

## SECURITY AND THE LIBERAL- DEMOCRATIC STATE. CRIMINALIZING YOUNG PEOPLE'S POLITICS

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### ABSTRACT

The years following the 2008 global recession saw many liberal-democratic states respond to the economic crisis by introducing austerity policies. In turn, this provoked widespread dissent and social movement activism involving large numbers of young people. In response, governments of many different political persuasions moved to suppress these actions by criminalizing political dissent. The article inquires into state and institutional moves to suppress social movement activism like the 'Maple Spring' student strikes in Quebec, Canada, and the *Indignados* movement in Spain. While Canada can be described as a 'mature liberal-democracy' and Spain might be better described as an 'emergent liberal-democracy', both criminalized young people exercising their democratic and constitutionally guaranteed rights to free expression and assembly by engaging in various forms of political protests. While some of this can be explained by reference to contradictions inherent in liberal democracies, we consider if it also reflects certain longstanding prejudices directed at young people. Young people have traditionally attracted disproportionate attention from police and legal systems when they are involved in 'conventional' criminal conduct. What role if any did the 'youthful' face of protest play in government moves to criminalize dissent in 2011-12? An account of the 'civilizing offensive' highlights the influence of ageist assumptions that 'young people' require close management. This provides some insight into state responses to young people's engagement in politics when it goes beyond the conventional mode of 'youth participation' prescribed by states committed to managing electoral party politics.

### KEYWORDS

Criminalization; Dissent; Liberal Democracy; Politics; Security; State; Young people.

## LA SEGURIDAD Y EL ESTADO DEMOCRÁTICO LIBERAL. CRIMINALIZANDO LA POLÍTICA DE LOS JÓVENES

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### RESUMEN

Las políticas de austeridad fueron la reacción de muchas democracias liberales ante la crisis económica iniciada en 2008. Esto provocó un aumento de la contestación y de la movilización social, protagonizada en muchos casos por personas jóvenes. Como reacción a su vez, muchos gobiernos desarrollaron políticas con el objetivo de combatir estas formas de movilización, incluyendo la criminalización de la protesta. Este artículo explora las prácticas por parte de instituciones y el Estado encaminadas a eliminar y criminalizar formas de activismo tales como las revueltas estudiantiles en Quebec, (la "maple spring"), o el movimiento de los indignados en España. A pesar de las diferencias entre ambos países, Canadá puede ser descrito como una 'democracia liberal madura' mientras España encaja mejor con la etiqueta de 'democracia liberal emergente', en los dos países se ha promovido la criminalización de las prácticas de muchos jóvenes que buscaban ejercitar su derecho constitucional de manifestarse y expresarse libremente a través de la acción colectiva. Aunque en cierto sentido estas prácticas pueden ser explicadas atendiendo a ciertas contradicciones inherentes a las democracias, las políticas criminalizadoras también reflejan algunos prejuicios muy arraigados contra las personas jóvenes. Fundamentamos esta afirmación en el hecho que los jóvenes han causado siempre una atención desproporcionada por parte de la policía y el sistema de justicia legal cuando se veían vinculados con formas convencionales de delincuencia. ¿Qué papel desempeñó en el desarrollo de políticas criminalizadoras el hecho de que las protestas ciudadanas contra la austeridad en 2011 y 2012 tuvieran un marcado componente de protesta juvenil? La discusión sobre las ideas preconcebidas sobre la edad, y la creencia establecida entre algunos sectores de la población de que la juventud ha de ser 'vigilada de cerca' permite avanzar en la comprensión de las formas de respuesta estatal cuando son las personas jóvenes las que aspiran a participar activamente en la política.

### PALABRAS CLAVE

Criminalización; Democracia Liberal; Disenso; Estado; Personas jóvenes; Política; Seguridad.

Since the late 1980s we have seen a variety of social movements opposing neoliberal 'globalization', with events in Paris (1989), Madrid (1992), Seattle (1999), Washington (2000, 2002) and Genoa (2001). We also witnessed anti-war protest campaigns opposing American-led plans to invade Iraq in March 2003. The global recession of 2008 was the source of political-economic disruption in many countries, which neoliberal governments responded to with austerity measures. In turn, those policies generated widespread popular dissent manifest in anti-austerity movements across Europe (Grasso and Giugni 2015) including Spain's *Indignados*, Greece's Syriza and the French *Nuit Debout* movement. In these campaigns young people figured strongly. Added to this, we saw significant student-led campaigns opposing the neo-liberal 'reform' of universities across the globe (Pickard and Bessant 2017, Grasso and Bessant 2018).

This article focuses on examining the experience of young people in Spain and students in Canada within this broader context to more clearly illustrate the processes at play. In Spain, a succession of governments responded to the economic crisis of 2008 by following the lead of many other countries by introducing austerity measures that imposed drastic cuts on public services and social benefits. These had a disproportionately negative impact on people on low incomes, those unemployed, and people on pensions or reliant on government services. The austerity measures also led to widespread dissent expressed as social movement activism involving large numbers of young people globally (Grasso et al. 2017).

In the cases of both Spain and Canada, young people were at the forefront of these actions. In Spain the *Indignados* mobilized substantial popular support. As Simsa and Barretero-Diaz (2015:2) argue, the Spanish protest movement saw large numbers of people participating in rallies, marches, occupying city squares and creating social centers in abandoned houses. In Canada, student campaigns were organized against increased university fees in Quebec, running in parallel with the Occupy movement mobilizing support in major cities across Canada in 2011-12.

Governments in Canada and Spain moved quickly to suppress these actions. One of the ways they did this was by criminalizing young people's political dissent. State action involved the use of old and new legislation, as well as the use of traditional and often severe policing practices. Added to this were more novel intrusive and surveillance techniques.

This article seeks to understand why the Canadian and Spanish governments took action to suppress the political participation of young people. We do this cognizant of the major problem that is posed when liberal-democratic states criminalize dissent, as well as the second problem posed when

liberal-democratic governments do this while targeting young political activists.

On the one hand, Canada and Spain are both liberal-democratic states ostensibly committed to rule-of-law principles including support for rights such as the right to freedom of expression and assembly. Canada can be described as a 'mature liberal-democracy' - an established western democracy, characterized by a commitment to liberal-democratic principles. It is also committed to the rule of law, free elections, and the separation of powers of the different branches of government, as well as free and fair trade. In addition, Canada's *Charter of Human Rights and Freedoms*, enshrined four decades ago, claims to protect freedoms including 'thought, belief, and opinion, freedom of expression, freedom of peaceful assembly and freedom of association'. As Alexander (2018) argued, freedoms of expression and peaceful assembly, found in Subsections 2(b) and 2(c) of the *Charter* are now considered 'essential to the functioning of a free and democratic society' such as Canada.

Spain can be better described as an 'emergent liberal-democracy', still coming to terms with a dark and not too-distant past of civil war, violence and authoritarian government.<sup>1</sup> That domestic framework is further supported by Spain's membership of the European Union. Spain is also a member of the EU, itself a political entity that claims to be based on shared liberal-democratic values including basic human rights; the EU's *Strategic Framework and Action Plan on Human Rights and Democracy*, adopted by the Council of the EU in June 2012, secured rights such as the right of freedom of association and expression for everyone in the Union.

While there may be little surprise when authoritarian or one-party states criminalize dissent, there are good reasons to be surprised when liberal democratic governments move to inhibit legitimate dissent. That is, if liberal democracies pride themselves on their commitments to civil liberties such as freedom of association and democratic rights, such as the right to free and contested elections, then why, as Brabazon asks, '...would these states and their decision-makers not welcome social movements and dissent of all kinds as a natural part of the rich fabric of citizen participation in decision-making?' (Brabazon 2006:3).

This highlights a second problem. Apart from the ethos of liberal democracy, the Spanish and Canadian governments have also been promoting the idea that more young people should be actively participating in the political and civic life of their communities. This reflects official and popular concern based on considerable empirical evidence of young people's 'political disengagement' from institutional politics (Grasso 2016). In Canada in 2011 for example, only 39 percent of young Canadians cast a ballot, accounting for much of the general decline in voter turnout (Anthony 2016).

To address the problem of young people's disengagement from formal politics in Canada and Spain, a number of strategies were proposed and implemented which included more civic education, moves to lower the voting age, and the active encouragement of young people's engagement in electoral politics. At the same time, governments in Canada and Spain aligned themselves with governmental and international agencies, such as the International Monetary Fund, the World Economic Forum and the OECD, in recognizing social phenomena - including anti-austerity campaigns, climate change campaigns and animal rights activism - as examples of young people's disaffection, and significant threats to the political consensus (Lipton-IMF 2017; WEF 2017; OECD 2017).

In spite of the commitments to encourage young people's political participation, in both countries large-scale social action, much of it led and mobilized by young people, has been criminalized. Both the Spanish and Canadian governments moved to suppress expressions of these social movements. This process of criminalization relied on a combination of legislation, policing and surveillance, and a public relations campaign designed to stigmatize dissenters. In Canada in 2010, hundreds of thousands of Canadians took to the streets in Toronto to peacefully protest the G20 Summit. During the Summit, a senior Toronto Police Commander issued the order to 'take back the streets.' Over 1,000 people including peaceful protesters, journalists, human rights monitors and residents were arrested and placed in detention (McNeilly 2012, Chicoine 2018). In the spring of 2012, Quebec college students initiated a widespread protest campaign including a general strike against the Liberal government's plans to increase university fees. Legislators, police and the courts responded to Quebec's 'Maple Spring' with multi-layered repression. This included new legislation, police use of pepper spray, stun grenades and rubber bullets, mass arrests of demonstrators, and the use of the courts to attempt to silence dissent and end the student protest action (Chicoine 2018). Similarly, the Spanish government responded to anti-austerity protests in 2012 by passing new laws on public security in 2014 that restricted civil rights to demonstrate and protest, now generally referred to as the 'Gag Law'.<sup>2</sup> Amnesty International (2012) documented numerous cases of police violence against protesters, including the use of clubs and rubber bullets, leading to a formal denunciation of Spain by the Council of Europe (2013).

While it is true that young people play a major - but not an exclusive - role in these and similar movements (Calvo 2013), there are certain distinctive government responses to the 'youthful' face of protest in these two countries. We argue that what some scholars call the 'civilizing offensive' helps to explain, in part, why it is that when young people engage politically outside of conventional forms of electoral politics, they are sub-

jected to excessive, hostile, even punitive responses from the state (Verrips 1987; Mitzman 1987).

This article can be read as an intervention into the fields of political science and youth studies, where there is already an extensive literature addressing the idea that young people have become politically disengaged (Henn 2002; Henn and Foard 2013; Bastedo 2014; Cammaerts et al 2014; Loader et al 2014). Other scholarship highlights new forms of young people's engagement, e.g. in social movements (Altbach 2001; Della Porta 2009; Della Porta 2017; Grasso 2016; Bessant 2016a; Bessant 2016b). This article also engages with criminalization studies (Ashworth 2009; Ashworth and Zedner 2008; Husack 2008; Lacey 2004; 2009; Zedner 2009; Brown et al, 2011; McNamara et al 2018). As Michalowski notes, this field attempts to account for 'the process by which behaviors and individuals are transformed into crime and criminals' (1985:6). An inquiry into the criminalization of dissent poses new questions about the criminalization of liberal-democratic politics. Are Simsa and Barretero-Diaz (2015:4) right when they argue that 'the criminalization or the potential restriction of peaceful activists is a dangerous signal not only for Spain, but also for the European Union', and for democracy more generally?

In this article we document some of the ways in which the suppression of young people's participation in social action that falls outside the field of electoral politics constitutes an attempt to criminalize their politics. What does the criminalization of dissent involve? How is this response by the state and other key players, e.g. education institutions, mainstream media, corporate interests etc. best understood or explained? How do moves to criminalize political action align with the formal commitments Canada and Spain have made to protect and promote civil rights and freedoms like the right to free assembly and expression?

In what follows we begin with an account of what we mean by criminalization. We then address the questions above with a brief account of the protests in Spain and Canada 2010-12. We then highlight the key aspects of the suppression of the expression of democratic rights and argue that both Spain and Canada criminalized political participation by young activists. We then explain why it is that we have seen criminalization of youthful politics in these liberal-democratic states.

## CRIMINALIZATION, DISSENT AND YOUNG PEOPLE

As McNamara et. al (2018) argue, any account of criminalization ought to acknowledge the variety of forms it can take, and the variety of meanings attributed to it. In acknowledging this variety, we do not suggest it can or should be used in vague or imprecise ways. On the contrary we argue that recognizing

the different way criminalization is understood and the different forms of practice involved needs, among other things, to be mindful of the specific historical context. This is the opposite to the vagueness which accompanies the failure to make such distinctions. Our task here is not to adjudicate the correct meaning of the concept, but simply to acknowledge the different forms it takes in different contexts.

With this in mind, when we speak of criminalization, we refer to the use of a nation's criminal justice codes, as well as its criminal justice and policing systems to represent and regard certain activities as unlawful or criminal. In effect, much of the study of criminalization to date has been concerned with tracing the use of old laws and the passing of new legislation. In some cases, as Zedner (2009) observes, this includes the use of coercion, for instance the deprivation of liberty to prevent criminal acts from taking place. This 'preventive justice' model bypasses the established idea behind most criminal justice models that certain acts are only seen as a criminal offence only *after* they have occurred. Preventive justice involves coercive interventions before a criminal act takes place. Criminalization can also include 'softer', but just as effective informal practices including the expanded use of surveillance technologies.

If we turn specifically to the criminalization of dissent, it can be seen that it relies on various old laws, many of which date back to the middle ages or to the renaissance, and rely on discursive categories such as 'public order', 'riot', 'defamation', 'libel', 'espionage' 'sedition' and 'treason'. The criminalization of dissent also depends on the extension of those criminal laws as governments modify them and pass new laws addressing 'anti-social behavior', denial-of-service activism by on-line activists, 'hacking' and 'whistleblowing'. It can also include the use of intervention orders, and in the case of Spain, various 'gag laws' that target certain kinds of speech deemed by the state to be offensive or hurtful. Governments may also exercise their 'emergency powers' by declaring public order emergencies and enacting emergencies laws like 'Bill 78' passed by the Quebec National Assembly in May 2012, a reaction by the state to student protests over fee increases. The criminalization of political dissent can also involve, particularly after 9/11, the introduction and augmentation of 'anti-terrorism' legislation in ways that expand the state's powers to interrogate and detain suspects.

The state can also criminalize dissent by using a combination of traditional techniques of policing, for example various practices ranging from the use of summary offences and the issue of cautions and fines, through to mounted horse and baton charges and the mass arrest of protestors. We also see new techniques of physical suppression such as tear gas, water-cannon, 'kettling', through to electronic surveillance and undercover infiltration of groups by police

operatives. As Chamayou (2014) argues, this draws on unprecedented possibilities for surveillance of new social media technologies (e.g. Facebook and Twitter) also used by activists to disseminate information and to mobilize activism. In many cases governments can also rely on cooperation by agencies, such as universities and schools, to discipline young activists by using internal disciplinary procedures involving formal hearings through to summary expulsion from the educational institution.

The criminalization of dissent also entails the use of negative public representations of protestors and activists by state actors and compliant media outlets. Weber, and also Bourdieu (2014:7-9), highlighted the role of the state as a site of legitimate coercive violence, as well as its hegemony over symbolic violence. This typically involves official spokespeople representing the political actions of some groups or individuals as, for example, 'hypocrites' who compromise other citizens' civil or political rights, as 'criminals' who pose a threat to 'community welfare', or as potential or actual 'terrorists' who are a risk to 'national security'.

When young people act politically and do so in ways that breach the legitimate or 'appropriate' forms promoted by state agencies, civics experts or 'youth round-tables', their action is typically accompanied by expressions of long standing 'respectable' fears about how 'the young' are socially irresponsible, deviant or defiant (Stanley Hall 1905; Pearson 1983). In this way, the criminalization of dissent, especially when it involves young people, typically involves a 'politics of (mis)recognition' (Taylor 1992).

The systematic misrecognition of young people as incapable of legitimate political action is often used to justify and inform the criminalization process. Such representations, when applied to young people, are especially powerful as they draw on long-standing representations of 'youth' as 'folk-devils' (Cohen 1972) yet to be fully 'socialized' and characterized by 'violence', 'thrill-seeking', 'irresponsibility' and 'unruliness.' Typically, these representations also run in parallel with paternalistic discourses about young people as 'vulnerable', 'in need of care' and 'protection', both from themselves and, in the case of young activists, they are said to need protection from 'radical', 'dangerous', and manipulative adult influences. Either way, 'youth' require close governance for 'their own good' and for the good-safety of the community. These popular stereotypes in turn affect how young people are situated in the public sphere. They are powerful discursive practices that also feed directly into, and inform, criminalization processes. Against this theoretical backdrop, in the following case studies, we outline how Spain's *Indignados* and Quebec's 'Maple Spring' protests developed, and how the state criminalized dissent in these contexts.

## THE *INDIGNADOS* IN SPAIN, 2011

Spain's *Indignados*, also known as the 15-M Movement, began on 15 May 2011 with demonstrations in over 70 Spanish cities. The movement was initiated by and relied on social networks.<sup>3</sup> It was a response to both the 2008 economic crisis and moves by Spanish governments to impose austerity policies. The *Indignados*' action was motivated by a strong sense of disillusionment with Spain's government and its power elite. Participants were moved by moral emotions such as righteous anger over the austerity policies, endemic official corruption, growing inequality, high youth unemployment and diminishing opportunities for young people. Young people in particular had been adversely affected by decades of neoliberal policies and growing 'precarization' (Bessant et al. 2017).<sup>4</sup>

It is estimated that between 6-8.5 million Spaniards engaged in these protests<sup>5</sup>, underscoring the movement's significance as a major contemporary expression of dissent. After the first demonstration in Madrid, groups of protesters stayed in Puerta del Sol and engaged in civil disobedience by occupying the city square, setting up camps and organizing daily assemblies to discuss political issues such as the value of genuine participation, the need for a government free from corruption, social justice issues related to education, employment and housing, politics and the future of the capitalist economy (Calvo 2013, Castañeda 2012: 3-4). As Calvo (2013: 237) argued, this was a movement that 'emerged from a generalized and widely shared feeling of discontent with fundamental elements of the political and economic systems' and for this reason it enjoyed popular support (see also Van de Velde 2011: 283-287).

The first major wave of action occurred between mid-May and June 2011, focusing on consciousness-raising, promoting political debate in the streets, and staging occupations (Calvo 2013, Eklundh 2014: 223-235). According to Calvo, given that Spanish political culture is generally recognized as apathetic and that this is particularly prominent in respect to young people, the *Indignados* movement was a 'remarkable disruption' as 'discontent is seldom translated into sustained collective protest' and 'traditional social movements are currently unable to bring protesters to the streets...' (Calvo 2013: 239).

The 15-M movement succeeded in mobilizing large sections of the population by employing strategies borrowed from Anonymous and by enacting collaborative non-hierarchical leadership, flat decision-making and more genuinely democratic and inclusive practices that liberate the political voice of young disenfranchised people. In these ways, the *Indignados* movement represented an attempt by young Spaniards to peacefully protest against what they saw as bad government, and in doing so to fix

the broken economic and political systems marred by corruption and a failure to provide opportunities for young people (Calvo 2013: 240). Innovations that also help explain the *Indignados*' success were the movement's occupation of many urban spaces, a strategy that reached out to and resonated with many people, and its closely targeted opposition to the entire 'establishment' that had failed an entire generation of young people (Calvo 2013).

## MAPLE SPRING: QUEBEC STUDENT PROTESTS, 2012

The Quebec student protests which began in February 2012 and ended in September 2012 were a reaction to the Charest Liberal government's proposed increases in university tuition fees announced originally in March 2011. It can also be seen as part of a larger response to austerity policies enacted by governments around the globe. Like Spain's *Indignados*, Quebec's students involved in the campaigns used unmediated democratic and on-line communication to foster horizontal relations and to harness and sustain political momentum during the actions.

Social media played a key role in disseminating student claims and in mobilizing protest. That action included a series of mass rallies involving 400,000 protestors in March 2012 in Montreal as well as a decision taken by three-quarters of Quebec's university students to boycott classes, a strike that ran from March to September 2012.

In both cases ostensibly liberal-democratic governments reacted with a suite of measures designed to suppress dissent by criminalizing it.

## SUPPRESSION OF YOUTH PROTEST: SPAIN

In Spain the criminalization of young people's participation in politics was evident in the enactment of the 'Law on the Protection of Public Safety', as well as in the broad Penal Code reforms that carried severe sanctions for protestors (González-Sánchez and Maroto-Calatayud 2018)<sup>6</sup>. Additionally, police powers increased, allowing them to require identification, carry out 'stop and search' practices, and issue fines to deter protestors. This was accompanied by discourses that constructed young protestors in ways that delegitimized their actions. González-Sánchez and Maroto-Calatayud (2018) note how the law reforms were specifically designed to (re)define certain activities - hitherto seen to be lawful - as illegal (Bessant 2017: 2014-221). These actions can thus be seen as forming part of a neoliberal agenda intended to invalidate issues raised by opponents of the labor market reforms and anti-austerity policies. In this way, as they argue, criminalization of the dissent was symbolic and material and intended to reaffirm the neoliberal rhetoric of the state as disinterested in redistribution

and welfare and focused on state security (González-Sánchez and Maroto-Calatayud 2018).

As González-Sánchez and Maroto-Calatayud (2018) argue, protection was also extended to private security agencies if they were cooperating with authorities. New offences such as ‘breaching peace by acting in groups’ were created through legislative reform that specifically targeted collective actions such as political demonstrations (and carried a sentence of up to 6 years).

The ‘distribution or public diffusion, through any means, of messages ... which incite the commission of any crime of public order disturbance’ was criminalized. This meant the act of communicating any information about a public demonstration that became ‘violent’ could be deemed an offence and a new crime. Legislation against ‘invasion against the will of its owner’ of any office of public or private services was also enacted (González-Sánchez and Maroto-Calatayud 2018).

‘Criminal misdemeanors’ that did not lead to jail sentences or criminal records were removed. ‘Minor offences’ (such as disobeying a police officer) were introduced, entailing prison sentences and a criminal record, as well as generally harsher punishments. These moves gave police greater discretion and the authority to sanction political resistance by describing it as ‘resistance to authority’ or a ‘breach of the peace’ (González-Sánchez and Maroto-Calatayud 2018).

At the same time, key government figures deployed rhetorical techniques to frame young people involved in action as a danger to social order, as ‘anti-establishment collectives’ intent on destabilizing ‘the institutional system’. By redefining political protest as criminal and subversive, those in positions of authority were able to represent young activists as engaged in non-political action. Rather, they were now disorderly, criminal and violent, even though the movement was committed to non-violent civil disobedience for political democratic rights (González-Sánchez and Maroto-Calatayud 2018).

This discourse about radical illegality vs democratic citizens participating in political expression was used to justify harsh police interventions in demonstrations, as well as the use of force to disperse protestors (González-Sánchez and Maroto-Calatayud 2018). In this way, the same demonstration that would have been a democratic practice was now redefined as criminal and punishable (González-Sánchez and Maroto-Calatayud 2018).

## **SUPPRESSION OF PROTESTS: CANADA**

Student strikes in Québec in 2012 began as protests against increases in university fees before evolving into more general action. These student

demonstrations against austerity measures provoked a strong response from the state and university managements.

Apart from some heavy-handed and occasionally violent police tactics used to disrupt marches and rallies during the ‘Maple Spring’, Quebec’s Liberal government chiefly responded by suspending basic political rights to freedom of expression, assembly and dissent. As the action continued, we saw unsuccessful attempts by the state to use legal instruments like injunctions or safeguard orders that nullified student rights of association. By May 2012, student protestors were being arrested by armed police on the grounds that protest was illegal (Peñafiel and Doran 2017: 349-373; Salter 2011: 211-238). In May 2012, the Charest government passed Bill 78 - an emergency law banning picketing or protesting near university grounds, restricting the right to strike of university employees, and requiring police approval for any public protests in Quebec (Peñafiel and Doran 2017:71-89). As Chicoine (2018:62) observed, the Charest government also transferred responsibility for managing the student protests over to Quebec university administrators:

The ... new aggressive tactics used by the university to repress students was wide ranging: omnipresent on campus video surveillance, intimidating private security guards—sometimes dressed in civilian clothes— injunctions, social media monitoring, pre-emptive disciplinary measures against student leaders, mass arrests... (Chicoine 2018: 6).

Amongst the moves to criminalize dissent was the government’s declaration that student protests were improper, even a form of ‘criminal violence’, a ploy intended to de-legitimize and discredit the action as legitimate political action. Other illiberal government techniques included denying students the right to strike, which saw the state erase from their language the use of “strike” and replace it with the category “boycott”. As in the Spanish case, this discursive ploy constituted a form of symbolic violence that denied the legitimacy and value of the student protests against austerity policies - reframing student ‘boycotts’ as the complaints of ‘spoiled brats’ who were not prepared to make the necessary financial sacrifices being endured by everyone else.

Chicoine (2018) documents how different governments enacted laws that actively prevented students from ‘impeding’ the education of their peers, while at the same time teachers’ unions were barred from participating in actions with students that might ‘impede’ their education. The Quebec liberal government also introduced a new law in 2012 -the “bludgeon law” - that required the people of Quebec to report to police any gatherings of more than 50 people and to notify of any protest plans, as well as to keep clear of campuses and not to disrupt classes. The penalties for infringing these requirements included hefty fines (see

also Peñafiel and Doran 2017). Student political action was also criminalized through the use of bylaws like Montréal's bylaw P-6 that banned the wearing of masks. It also required those organizing the action to provide itineraries of their plans and 24 hours' notice.

From 2011 many students were investigated by government intelligence agencies and some arrested on the grounds that they were dangerous political agents (e.g. extremists, anarchist and leftists). Representing students as threats worked to legitimize police action against students and discredit the students' actions as lawful political action.

Police practices such as containment or 'kettling' were also deployed during 'Maple Spring', a control technique that saw uniformed officers enclose groups of people, often for hours, thereby curtailing the protest, and - for some- acting as a deterrent for further engagement. This was particularly the effective when that containment was accompanied by police use of restraints, e.g. handcuffs and fines. Added to this was the deployment of 'riot' control 'weapons' such as pepper spray, tear gas, and acoustic devices (sound bombs) to disperse groups.

Legislative reforms also worked to ensure university senior managers and teachers ran classes regardless of access to their classes being blocked. As Chicoine (2018) documents, this gave managers two options: to disobey the law or to call the police to remove students blocking access to the classes. In the case of Université de Montréal, administrators complied and called police, leading to two days of violent clashes between the 'riot police' and students on the campus. By 2015 conflict escalated with the use of force as the first response, rather than any "negotiated management approach" (Chicoine 2018: 62-76).

In the next sections, we now turn to the task of interpreting or trying to understand the criminalization of young people's politics by states that identify themselves as liberal democracies.

## EXPLAINING MOVES TO CRIMINALIZE YOUNG PEOPLE'S POLITICS

The rise of neoliberalism from the late 1970s onwards helps to explain specific changes in government policy which impacted differently, but in particularly adverse ways on young people (Bessant et.al 2017). Decades of neoliberal thinking saw governments systematically withdraw from mitigating the serious consequences and contradictions of capitalist market economies. In this context, political and economic elites in liberal democracies identified themselves as 'modernizers', as new democrats or advocates of the 'Third Way': all euphemisms for deregulation, privatization, and a more corporate public service. Moreover, given that neoliberals rely on neo-

classical economics, the world is filtered through an economic lens giving everything an economic value. Thus, every person becomes a 'market actor' or 'customer', and every human action and institution becomes a 'market' or a commercial practice. Even the state is turned into 'a firm' that needs to be kept free from outside 'interference' (Brown 2015:1).

As Harvey (2005: 3) observed, while neoliberals claim they are engaged in an economic project that needs to be separate from the state, it is in fact a deeply political project reliant on significant and continual state intervention. This includes the use of criminal law and policing to secure their interests against threats like those posed by young people presenting alternatives to the prevailing economic order.

Another feature of neoliberalism that helps explain, at least in part, the criminalization of young people's politics, relates to the active discouragement of politics. While consensus is encouraged, politics and dissent are discouraged courtesy of various de-politicization strategies, such as the idea that the market is neutral - a political site where social and political relations are shaped by market-economic relations forging economic citizens or customers.

The competitive logic of the market also works to depoliticize and diminish 'the public' by removing debate about certain issues from the public sphere to the private domain; this is an efficiency that helps with the implementation of the neoliberal agenda (Brown 2015). Debates about matters like how to run society, what sort of society we want, and what public goods should be protected, have - with the rise of neoliberalism - been constrained, and in many cases rendered silent. Indeed, any attempts to have a comprehensive debate and to question the authority of the intellectual edifice informing dominant socio-economic practices are closed off because such an examination will reveal it is seriously flawed and not working, and indeed is a primary cause of the growing disaffection and hardship experienced by many people.

Closing off debate and avoiding significant critique ensures the range of viable options to the neoliberal agenda remain limited, so things do not change in substantial ways. As Brown (2015) argues, neoliberal rationality as a mode of government works to economize democracy itself. This is what privatization, deregulation and 'contracting out' of public services do by reducing democratic accountability and by using commercial-in-confidence caveats on private-public partnership contracts. Moreover, the constraining and often silencing debate by limiting discussion about substantive political issues to a range of narrowly economic considerations like 'efficiency' 'contestability' or 'competition' occurs side-by-side with the use of customer satisfaction surveys as measures of 'effectiveness'. As the public sphere shrinks, avenues for opposition and dissent

are restricted and closed down. These are trends that block opportunities for young people and others to mobilize themselves politically and collectively to challenge certain policies and practices within their societies (Bessant et al, 2017).

Under the sway of neoliberalism, this shrinkage of the public sphere has also been supported by moves to frame political contest and civil disobedience as security risks through criminalizing and pathologizing young people and others taking part in them. In these ways, 'politics' becomes a problem which is responded to by reframing what is happening. Representing democratic debate in the form of 'alternative political action' as something dangerous means 'the solution' and appropriate state response is clear. As a danger, the proper response is 'obvious': it is to mitigate the risks or danger by whatever means, rather than addressing the causes of the 'discontent.' In this way, democratic debate is shut down and key political freedoms such as the right to free speech and assembly become restricted and undermined.

We also note a consensus in the literature observes how since the late twentieth century with the rollout of neoliberalism popular anxiety about crime across the globe increased significantly. Increasing public anxiety about crime was used to justify the intensification of official reactions (Garland 2001). It included further increased government supported 'law and order' campaigns, accompanied by state preoccupation with the idea of risk and the need for 'risk governance.' This is evidenced, for example, by the increased reliance by the state on surveillance technologies, on their growing use of different policing measures, and a rising punitive culture that fosters a more authoritarian approach to offence and crime (Muncie 2006 :107-121).

### **THE IDEA OF TERRORISM**

Popular concern about terrorism and security increased as governments began developing and implementing measures ostensibly designed to secure public safety, to protect citizens and 'the homeland'. While we cannot specify the exact date, writers like Aoude observe that it was following 11<sup>th</sup> September 2001, when a series of terrorist attacks against the USA marked the beginning of a *contemporary* life of 'a permanent fear of terrorism' (2002). The 9/11 attacks soon led to an American-led 'war on terror' and the accompanying calls to sacrifice various democratic rights in the name of national and global security.

Soon after, many western states began shifting the presumed '*balance*' between democratic values and security towards security as they systematically surrendered civil liberties and human rights. According to some legal experts, this generated concern about the future of the rule of law and liberal democratic

institutions in the 'war on terror' (Hogg 2007: 84). For Hocking (2003: 371), since 2001, such developments facilitated 'the preemptive control of political conflict and dissent, which may or may not protect individual citizens, but which certainly protects the state itself'. In this context, we have witnessed increases in the criminalization of street-based protests or public assembly in countries like the UK, France, Canada and USA (International Network of Civil Liberties Organizations INCLO 2013; Pickard and Bessant 2018).

This included the enactment and regular use of 'anti-terror' legislation. In this context the 'threat' of terrorism 'justified' the deployment of mass police action and anti-personnel weapons against civilians, and extended police powers to stop, search and detain without a warrant or formal arrest, to restrict protests, dissent assembly and industrial action. In places like Australia, in October 2015, children as young as 14 became subject to control orders when the then-liberal Turnbull Government amended the Anti-Terrorism Act (No. 2) 2005 (Cth) giving federal courts the power to unilaterally make control orders under Div 104 of the Criminal Code in response to a request from the Australian Federal Police (AFP). It was another example of the many moves that have heightened concern about a diminishing valuing of human rights and democratic values in favor of security.

### **THE 'CIVILIZING OFFENSIVE'**

Young people have long been recognized in the official and popular imagination as a section of the population requiring close management (Rose 1990). Rather than such ageist views abating, they have intensified especially since 9/11 leading to repressive action against young people as they exercise their political agency.

The German historical-sociologist Norbert Elias (1969; 1982) developed the idea of a 'civilizing process' in his account of Europeans' thousand-year development of practices of disciplining and regulating their own and others biological and emotional impulses. Later writers, such as Powell (2013), Mitzman (1987), Verrips (1987), van Ginkel (1996) and van Krieken (1999), developed Elias' account of the 'civilizing process' to talk about what they called the bourgeois 'civilizing offensive'. It refers to the practice of targeting behavior deemed by those in authority to be immoral, *uncivilized* and threatening, and involves efforts by government state agencies and non-government organizations to defend the state from 'barbaric' forces by drawing on the rationalization and centralization of power of the state, to target behavior considered 'immoral' or 'uncivilized' (Gerth and Mills 1946).

Moreover, as Neocleous (2000) argues, when presented with the option of 'security' or 'barbarism' we



are invited to identify security as a good thing to which a 'rational society should aspire'. Thus 'civilizing offensive' is a framework that helps in understanding moves by liberal governments to criminalize politics when enacted by young people in ways described above. As a civilizing process or political technique, transforming certain actions or people into a security issue that puts at risk 'civilization' and threatening to return us to barbarity represents an 'existential threat in the form of the enemy' that works to justify 'actions by the state that fall 'outside the normal bounds of legal and political procedure' (see also van Krieken 2006, Mitzman 1987: 663-687.

In this way the criminalization of certain forms of politics can be seen as exemplifying a 'civilizing offensive' where state actions are performed to ensure that those who the government and powerful groups identify as problematic population (e.g. the youthful rebellious rabble) are 'elevated' from their 'ignorance' and incivility by means of whatever it takes, whether that be use of police and military violence, education or 'welfare policy'.

## CONCLUSION

It is generally recognized that young people's disengagement from electoral politics is a major problem for liberal-democratic states (Grasso 2016). Without significant popular participation, democratic government loses its legitimacy. This explains why many governments and civil society organizations since the 1990s have moved to encourage political participation by young people through various means, including advertising campaigns, civic education programs in schools, 'youth roundtables', youth councils, 'youth consultations' and the like. This highlights a paradox when those same liberal-democratic governments also stigmatize and criminalize young people who engage in social movements, protest activity and other forms of non-electoral politics.

When the politics of young people is deemed to lack the legitimacy conferred on conventional political activity like electoral processes, state hostility to it becomes a normal position. Young people's political activism and conventional state responses to that political activism highlight the contradictory character of liberal-democratic politics, such as the serious contradictions operating in the respective 'liberal' and the 'democratic' characteristics that are supposed to merge into a liberal-democracy.

Those contradictions can be found in the intersection between liberalism's commitment to the rule of law and the promotion and protection of basic rights to freedom of belief, speech, and assembly, and democracy's claim that its legitimacy is vested in popular consent and the democratic principle of majoritarian rule. However, the majoritarian principle can also mean that minorities are subject to the denial of

their rights and liberties by the majority. Equally the resolve to apply the rule of law (found for example in a constitution or a Bill of Rights) can mean that democratic governments can have their legislation or policies lawfully challenged and overturned by courts. In these ways, liberalism is always in tension with democracy and *vice versa*.

There are also major tensions within liberalism itself. For example, there is a tradition of liberal thought that promotes and protects the freedom of all. However, the apparent privileging of liberty seems to be a flexible commitment when state policing and security agencies argue that these rights and liberties have to be by-passed in order to promote the security of the community. Following Neocleous (2007: 131-149), we can go further and argue that once a threat to the security of the state or community exists, then any incompatibility or tension between those objectives is always resolved in favor of state security. It is the default setting in the liberal order. In short, liberties like freedom of speech and assembly are always trumped by the security imperative. The fact that this occurs even in places like universities, sites where critical thinking and engagement are apparently encouraged, suggest that a non-resolvable contradiction exists between two competing objectives (security and liberty).

The two cases discussed in this article are neither isolated nor exceptional cases. As a growing body of literature demonstrates, liberal-democratic states normally use criminal law along with other policing and surveillance measures to regulate, constrain and suppress political activities which liberal-democracies claim they are committed to protecting and promoting. This is especially true when social movements and political activism raise significant and uncomfortable questions about the practices of government and/or power elites (Grasso and Bessant 2018).

The argument is that the disengagement from electoral politics by young people has been constructed as a significant problem by liberal-democratic states because without widespread participation, democratic governments cannot claim to be legitimate. For this reason, governments and many organizations have been moved to encourage youth political participation.

This has created a paradox, given that the same liberal-democratic governments promoting young people's political participation also criminalized young people when they engaged in certain forms of politics. This also highlights how liberal-democratic states encourage political participation of young people in politics only if it takes certain approved forms (e.g. participation in electoral-party politics or youth roundtables etc). When young people's politics go beyond that field, we often see hostile responses from the state.

In this article we argued that these tensions are inherent in democratic liberal states. While such states claim to promote and to protect freedoms, such as, for example, the freedom to protests, that commitment is provisional. When those exercising such rights (freedoms) are deemed to threaten the state, then security always prevails over those civic rights. In this way we see that a non-resolvable incongruity is present between two competing objectives (security and liberty).

The two cases documented in this article also highlight how liberal-democratic states use criminal law along with various policing and surveillance measures to manage and suppress political activities that those same liberal-democracies declare themselves committed to defend. This is particularly so when the political action queries the authority of the political class or power elites.

More time and attention are needed to fully appreciate why state security and policing agencies respond as they do when faced with large numbers of people exercising those civic rights and freedoms that liberal-democratic states claim define their *raison d'être*. Scholarship by Wilkinson (2018) highlights the role of fear, mobilized and then harnessed by governments exhibiting the traits of 'authoritarian liberalism'. Moreover, fear of the possibility that young people exercising their political agency might be effective in articulating and offering viable alternatives to the prevailing social arrangements also seems to play a role in the routine deployment of armed force by police and military personnel to repress such actions. As Graeber (2011) argues, a series of recent social movements seemed to have posed a real and impending threat to the preferred business-as-usual model because they hold out the promise of viable alternatives to what we now have.

## NOTES

1. While Spain is a metropolitan European middle-power with a significant history as a colonial power, Canada is a former British (and in part) French colony. Both countries have a constitutional monarchy, and both also experience significant internal political divisions related to their respective 'national problems' - Catalonia in Spain, and Quebec in Canada.
2. The metaphor of 'gag' in the reference to 'gag laws' refers to the muzzling of certain kinds of speech enacted by legislation or policies making it illegal to speak about particular matters. Gag laws can also make it legal for governments to surveil citizens by creating personal background profiles on them and imposing penalties on actions deemed to breach these laws. The Spanish Government's *Citizens Security* law of 2015 came to be referred to as the 'Gag Law' and was seen by its critics as the biggest threat to democratic rights since the Franco era. Reportedly, the majority of Spaniards (82%) opposed the law. The incongruity was not lost on Diaz and his supporters (Bessant 2017).
3. e.g. *Democracia Real YA* ('Real Democracy NOW') or *Juventud Sin Futuro* ('Youth without a Future').
4. Neoliberalism refers to the contemporary political project designed to 'roll back the state' through a

combination of privatization and deregulation while using individualist competitive market mechanisms to provide public goods or services like health, education and community services. Key neoliberal policy ideas include prioritizing 'freedom' over equality, stigmatizing state welfare recipients and cutting personal and corporate income tax rates. Neoliberal governments regularly also provide significant amounts of money in the form of tax-breaks, subsidies, incentives and bailouts to business and high-income earners (Bessant et al. 2017).

5. <http://www.rtve.es/noticias/20110806/mas-seis-millones-espanoles-han-participado-movimiento-15m/452598.shtml>
6. The Spanish parliament passed three laws in 2015 to regulate public order: the penal code, law of public safety and the law of private security in the aftermath of the anti-austerity mobilizations (González-Sánchez and Maroto-Calatayud 2018). The revision of 'crimes of assault against persons in authority' saw resistance criminalized: the throwing of blunt objects was redefined as 'potentially dangerous to life' and described as 'aggravated assault' carrying a penalty of up to 9 years in prison (González-Sánchez and Maroto-Calatayud 2018).

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