photos and videos or confiscating memory cards).

The modification and application of laws

There is another resource that can be accessed by means of the state: the modification of legal texts. This ability to change the rules of the game (and not just to "arbitrate" disputes) is what makes the bureaucratic field one of the most important objectives of the struggle.[8] Modifications can go in at least two directions. On the one hand, conducts can be penalized by being made illegal. Although in Spain, in principle, certain groups cannot be outright banned,[9] activities associated with these groups can be prohibited, so that an indirect criminalization of political dissidence can take place. With the latest criminal and administrative legal reforms, up to fifteen specific actions pertaining to the repertoire of this wave of protest, which was on the whole peaceful, were banned; these included the temporary occupation of public buildings, moving police barriers, and using improvised routes for demonstrations, thus reversing the historical process towards the decriminalization of nonviolent civil disobedience actions (Oliver 2008: 9). On the other hand, conducts can be decriminalized, for example where formerly illegal police actions get legalized through "the extension of police powers" (including increasing the number of situations in which police can make arrests or allowing for the interception of communications without judicial authorization). This dynamic in which greater powers and discretion are being given to the police has branched out due to the tendency towards the increasing use of administrative law for punishments applied to social movement participants.

This strategy involves shifting the penalization of certain conducts from the penal route to the administrative route, purportedly to remove non-serious conducts from criminal law in order to sanction them through administrative law. The result has been that, in a joint reform of the Penal Code and the Law of Citizen Security, there are now administrative offenses with more punitive sanctions than crimes, but without the judicial guarantees of the rule of law (Faraldo 2014). Basically, it is a matter of modifying the sanction given for the same infraction, but without judges deciding on their conformity to the law, and without these sanctions being necessarily milder. In fact, judges had been dismissing most of the sanctions for criminal offences for social movement participants between 2011 and 2013 (Maroto Calatayud 2016: 65; Maqueda Abreu 2015: 23-26). In one move, a judge's intervention is practically eliminated, it becomes much more complicated, and the severity of sanctions is increased, somehow removing the sort of judicial opportunity structure which appeared to be acting in favour of protesters (Doherty and Hayes 2014). Moreover, these reforms were used to prohibit conducts typical of civil disobedience, which characterized the cycle of protests, involving a targeted criminalization (Ellefsen 2016: 448; for a specific list of prohibitions see Oliver and Urda 2015: 104-105).

Furthermore, the use of municipal ordinances to sanction conduct linked to the protest has increased. These ordinances are designed for problems of co-existence or incivility, they have the lowest legal status and their application points to a penalization that is avoiding judicial control. Equating the exercise of political activities recognized as fundamental rights (like the freedom of assembly and demonstration) to the level of annoyance activities involves the symbolic degradation of political activity (Maroto Calatayud 2016: 68). An example of this when the distribution of political pamphlets and the use of megaphones are sanctioned under an ordinance designed to sanction dirtying the street or loud music. This symbolic degradation takes place first through punishment and second through the use of minor ordinances. Through the application of certain laws over others, the framing of an activity in public space is transformed. In addition, where these ordinances are applied, people often refuse to stop carrying out their political activities, which (particularly in Spain) usually results in the addition of a (penal) sanction for disobedience to authority (Larrauri 2007: 18).

In the case of Spain in recent years, this type of administrativization of punishment has been useful from the perspective of the government, since, along with the dissuasive effects it seems to have had on protestors, it diminished the public staging of penalization through physical violence (Barkan 2006: 84), which was actually one of the triggers of the 15-M movement. Thus, under the pretext of promoting civic harmony and issuing minor sanctions, the fundamentally political and legitimate nature of public expressions of political dissidence is transformed, just as the meaning of urban public space as political is questioned and obstacles are placed in the way of its use (Calvo and Portos 2018; Sorando and González 2013: 378).

For the most part the effects of these processes are not restricted to physical interactions or to participants in social movements. For that reason, I would like to recover the provocative Durkheimian notion that punishment and penalization processes are not chiefly oriented towards the repressed, but rather, towards the spectators (Durkheim 1893: 110), and from here it is easier to understand the production that is taking place through the criminalization of social movements.

THE AUDIENCE AS THE RECEPTOR OF THE PENALIZATION OF SOCIAL MOVEMENTS

The point here is not to deny that penalizing social movements is the objective of the implementation of mechanisms, discourses, agents and institutions linked to the prevention and retribution of crime, nor to belittle the physical violence exerted on them. My claim is that other forms of violence, that are not usu-

ally perceived as clearly as physical violence are taking place, and that taking this into account can make it easier to notice other processes and actors that are also important in the study of the state treatment of political dissidence in democracy (that is being linked to crime and punishment).

In this section, I consider the benefits of considering a third actor that is usually excluded from the study of the penalization of protests: the audience (those who do not participate directly, but who watch and listen). I also want to emphasise the communicative function of the penalization of demonstrations, which is a factor that does not seem to enjoy much specific attention in social movement studies literature or studies about punishment. For example, Earl (2011: 263) identifies three effects of protest repression (prevention, control and constraint), but we might also wish to consider the transformative effect that penalization can produce (changing the status of citizens engaged in politics into that of dangerous subjects or denying the political nature of collective action). This is what can justify direct repression in a democracy.

The communicative function of the penalization of protesters

Durkheim was one of the first to adopt a sociological approach to the study of punishment and processes of criminalization. Several of Durkheim's analytical proposals continue to be provocative, and others, including his suggestion that punishment does not deter people from committing further crimes, now enjoy considerable empirical support (Garland 2018: 13). If this is taken seriously, the repression of social movements may be understood to discourage individuals from participating in specific collective protest actions, but does not appear to change people's way of thinking (here dissent is understood to be social deviance). Given that these deviations come from political convictions and emotional implications (which are generally strong, since they push people to take action; Goodwin et al., 2000), it does not seem likely that people will change their way of thinking after being bashed.

This article does not ascribe to an essentialist view of deviance, but rather, following Durkheim (1893: 75-76) I argue that it is precisely the fact that there is a social reaction (the intervention of the penal system) that points to the existence of deviant behaviour. In this sense, following a functionalist logic, if punishment does not help prevent political dissidence, it seems plausible that it may not be mainly oriented towards demonstrators, but rather towards the audience, the non-dissidents. Thus, on seeing the reaction of the state, spectators would tend to identify the catalyst of that reaction as a deviation and, therefore, as a threat to shared values (values represented by the state and, in particular, by penal and administrative law). From this perspective, the repression of the protest can be read as a means to communicate to the rest of society that "society" is not in danger, that order is still in force and that everyone can return to their affairs without worrying about what the protesters shouted about. The result expected by Durkheim (1893: 109), in general, is that this contributes to reinforcing and renewing social cohesion, even though this may have been at the cost of penalizing a small group presented as an enemy of the community.

One recent example can be found in the government's penalization of Catalans in the wake of the 1 October 2017 referendum in which voting was framed as criminal, as opposed to political. This penalization may have contributed to the perception, across Spain, of the referendum as a threat to the unity of Spain (which it probably was, but the penalization attaches a criminal meaning to it, rather than a political one). The punitive response comes off as the means of reinstating order and the notion of community (of "Spain"), which, like all powerful collective representations, involves religious feelings associated with the sacred (Durkheim 1893: 94). Only through taking this dimension into account can the intensity of the penalization be understood. Its material objective (to stop people from voting), which failed, was not the only one. There was also a symbolic objective, which is better understood where this repression, although it was enacted materially on the voters' bodies, is seen to be about telling the rest of Spain that the group's cohesion is not in danger, that the government is inflexible and that the government is a good protector of the community. Moreover, punitive attitudes and their expression are an important element of group cohesion, and these are not unconnected to broader feelings of insecurity (Serrano Maíllo 2016).

Why the audience?

The symbolic violence exerted on protesters has a tendency to depoliticize both state violence and social movements by hiding their political nature, by shifting the terrain: a democratic debate on political proposals is shifted into a frame of crime and illegality. I argue that a fundamental part of this is the frame of meaning that has been built around the protesters and their requests, but also around police action and the government. Penalization must also be treated as a communicative act, one with several layers (Smith 2008: 18). The audience is not a passive subject or a mere recipient of messages: it interprets all messages actively (Gamson et al. 1992). Nevertheless, social movements' messages do not have the same weight or dissuasive capacity as those of state institutions, especially when issues like crime and security, so full of meanings and emotions, are involved. The usefulness of the Durkheimian frame for understanding these processes related to punishment has been pointed out, albeit alongside the important contributions of Bakhtin, Barthes and Douglas (Smith 2008: 25-29).

As indicated above, emphasis is placed on spectators in this article without denying the importance of social movement participants. Symbolic violence may not be fundamental in terms of increase and decrease in mobilization (at least in the short term), but it is important with regards to the meaning of protest and state action. In this contest between two collective actors, the audience often appears as a judge that grants varying degrees of support and this can have very significant consequences for the outcome of a political contest (Turner 1969). In fact, the degree of violence and institutionalization of the protest affects the amount of support social movements receive (della Porta and Diani 2006: 230-231). Thus, studying the processes behind the penalization of the protest may offer insights. Take, for example, cases in which the government makes it harder for people to exercise institutionalized forms of protest (for example, attacking the right to protest) and constructs a meaning that links protesting to violence and disruption. In this same act, the violence exercised is legitimated to the point that this violent management of political dissidence in democracy can be denied (and framed as a reaction to criminals against whom the government cannot but resort to the law).

The use of symbolic violence through penalization is relevant to an understanding of the potential success or failure of the repression of political dissidence or of making institutional changes in line with the demands of a social movement. In addition, it mediates the meaning of both protest and repression, and therefore may be of use in the interpretation of the varied results from research on mobilization and repression, as I hope the examples presented in this paper may suggest.

Conclusions

This article proposes approaching the repression of social movements from the sociology of punishment in order to delve into the connections between "the control of crime and the control of social movements" (Oliver 2008: 4). Less explicitly, it also attempts to demonstrate the importance of studying protests in order to better understand the dynamics of punishment (Simon and Sparks 2013: 7). The notion of repression, which is problematized in the literature (see Earl 2011; 2006), has been the main point addressed along with the need to observe penalization as a productive - as well as a repressive - process involving different forms of violence, not just the physical.

To this end, the idea that the use of state violence to control protests has decreased is questioned and a proposal to explore forms of symbolic violence (see Bourdieu 1977) is put forward. I, then, propose using the term "penality" to take into account the complexity of discourses, practices and institutions linked to crime and its solutions (Garland 1990: 10) and "penalization" as the process by which a problem (here, political dissidence) is dealt with by these agents and institutions, rather than, for example, those specialized in the discussion of political ideas or the promotion of citizen participation in a democracy.

To try to illustrate some benefits of approaching the problem in this way, this article has explored three aspects from the recent Spanish cycle of protest: discourse, the police, and legality. In relation to the first one, examples have been given of attempts to negate the political nature of social movements and to link them to illegal intentions or actions, so as to deny them recognition as valid political interlocutors and apply law and order policies. Regarding the second, I pointed out the communicative importance of choosing to resort to the police, as well as the type of police presence, in the framing of the demonstrations - and the demonstrators - as a risk activity. In relation to the third, attention has been drawn to the intensive law changing activity in Spain that has criminalized some conducts and decriminalized others, and to the use of administrative laws to punish political activity in public space.

In light of these observations, I try to emphasize punishment's communicative function towards those not participating in social movements. This can contribute to a better understanding of some of the strategies used to manage the demands of social movements and, perhaps, the empirical relations observed between repression and mobilization. Some Durkheimian notions about punishment are employed to this end and I argue that these notions are particularly important given that not many social institutions possess the capacity of punishment to unify and impassion (Garland 1983: 53).

However, the importance of punishment does not lie in communication and physical repression alone. The fundamental significance of punishment is political, and penality's given forms and interventions can be linked to transformations in the political field. In the last wave of protest it seems clear that, at least for social movements, the context of the neoliberalization of public policies and state structure was fundamental, particularly for the content of protests and some of their dynamics. In fact, this has been described as a good opportunity to better understand the relationships between the political situation and social movements, and attention has been drawn to how this last wave of mobilization reveals a crisis of political legitimation (which was principally caused by the neoliberal policies themselves) (della Porta 2015: 111-112). I would like to conclude by drawing attention to the possibility that the criminalization of the protest is itself one of the responses that neoliberal political philosophy has made to this crisis, and that this offers a solution that is symbolic as well as material.

The management of protests against neoliberalism itself was part of shaping the neoliberal state, both in terms of its composition and the functions it is attributed (it is not there to provide education or labour rights, but to guarantee that the law is complied with). The expansion of the penal system has been described as necessary for the implementation of neoliberal policies (Wacquant 2009), and this article explored a good example of how resistance to these policies is dealt with by government responses that take advantage of this situation to symbolically reaffirm the functions of the state and materially bolster the budgets of certain public institutions (González-Sánchez and Maroto-Calatayud 2018).

Like any political process, this is contentious, so I am not attempting to argue that, whatever social movements do, neoliberalism is reinforced. In fact, in the openly political confrontations characteristic of social movements' relationships with governments, social movements sometimes manage to frame the dispute around the political and arbitrary nature of certain state measures. These disputes are particularly important because punishment influences the understanding of protest and the *statu quo*, since it provides strong foundations for the production of the meanings and categories of appreciation that shape aspects of (democratic) culture (Garland 1990: 252). Thus, understanding penality better can help improve our understanding of the space in which social movements are born, grow old and die. The ways in which protests are handled by (democratic) governments transmit ideas about what protesting means, and these meanings are fundamental in the political socialization of young people. The penalization of demonstrations is not merely a matter of sociological interest. The youth of today are the politicians, policemen, judges and citizens of tomorrow.

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NOTES

1. Tarrow (2011: 170) prefers the term "suppression" to refer to processes that do not include physical coercion. Ferree (2004: 88) uses soft-repression to denote the "mobilization of non-violent means to silence or eradicate oppositional ideas".

2. Earl's notion of "social control" appears somewhat problematic because of the long connotations that this concept has in sociology –beyond 'formal' and 'informal' social control (see Janowitz 1975). In addition, these mechanisms do much more than "control"; they transform the protest, influence political culture, communicate moral values and bolster and create social categories (Garland 1990: 10).

3. I am not suggesting here that physical and symbolic violence are in a zero-sum game.

4. Bourdieu paraphrases Weber to say that the state (claims for itself) "'monopoly of legitimate physical and symbolic violence', inasmuch as the monopoly of symbolic violence is the condition for possession of the exercise of the monopoly of physical violence itself" (2012: 4). Needless to say, State violence is not neutral.

5. "Cifuentes afirma que la PAH ha manifestado su apoyo al entorno de ETA" [Cifuentes confirms that the PAH showed support for ETA] (El País, 26/03/2013); "Cifuentes dice que los manifestantes "intentaban matar policías" y expediente a los impulsores del 22M" [Cifuentes claims protestors "tried to kill police" and opens inquiry into 22M organizers] (Público, 25/03/2013).

6. For the symbolic effects of police action on those who did participate directly in these demonstrations - both protesters and police - see Camps and Vergés 2015.

7. "Aumenta un 1.780% el gasto en materia antidisturbios y protección" [1,780% increase in spending on riot police and protection materials] (El Mundo, 5/11/2013); "Nace la unidad 'bronce' para apoyar a los antidisturbios" [The "bronze" unit is born to support riot police] (El País, 21/11/2012).

8. The bureaucratic field is a Bourdieusian concept employed in order to avoid portraying the state as a power tool at the service of the ruling class. This concept is used to stress the existence of a space of struggles in which different groups and logics compete for the power associated to the capacity of using the legitimate means to exert both physical and symbolic violence (see Bourdieu 2012; Wacquant 2009: 289-290).

9. Although you can limit people's rights for merely being members of legally constructed groups. This is the case of foreign people subject to immigration laws in Spain, which make it possible for people to be excluded from political participation and from recognition as "citizens".

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