

## Urban security, public space and the control of protest. Some lessons from Italy and Spain

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### Abstract

The article discusses the connection between urban security and public order, and the related processes of criminalization of both urban marginality and protest, in two European countries, Italy and Spain. I focus on these main points. First, the criminalization pursued by both these different branches of policies is to be found in contemporary views on public space, in the changing political economy of the city, and in the increasing State authoritarianism in European democracies. Second, both urban marginality and protesters perfectly embody the idea of a public enemy, whose presence in the urban space endangers the neoliberal project of a safe, clean city. Third, the legal concepts and practices enforced to criminalize urban marginality and protest, particularly street protest, become interchangeable, and criminal justice measures are applied in combination with administrative and hybrid tools. Fifth, the shift is, at least in the Italian case, strongly connected to the “centralization turn” taken by Italian urban security policies in the first decade of 2000, when policies that were meant to be mostly preventive and “local” gradually transformed into national and more punitive public security, and ultimately public order, policies. My arguments are based on the analysis of law reforms, institutional documents, and findings from studies on the criminalization of urban marginality and of protest activities in both countries.

**Keywords:** urban security, criminalization, protest, public order, public space.

## Urban security, public space and the control of protest. Some lessons from Italy and Spain

### “Fioriere lives matter”: an introduction

In recent years, intolerance and criminalization of protest are increasing in many countries (Di Ronco 2023; Maroto, González-Sánchez, and Brandariz, 2019; Selmini and Di Ronco, 2023; Vegh Weis 2020; Watts, 2020). In this article, I give an account of how criminalization of protest is conceptually and practically related to the development of urban security policies and their changes over the years. Some recent Italian events well exemplify how the media and the politicians –both right and left – are reframing acts of protest as threats to urban security and to the *decoro* of urban life. *Decoro* is an obsolete Italian word that refers to the ideas of cleanliness, decency and moral dignity, which acquired a normative status after being included in legislation on urban security, and is now common in the contemporary Italian public discourse on urban security.

One of the most interesting of these events involved the mayor of Florence, well known for his tough approach towards incivilities and his passion for technological urban surveillance<sup>1</sup>. Indeed, the city government has been leading for long the tendency to enforce a law and order approach against urban marginality, being the first Italian city to issue an order sanctioning squeegee men, and broadly paving the way to what was defined as the “new municipal criminal law” (Ruga Riva 2008). In March 2018, Idy Diane, a panhandler from Senegal, was shot in the street by an Italian, apparently mentally disturbed, man. As a reaction, the Senegal community in Florence marched in front of the municipality asking to meet the mayor, who refused. Anger and frustration prevailed among the protesters, and a few flower pots (*fioriere*) were damaged. The mayor publicly condemned the shooting, but mostly complained about the destruction of the flower pots, a statement that sparked wide outrage and gave the magazine “DinamoPress” the chance to write an ironical article titled “Fioriere lives matter” (Vicentini 2018) on how the life of a poor man from Senegal was devalued compared to the destruction of some *terracotta* pots. The public discussion on racist assaults, and on the reaction of the Senegal community, which was one of the few protests performed by immigrants in Italy, was obscured by the attention given to the issue of the *decoro* of the city.

The same happened more recently in relation to the environmental activists of *Ultima Generazione* (Last Generation), whose repertoire of action is based on dramatic attacks to monuments and blocking roads across the country. Concerns about protest as a threat to urban social order and cleanliness, particularly when historical monuments and buildings are targeted, were raised again. One of these protests occurred in March 2023, when some Last Generation activists threw red paint against the walls of Palazzo Vecchio in Florence, provoking the outraged reaction of many, including the mayor – the same mentioned above – who actively cooperated with the police in stopping the activists (Ulivelli, 2023, March 17).

In these cases, public reaction tends to focus not on the content of the protest and the political message it conveys, but on the modality through which it is performed and on the threats to the urban *decoro*, instead of on the need to seriously take action against climate change. Similarly, public discourses on incivilities and urban marginality focus on the cleanliness of the city, instead of trying to understand the underlying causes, such as poor urban maintenance because of austerity policies, lack of integration of migrants and increasing social inequalities in Italian society. Language once used to stigmatize the presence of homeless, drunks, sex workers or drug addicts in urban centers (Crocitti and Selmini, 2017) is now applied also to political activists, with the *decoro* being definitively the core concept of the new social, moral and political order of the city.

Starting from these premises, in this paper I focus on the connection between urban security and public order, and the criminalization of both urban marginality and protest.

I will discuss some approaches that try to provide a theoretical framework to understand the criminalization of both urban marginality and protest, particularly those analyzing changes in the concept of public space and in the economy of the city, and those focusing on the emergence of the “security state”. I then analyze how the same tools – mostly hybrid administrative measures of preventive coercion (Ashworth and Zedner, 2014) – have been applied to urban marginality and protest, showing how the legal concepts and instruments developed to control urban marginality and street protest become interchangeable, and some definitions may apply to different types of groups population.

I discuss in depth two cases, Italy and Spain, where the link between the two dimensions is reflected in recent law reforms and is demonstrated by studies on the enforcement of national or local rules concerning both urban security and incivilities, and the control of protest. I also

1 See for instance the interview where the mayor celebrates the thousandth CCTV camera installed in the city and promises the arrival of “new software to monitor any suspicious object or people movement” (N.n., 2019, December 30).

argue that, particularly for Italy, the blurring of boundaries between the two dimensions occurred gradually and went through steps, but has been present, though less visible, since the earlier stages of the urban security policies.

### Public space, urban marginality and the new economy of the city

A rich international literature connects the emergence of new forms of punitiveness of urban marginality to the economy of the city in the neoliberal era (Beckett and Herbert 2008, 2010; Belina 2007; Peršak, 2017; Peršak and Di Ronco, 2018, 2021; Passavant 2021; Sassen 2007). In a neoliberal economy, the competition among cities to attract investments, business, consumers and tourists requires taking punitive approaches towards those social groups whose presence in the urban landscape is considered to be a threat to the city attractiveness (Beckett and Herbert, 2008). In Italian cities these “undesirable” (Belina, 2014, p. 19) populations are commonly migrants, who mostly live in the public space and whose conditions as foreigners overlaps with being homeless, panhandlers, prostitutes, drunks. They, and other social groups and phenomena, such as young people and nightlife entertainment, have been, and are, the most common targets of urban security policies whose goal is not prevention of crime and disorder, but the banishment of these groups from urban spaces redesigned for different types of users (Crocitti and Selmini, 2017; Gargiulo and Avidano 2018; Gargiulo 2019). Order maintenance becomes the priority of the Italian local governments, and a variety of regulations and new social control techniques were enforced to ensure the banishment of those social groups from urban spaces.

This is not, of course, just an Italian phenomenon. Anti-social behavior orders, trespass orders, civility laws, banishment orders and similar new “hybrid”<sup>2</sup> tools have sparked around many cities in the US, the UK and Europe (Beckett and Herbert, 2008, 2010; Crawford, 2009; Belina, 2007; Peršak and Di Ronco 2018, 2021; Selmini and Crawford, 2017) and have become the standard way to deal with problems that, in most cases, were considered once to be social, or urban maintenance, problems rather than criminal ones. The financial crises of local governments and the austerity policies pursued after 2008 in Italy also contributed to the shrinking of local welfare and the increase in the number of people living at the margins of the city, in a condition of “disorder” that is considered

to be incompatible with the goal of a sanitized public space, free from disturbing presences. The urban fiscal crisis, which for American cities dates back to the Seventies, implied that urban governments had to start to compete as market actors (Passavant, 2021, p. 9) in order to attract visitors and tourists, and to host mega- events and exhibitions. The need of hosting mega- events is considered particularly important for its implications in terms of social control. Mega-events that attract a huge number of people and are often the reason why protests explode, usually require narrower controls and heavier security measures, that often then remain even after the event is over, and become “institutionalized as normal policing practices” (Passavant, 2021, p. 10).

These processes undermined the attempts, made at the origins of the development of social-democrat urban security policies, to idealize public space as a context for a harmonious and civic co-existence of all people living in and using that space. An example of this effort is the campaign launched in 2004 by the regional government of Emilia- Romagna (I) – where the project *Città sicure* (Safe Cities) was based (see Cornelli, Selmini and Nobili, this volume). It promoted the slogan *Libertà e sicurezza per tutti* (Freedom and safety for everybody) which tried to convey the message that safe and free use of public spaces, without distinction of gender, age and nationality, was the main goal of urban security policies. In a similar vein, Spanish cities, with Barcelona leading the process, promoted the concept of *civismo*, that reflects the idea of a harmonious urban environment, where social conflicts are peacefully managed and civic co-existence is promoted (Pemán Gavín, 2010; Galais González, 2010). The most famous example of this approach is the 2006 Barcelona ordinance (*Ordenança de mesures per fomentar i garantir la convivència ciutadana a l'espai públic de Barcelona*), a municipal regulation that includes a wide range of rules to sanction anti-social behaviors while promoting a pedagogy of how to use public spaces minimizing conflicts and behaving “appropriately”.

In the Italian case, the philosophy of “freedom and security for everybody” was replaced by punitive and exclusionary measures, very much resembling the American Zero Tolerance approaches. In Spain, the concepts of “civic co-existence” and of *civismo*, in spite of the good intentions of their promoters, resulted in administrative orders that increased control, as we see better later on, and sparked wide criticisms (Delgado Ruiz and Malet Calvo, 2009; see also Maroto Calatayud, 2016; Villacampa, 2017).

### Urban crisis and the “security state”: Blurring the boundaries among disorder, crime and protest

Passavant (2021) shows how the two dimensions – control of marginality and crime and of protest and dissent – albeit targeting different groups of population – equally originated from “three interrelated crises: a crisis in

2 Hybrid tools is the definition given by Beckett and Herbert (2008, 2010) to measures that are civil at a first instance, but that then may become criminal. Simester and von Hirsch (2006) talk of “two-steps prohibition”, where the first step is the breaking of a civil/administrative prohibition, and the second is the imposition of a criminal penalty. See also the concept of “preventive coercion”, discussed by Ashworth and Zedner (2014).

democracy, an urban fiscal crisis, and a crime crisis” (Passavant 2021, p. 7). The aftermath of Zero Tolerance policing towards minor crime and disorder represents an important step in the shift towards criminalization of every social relation considered problematic in the public space, including protest. The “crime crisis” Zero Tolerance represented the response to legitimated the increase aggressiveness of police in a variety of different contexts. In American cities, the negotiated management approach that had been privileged for some few decades to manage protest, started to be abandoned (della Porta and Reiter, 1998; Passavant 2021; Schweingruber, 2000). Similarly, in other parts of the world, North and South, police control of the protests and the use of force have become more common, even if the lethal use of violence has decreased in some contexts (Maroto e al., 2019). Militarization of public space is another important dynamic that occurred in many contexts in recent years. In Italy, for instance, the 2008-2009 *Pacchetto sicurezza* (see later, par. 4) introduced army patrol as a routine urban security practice in city centers.

One more perspective trying to find a common framework for the increasing criminalization of incivilities, minor crime and other behaviors, including protest, focuses on the role of the “security state” (Hallsworth and Lea, 2011), which has replaced the liberal welfare state model of the post WWII period. In focusing on the role of the State and dismissing those perspectives based on “governmentality”, Hallsworth and Lea (2011) interpret the increase in criminalization, punitiveness and the law and order approach in the UK as the result of a new form of State authoritarianism, in which control of any social relation that might be considered problematic is a priority. Authoritarian approaches develop at the margins, but they expand to the center of social life and institutions, through law, practices and discourses that originally address specific problems, but then are widened to cover other areas of conflict. Examples are the many practices to manage the socially excluded that are then adopted towards other groups of population, such as the extension of administrative-punitive measure from urban marginality to protest. Other examples go in the opposite direction: rules issued to criminalize serious crime and terrorism which are then enforced, through pre-emptive criminalization measures – against social movements and other individuals who have nothing to do with terrorism (Hallsworth and Lea, 2011, p. 152). Similarly, environmental protesters in Italy have recently been charged of conspiracy to commit crime (*associazione per delinquere*), a serious offence usually related to economic and organized crime (U.D., 2023, April 17); other social activists have been charged with other serious offences such as extortion, that are, again, usually reserved for organized and economic crime (Marchio, 2021). Although not discussed in this paper, we can observe this phenomenon also in looking at how some banishment orders and discourses about violent hooliganism have been extended to deviance and political activism (Selmini 2020a, p. 109). The result is

the creation of “hybrid categories of offenders” (Sentas and Grewcock 2018, p. 76) including minor deviants and dissenters, drug addicts and terrorists, traffickers and organized crime members.

These examples can be contextualized in the extension of the State punitive approach based on two processes, defined by Hallsworth and Lea (2011) as mutual reinforcement and diffusion. The former implies that changes in one area of the criminal justice system affect changes in another, thus creating an infrastructure of control in which different fields of laws and institutional practices reinforce each other. An example, again, is the combination of criminal and administrative tools in controlling urban marginality, but also other forms of deviance and political protest as well. Diffusion refers directly to the expansion process, made possible by vague definitions (such as “risk for the security”, a recurrent phrase in these laws) as shown by the rules on terrorism in the UK mentioned above.

In conclusion, the neoliberal economic and political project at the urban level on the one hand fosters social exclusion and marginality and raises protest; on the other, it promotes urban policies based on a punitive and authoritarian rationality, aimed at making the public urban space more segregated, and free from any type of disturbing presence. I discuss examples of these processes from the Italian and the Spanish cases.

### The steps towards the criminalization of protest in Italian urban security policies

As described by Cornelli, Selmini and Nobili (this volume), urban security policies have a long and complicated history in Italy. I focus here on some steps of this development that can illuminate how the shift to public security and public order occurred.

In the original intention of the promoters – mostly regional and municipal governments – urban security policies were addressed to those phenomena - such as minor crime and the vague category of “incivilities” - which, in the urban environment, may potentially undermine the quality of life of communities and individuals, and increase feelings of insecurity. The original idea was that conflicts in the public space were manageable without the use of criminal justice system measures. Social and community crime prevention, in combination with situational crime prevention, were considered the best ways to deal with a new set of urban problems (Pavarini, 2004; see also Cornelli, Selmini and Nobili in this volume).

Naively, Italian local governments believed that they could have contributed to the development of a new “democratic” social and urban order, based on the “freedom and security for all” philosophy mentioned above, in which prevention of minor crime and incivilities would have been possible using administrative tools. It was a common belief in those years that administrative measures would have been less punitive and manageable than crim-

inal justice measures<sup>3</sup>, and that the conceptualizing urban security as a separated concept from public security and public order was possible.

As Cornelli, Selmini and Nobili argue in this volume, these beliefs and good intentions were soon abandoned by many municipal governments, or replaced by national rules and laws based on a more punitive approach. I'm not discussing here in-depth the reasons why this happened<sup>4</sup>, but I focus on these main points: how the centralization turn also implied a punitive turn, and how this punitive turn led to a criminalization not only of urban marginality, but also of protest. I also argue that, however, several signs of the link between criminalization in both contexts were already present in the earlier years of urban security policies in Italy, even if they became clear only recently. I finally argue that, even if the centralization of security policies at the national level was fundamental in extending criminalization to protest activities, some local governments and mayors, and particularly the National Association of Municipality (ANCI) also played a role in the shift.

When the national government stepped in – definitively in 2007 – and started to define priorities and strategies local governments should implement, as merely executors of national policies – the concept of urban security gradually merged with the much stronger and traditional concept of public security. The first step of this process is represented by the appearance, in the first decade of the 2000s, of the concept of *sicurezza integrata* (Antonelli, 2018; Nobili, Giupponi, Ricifari and Gallo, 2019) which emphasizes cooperation between the local and the national governments. The new definition sparked in the institutional and political discourse, and in the media, and it is the main concept adopted in the so-called *Patti per la sicurezza* (Security Pacts), signed between the mayors and the prefects in many Italian cities (Calaresu, 2013). These pacts try to regulate cooperation in the national and local governance of urban security, and, since 2007, are managed and controlled by the minister of the interior, in order to guarantee national homogeneity, under the new philosophy of integrated security, which now parallels, and indeed replaces, the older concept of urban security.

In these institutional agreements we can find one of the first signs of the inclusion of protest within the context of urban security. Indeed, the minister of the interior states clearly that the institutional cooperation is extended to the fields of public order and public security. Cities and the State must cooperate not only in the traditional matters of disorder and minor crime, but also “for the prevention of tensions and social conflicts that can provoke

disturbances of the public order and of the public security” (Minister of the interior, 2007). Public order is now legitimately a field of common work, and an integrated part of urban security policies, with the agreement of the mayors, represented by ANCI. Even if we do not know whether pacts including measures for the control and criminalization of protests have actually been signed, the leading documents pave the way to the inclusion of protest as a subject that can be dealt with within the institutional and conceptual framework of integrated security (Selmini 2020a).

Between 2008 and 2009 the so called *Pacchetto sicurezza*<sup>5</sup> was also enacted. Public order and protest control are not explicitly mentioned in these pieces of legislations but they are in the guidelines of the *Pacchetto sicurezza* issued by the minister of the interior (2010). The guidelines try to systematize and present all the new rules concerning urban security, encompassing offences and behaviors that span from incivilities to protest. For instance, offences such as: “occupation of public spaces, graffiti and other forms of impairment of public and private properties, including the smearing of transport system and buildings” are included in a specific section dedicated not to the protection of public order – though several of these behaviors are connected to protest – but to the *decoro urbano*, showing how conceptually these phenomena are becoming increasingly framed in an interchangeable way.

Other signs of the blurring of boundaries between urban security, *decoro* and public order were also already present in some mayors' administrative orders; these are, as discussed by Cornelli, Selmini and Nobili (this volume) the most important tools for urban security at the municipal level. As findings of research based on an in-depth analysis of mayors' orders related to nightlife and alcohol consumption in public space shows, the justification for issuing such orders is not only “security” and *decoro*, but also “public order” (Gargiulo and Avidano, 2018). The protection of public order – a field in which mayors have no competence – is mentioned in almost half of the 55 orders analyzed. The study shows clearly that the borders between public order and security and *decoro* are, in the mayors' view, blurring, and that order maintenance at the urban level implies targeting any individual or group who can be considered “undesirable” in the public space. As Gargiulo and Avidano (2018, p. 21) state: “in the urban security field, maintaining public order may become an operation of “moral surgery” equivalent to the administrative persecution of some specific social groups, whose access to some spaces are limited and whose behaviors are prohibited” (my translation).

One further step in the shift of urban security policies is represented by a Bill, titled *Norme in materia di sicurezza*

3 About the harmfulness of these civil or administrative new tools in the UK and in the US, see Ashworth and Zedner (2014) and Beckett and Herbert (2010).

4 About which see Selmini 2020a, and Cornelli, Selmini and Nobili, this volume.

5 *Pacchetto sicurezza* is the common definition given in Italy to a combination of several laws, decrees and minister regulations including new rules on migration, urban security, public security, organized crime.

*integrata, nonché a tutela della sicurezza delle città e del decoro urbano* (Rules for integrated security, urban safety and the protection of urban *decoro*), that was the result of a long negotiation- ending on October 2016 – between the already mentioned ANCI and the government, on a national law aimed at regulating urban security. The Bill includes many new rules to reinforce mayors' powers- in a more punitive vein – and the use of administrative and banishment orders against urban disorder and incivilities. Art. 9 of the Bill, however, also includes rules making the repression of protest harsher, and it represents a clear example of how the two different fields – urban security and public order – are blending. While poor and homeless are still mostly managed through administrative fines – even if in this Bill the first examples of two-step prohibitions (see footnote 2) also appear – protest and protesters are addressed through the traditional criminal justice measures, but within the conceptual framework of urban and integrated security. The Bill introduces new criminal sanctions for behaviors such as using helmets or other protections masking the face, and for the use of a variety of different tools during a protest or a march (such as fireworks, firecrackers, sticks, smoke and gas, cudgels, shields, blunt objects, smearing or polluting materials and “any other tool potentially dangerous”). These offences are aggravated by some circumstances, such as when the perpetrator has already been sentenced for terrorism or “subversion of the democratic order” and for other offences related to public order. The Bill also increases the punishment for offences already existing in the Italian penal code: *imbrattamento* (soiling) and *deturpamento* (impairment) of properties and goods. These offences include graffiti and similar threats to what is considered to be the urban *decoro*, a behavior strictly connected to political expression, or that may be part of street protests and urban unrests. This Bill was never approved; however, most of these provisions, including those on criminalization of protest, were included in two new laws enacted in 2018 and 2019, discussed below.

### The final shift towards public order

In 2017, a decree titled *Disposizioni urgenti in materia di sicurezza delle città* (Urgent rules about security of the cities - Decree No 14,17 February 17, 2017) was issued, as a matter of urgency, with two main goals: first, to rationalize cooperation among the State, the Regions and the Municipalities in matters related to urban security, and, second, to introduce new measures to deal with incivilities and disorder at the urban level. The first part, in spite of the rhetoric on cooperation and partnership, confirms a tendency that had already appeared in the first half of 2000 (see Cornelli, Selmini and Nobili, this volume) towards re-establishing the leading role of the central government in determining choices and priorities. New banishment measures, issued by mayors and by the police chief (questori) reinforce the zero tolerance approach of these

laws on urban security. A recent analysis of the orders issued from both the mayors and the *questori* at the national level shows that most of them target immigrants and homeless, beggars, unlicensed car park attendants, sex workers, and similar groups trying to survive in the informal urban economy (Borlizzi, 2022).

This decree doesn't include explicitly new rules concerning the control and policing of protest, but it paved the way for two following decrees that definitively merge urban security with criminalization of protest. The process resembles Passavant's (2021) reflections on how crime crises in the city pave the way for harsher repression of protest. They were enacted, respectively, in 2018 and 2019 by the right-wing government and specifically by the then minister of the interior Matteo Salvini, of the League Party (Cornelli, Selmini and Nobili, this volume).

These decrees now conceptualize urban security as a matter of public security, and definitively, also of public order. The decrees aim at making clear that public urban space needs to be clean and protected from the disturbing presence of homeless, immigrants and other groups of marginalized populations, as well as of protesters and dissenters marching, occupying spaces and properties, or leaving, intentionally or not, signs of their presence on walls, street and buildings.

Concerning urban security (now framed as public security) the 2018 law (decree no.113, October 4, 2018)<sup>6</sup> reinforces the earlier measure of the 2017 law described above, as discussed by Cornelli, Selmini and Nobili, this volume. Concerning specifically traditional offences against public order, the decree re-criminalizes road blocking (which had been de-criminalized in earlier years), with a maximum penalty of six years, much higher than before, and introduces new aggravating circumstances.

It is however in the decree no. 53, June 14, 2019 (titled *Disposizioni urgenti in materia di ordine e sicurezza pubblica* - Urgent measures or security and public order) that protest and political dissent are directly targeted, in terms of expanding some pre-existing rules, of more severe penalties, and of new aggravating circumstances.

Some of these new provisions are replicating those already included in the Bill negotiated between ANCI and the government in 2016 mentioned above, such as a more severe punishment for those who use protective helmets or in any other way make more difficult to identify a person during a protest: punishment is now up to three years, one year more than in the past, and fines are up to 6000 Euros, instead of 2000. The new offence of using fireworks, or other potentially dangerous tools (as those described above) during protests is established, with a maximum penalty up to four years. Other changes to the penal code imply more severe penalties for already existing crimes when they are committed “in the context of a

6 It's important to remember that only a small section of the decree is about “urban security”. Most provisions are about migration and organized crime.

demonstration in public space or in spaces open to the public” (art. 7). Aggravating circumstances related to violence, resistance or threats against public officers, or political, administrative or judicial bodies, now extend to those who are simply participating in a public protest; the aggravating circumstance of interruption of public offices or public services, now punishable up to two years when committed during a protest. Similarly, some already existing aggravating circumstances for the crimes of ravage, looting and damages are now extended to the case of protest in public space. As a consequence, for damages to public and private goods the maximum penalty is now up to six years, instead of three, when committed during a protest. Commentators pointed out not only the harshness of these new “anti-riot” rules, but also how inconsistent they are with the fundamental principles of the protection of civil and political rights (Zirulia 2019).

In 2020, the new center-left oriented government amended some sections of the 2018 and 2019 decrees, but only concerning the rules that made the control of migration much tougher than in the past. The new decree left untouched the changes on protest control, and made some of the rules on the use of banishment orders even harsher (Selmini 2020c), showing a continuity with the punitive and authoritarian approaches of the earlier, more right-wing oriented, government.

### **Burorrepresión and the administrative control of nuisance and protest in Spain**

Spain is another interesting case when trying to understand the connection between urban security and criminalization of protest. The subject has been widely discussed in recent works by Spanish scholars, who emphasize how, in spite of the transition from the dictatorship to the democracy that occurred several decades ago, the country is still characterized by many illiberal rules concerning protest and dissent (García, 2014; De Mosteyrín, Fernández, and Limón López, 2018; González-Sánchez and Maroto-Calatayud, 2018). In 2015, an effort to decriminalize some behaviors related to the expression of dissent and protest and to transform them into administrative violations was made. However, the whole reform resulted in an example of that mutual reinforcement and diffusion dynamics described by Hallsworth and Lea (2011).

The reform of the penal code implied that many behaviors are now regulated under an administrative regime, precisely by the 2015 *Ley Orgánica de protección de la Seguridad Ciudadana* (March 31, 2015, n. 1), which replicates and reinforces a pre-existing and equally controversial 1992 law, with the same name. The law, soon renamed popularly the “Gag Law” because of the restriction of freedom of expression, raised a widespread concern among scholars and human rights organizations (Amnistía Internacional España 2018; Calvo and Portos

2018; De Mosteyrín et al., 2018; González-Sánchez and Maroto Calatayud, 2018).

The 2015 law is based on a system of administrative fines, and has created a complex infrastructure of control of protest and of other urban problems, such as drug dealing and incivilities. Of 44 provisions, 21 target directly protest in public space (Casino Rubio, 2017, p. 81) in different ways: punishing behaviors that were not sanctioned before, or making the sanction harsher. Zones considered off-limits for protest have been widened, the organization of unnotified meetings or protests in specific areas may now be fined up to 600.000 euros, when they provoke “a risk for people safety”. Many of the behaviors transformed into administrative violations replicate surviving criminal prohibitions, and they therefore create a double regime, whose enforcement is left to police discretion. Two points deserve attention. First, the police have a wide discretion in choosing whether to enforce the administrative or the criminal system, in substantiating the occurrence of “risks for people safety”, and are also granted a special protection, considering that non-cooperation and “disrespectful behaviors” towards police officers are administratively sanctioned (Selmini 2020b). Second, instead of the administrative sanctions replacing the criminal ones, a process of mutual reinforcement, as described by Hallsworth and Lea (2011), often occurs, either because of the double regime described above, or because of the activation of the administrative sanction once the criminal charge has been dismissed by the courts. In my research on the criminalization of political dissent in Catalonia (Selmini and Salellas Vilar, 2022) several activists interviewed mention the fact that, once their criminal charge (i.e. for public disorder) was dismissed by the court, an administrative fine was then applied for the same behavior, under the administrative regime of the Gag Law.

At the local level, other administrative tools, similar to the Italian mayors’ orders and consistent with the *civismo* ideology described above, have been applied to minor violations of the urban order and also to the control of protest, showing once again the tight connection between these dimensions. As the cases gathered by Maroto Calatayud (2013, p. 36) show, distributing leaflets during a demonstration has been sanctioned on the basis of an administrative order that prohibits throwing garbage in the street; camping in public space, which has happened often particularly during the wave of protest of the 2010s, has been equated to occupying public space; and the local orders about control of noise have been applied to protesters using a megaphone.

Both these orders and the provisions of the Gag Law have been contextualized by some Spanish scholars in the framework of the so-called *burorrepresión* (Olmo, 2013), a word that well expresses the idea of a criminalization based on – apparently – less punitive tools but that, nonetheless, has several harmful consequences. Indeed, these “infra-legal devices” (Maroto Calatayud 2016, p. 68) not only discourage protest and undermine freedom of expression, but also transform the exercise of these rights

into a nuisance that needs to be sanctioned as other forms of incivilities – such as throwing garbage in the streets – are. The political nature of these behaviors is downgraded, and equated to a nuisance or an incivility. The goal, according to these scholars, is not only to discourage protest, but also to depoliticize it. As Delgado Ruiz and Malet Calvo (2009, p. 64) put it, protest is no more considered (only) “subversive” or “seditious”, but it may also be reconceptualized as an act of incivility, because, exactly as urban disorder, it undermines “el normal fluir de una vida pública declarada por decreto amable y desconflictivizada”.

## Conclusion

These reflections on urban security, the neoliberal urban project and the public space, and contemporary ways to deal with a variety of urban “troublemakers” link the criminalization of political dissent to the criminalization of other forms of urban marginality. Indeed, both types of criminalization are consistent with the neo-liberal punitive project and are motivated by the same reasons. The exercise of political (often constitutionally granted) rights, beyond the celebrative rhetoric of how important their protection is, is more and more restricted and criminalized, as poverty and minor crime are.

This story shows how urban security policies – mainly addressed to urban marginality – and the criminalization of protest – a behavior that is expressive of constitutional rights – merged together after a process that, at least in Italy, went through different steps.

In this paper, I discuss two specific cases, Spain and Italy. In both countries, the story shows many links between these two dimensions. In the case of Italy these links were already present, though less visible, in earlier stages of urban security policies, and the shift was from the control of marginality and disorder to the control of protest, seeming to illustrate Passavant’s (2021) suggestions about how “crime crises” are important in determining an extension of the zero tolerance styles of control from one area to another, and reinforcing a punitive mentality. In the case of Spain, the process went apparently in the opposite direction: the public order mentality, a result of specific historical conditions and of the persistence of authoritarian institutions (Bernat and Whyte, 2019) affected the area of incivilities and urban marginality, replicating a punitive attitude based on very serious administrative fines. The final result is the same: urban poor and protesters became the targets of interchangeable and “fluid” policies, that reinforce each other – instead of reducing the State control on individuals – and that spark punitive attitudes. Criminal, administrative and civil regulations merges in dealing with any type of disturbance in public space, and measures established in one area become interchangeable and adaptable to be used in other areas of social conflicts, thus covering a wider range of threats, creating hybrid categories of of-

fenders and, ultimately, undermining democracy and legitimacy.

Lessons learned from the Italian and Spanish cases urge scholars working on criminalization and punitiveness to widen their analysis, also in a comparative perspective, and to try to understand how these areas overlap, and how in both dimensions, through the mutual reinforcement and diffusion dynamics described above, criminalization expands its boundaries.

## References

- Ashworth, A. & Zedner, L. (2014). *Preventive Justice*. Oxford: Oxford University Press.
- Amnistía Internacional España. (2018). *Sal a la calle... si te atreves. Tres años de la aplicación de la Ley Orgánica de Seguridad Ciudadana*. Retrieved from [Búsqueda \(amnesty.org\)](https://www.amnesty.org/).
- Battistelli F. (2016). *La sicurezza e la sua ombra. Terrorismo, panico, costruzione della minaccia*. Roma: Donzelli.
- Antonelli, V. (2018). *La sicurezza delle città tra diritto e amministrazione*. Padova: Cedam- Wolters Kluwer
- Beckett, K. & Herbert, S. (2008). Dealing with disorder: Social control in the post-industrial city. *Theoretical Criminology*, 12(1), 5-30.
- Beckett, K. & Herbert S. (2010). *Banished. The New Social Control in Urban America*. New York: Oxford University Press.
- Belina, B. (2007). From Disciplining to Dislocation: Area Bans in Recent Urban Policing in Germany. *European Urban and Regional Studies*, 14(4), 321-336.
- Bernat, I. & Whyte, D. (2020) Post-fascism in Spain: The struggle for Catalonia. *Critical Sociology*, 464-5, 761-776.
- Borlizzi, F. (2022). Daspo urbano e governo delle città: riflessioni a margine di una ricerca empirica. *Studi sulla Questione Criminale Blog*. Retrieved from [https://studiquestionecriminale.wordpress.com/2022/11/03/daspo-urbano-e-governo-delle-citta-riflessioni-a-margine-di-una-ricerca-empirica/?fbclid=IwAR1wnBzJXPeh9gjbP2CsWmVII-XdzHz3LyorUI-WJBh4\\_atCAYA3KJ2xhPw](https://studiquestionecriminale.wordpress.com/2022/11/03/daspo-urbano-e-governo-delle-citta-riflessioni-a-margine-di-una-ricerca-empirica/?fbclid=IwAR1wnBzJXPeh9gjbP2CsWmVII-XdzHz3LyorUI-WJBh4_atCAYA3KJ2xhPw).
- Calaresu, M. (2013). *La politica di sicurezza urbana. Il caso italiano (1994-2009)*. Milano: Franco Angeli.
- Calvo, K. & Portos, M. (2018). The ‘Gag Law’ and the unruly youth In Spain. In J. Bessant & M. T. Grasso (eds) *Governing Youth Politics in The Age of Surveillance* (pp. 33-47). London: Routledge.
- Casino Rubio, M. (2017). La tutela della sicurezza dei cittadini in Spagna. *Istituzioni del Federalismo*, 1, 67-95.
- Cornelli R., Selmini R., Nobili G. (2023). Thirty years of urban security policies in Italy: some reflections from a criminological perspective, this volume.
- Crawford, A. (2009) Governing Through Anti-Social Behaviour. Regulatory Challenges to Criminal Justice. *British Journal of Criminology*, 49 (6), 810-831.
- Crocitti, S. & Selmini, R. (2017). Controlling immigrants: The latent function of Italian administrative orders. *European Journal on Criminal Policy and Research*, 23(1), 99-114.
- Curi, F. (2019). Il reato d'accattonaggio. A volte ritornano. In *Diritto Penale Contemporaneo*. Retrieved from <https://www.penalecontemporaneo.it/d/6437-il-reato-di-accattonaggio-a-volte-ritornano>
- Delgado Ruiz M. & Malet Calvo, D. (2009). *El espacio público*



- como ideología. In *Urbandocs*, Forum Español para la prevención y la Seguridad Urbana. Retrieved from <http://www.fepsu.es/docs/urbandocs/URBANDOC1.pdf>.
- della Porta, D. & Reiter, H. (1998). *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. Minneapolis, London: University of Minnesota Press.
- Di Ronco, A. (2023). *Policing Environmental Protest: Power and Resistance in Pandemic Times*. Bristol: Bristol University Press.
- De Mosteyrín, L., Fernández M., & Limón López P. (2018). Controlling dissent through security in contemporary Spain. In J. Bessant & M. T. Grasso (eds) *Governing Youth Politics in The Age of Surveillance* (pp.48-61). London: Routledge.
- Galais González, C. (2010) Les polítiques locals de civisme a Espanya. *Col·lecció Estudis, Serie Igualtat i Ciutadania*, 6, Diputació de Barcelona.
- García, O. J.M. (2014). Soft Repression and the Current Wave of Social Mobilizations in Spain. *Social Movements Studies*, 13 (2), 303-308.
- Gargiulo, E. & Avidano, A. (2018). Il “governo” della movida a livello locale: una ricerca sulle ordinanze sindacali “antialcol” e “anti-vetro”. In *Osservatorio Permanente sui giovani e l'alcol*. Retrieved from Microsoft Word - Report Ordinanze -finale- 14 novembre 2018.docx (alcol.net)
- Gargiulo, E. (2019). Il sindaco realista, il cittadino perbene, il turista cafone. In *Lavoro culturale*. Retrieved from <https://www.lavoroculturale.org/il-sindaco-realista-il-cittadino-perbene-il-turista-cafone-sullultimo-libro-di-wolf-bukowski/?fbclid=IwAR3NM1gFCKlaY2OM8NGjcNIQvqCD2YGb mN5q0VTnqdLSVeqGadu86UtQt7Q>
- González Sánchez, I. & Maroto Calatayud, M. (2018). The penalization of protest under neo-liberalism: Managing resistance through punishment. *Crime, Law and Social Change*, 70 (4), 443-460.
- Hallsworth, S. & Lea, J. (2011) Reconstructing Leviathan: Emerging contours of the security state. In *Theoretical Criminology*, 15 (2), 141-157.
- Marchio V. (2021). The criminalisation and innovation of resistance. Looking at the Italian case. In V. Vegh Weis (ed) *Criminalization of Activism: Historical, Present and Future Perspectives* (pp. 42-47). London: Routledge.
- Maroto Calatayud, M. (2013). Ciudades de excepción. Seguridad ciudadana y civismo como instrumentos de burocratización de la protesta. In P.O.Olmo (ed) *Burocratización. Sanción administrativa y control social* (pp. 29-65). Albacete: Editorial Bomarzo.
- Maroto Calatayud, M. (2016). Punitive decriminalization? The repression of political dissent through administrative law and nuisance ordinances in Spain. In N. Peršak (ed) *Regulation and Social Control of Incivilities* (pp. 55-74). London: Routledge.
- Maroto, M., González-Sánchez, I. & Brandariz, J.A. (2019). Editors' Introduction: Policing the Protest Cycled of the 2010s. *Social Justice*, 46(2/3), 1-27.
- Minister of the interior (2007). *Patto per la sicurezza tra il ministero dell'interno e l'Anici*. Retrieved from <http://www.interno.gov.it/it/temi/territorio/patti-sicurezza/patto-sicurezza-ministero-dellinterno-e-lanci>
- Minister of the interior (2010). *Norme del pacchetto sicurezza e collegati* (aggiornato al 17 marzo 2010). Retrieved from 100319 - Norme pacchetto sicurezza-20 mar 2010 (interno.gov.it)
- Nobili G., Giupponi T., Ricifari E. & Gallo, N. (eds). (2019). *La sicurezza delle città. La sicurezza urbana e integrata*. Milano: Franco Angeli.
- N.n. (2019, December 30). Firenze, Nardella inaugura la millesima telecamera: “una delle città più controllate d'Italia”. *055Firenze*, retrieved from: Firenze, Nardella inaugura la millesima telecamera: ‘Una delle città più controllate d'Italia’ (055firenze.it)
- Olmo P.O. (2013). Qué es la burocratización? In P.O. Olmo (ed) *Burocratización. Sanción administrativa y control social* (pp. 11-28). Albacete: Bomarzo Editorial.
- Passavant, P. A. (2021). *Policing Protest. The Post-democratic State and the Figure of Black Insurrection*. Durham: Duke University Press.
- Pavarini, M. (1994). Bisogni di sicurezza e questione criminale. *Rassegna Italiana di Criminologia*, 5(4), 435-462.
- Pemán Gavín, J. (2007) Ordenanzas municipales y convivencia ciudadana Reflexiones a propósito de la Ordenanza de civismo de Barcelona. *Revista de Estudios de la Administración Local y Autonómica*, n. 305, 9-55.
- Peršak, Nina. (2017). *Regulation and Social Control of Incivilities*. London and New York: Routledge.
- Peršak, N. & Di Ronco, A. (2018). Urban space and the social control of incivilities: perceptions of space influencing the regulation of anti-social behaviour. *Crime, Law & Social Change*, 69(3), 329-347.
- Peršak, N., & Di Ronco A. (2021). *Harm and Disorder in the Urban Space: Social Control, Sense and Sensibility*. London: Routledge.
- Ruga Riva, C. (2008). Il lavavetri, la donna col burqa e il Sindaco. Prove atecniche di ‘diritto penale municipale’. *Rivista Italiana di diritto e procedura penale*, 133-148.
- Ruga Riva, C. (2017). Il d.l in materia di sicurezza delle città: verso una repressione *urbi et orbi*. Prima lettura del D.L. 20 febbraio 2017 n.14. *Diritto penale contemporaneo*, 3, 272-277.
- Sassen, S. (2007). The Global City: One Setting for New Types of Gangs Work and Political Culture? In J. M. Hagedorn (ed) *Gangs in the Global Cities*. Urbana and Chicago: University of Illinois Press.
- Selmini, R. (2020a). *Dalla sicurezza urbana al controllo del dissenso politico. Una storia del diritto amministrativo punitivo*. Roma: Carocci.
- Selmini R. (2020b). Criminalizzazione e repressione del dissenso politico. Il caso della mobilitazione indipendentista catalana. *Criminalia*, 431-459.
- Selmini, R. (2020c). Le recenti – e le mancate – modifiche ai “decreti Sicurezza” in materia di sicurezza urbana: la continuità di un modello punitivo. In *Studi sulla Questione criminale Blog*. Retrieved from Le recenti – e le mancate – modifiche ai “decreti Sicurezza” in materia di sicurezza urbana: la continuità di un modello punitivo – Nuova serie dei delitti e delle pene (wordpress.com)
- Selmini, R. & Sallèles Vilar, B. (2022). Da Barcellona a Leningrado. Riflessioni sulla criminalizzazione dell'indipendentismo catalano. *Studi sulla questione criminale*, XVII (2), 7-27.
- Selmini, R. & Crawford A. (eds). (2017). The Renaissance of Administrative Orders and the Changing Face of Urban Social Control”. *European Journal on Criminal Policy and Research*, 23 (1).
- Selmini, R., Di Ronco A. (2023). Criminalization of Dissent and Protest. In *Crime and Justice*, vol. 52, forthcoming.
- Sentas, V. & Grewcock, M. (2018). Criminal Law as Police Powers: Serious Crime, Unsafe Protest and Risks to Public Safety. *International Journal for Crime, Justice and Social Democracy*, 7(3), 75-90.
- Schweingruber, D. (2000). Mob Sociology and Escalated Force:

- Sociology's contribution to Repressive Police Tactics. *Sociology Quarterly*, 41 (3), 371-89.
- Simester, A. P. & Von Hirsh A. (2006). Regulating Offensive Conduct through Two-Step Prohibitions. In A. von Hirsch & A. P. Simester (eds), *Incivilities: Regulating offensive behaviour* (pp. 173-194). Oxford: Hart.
- U.D. (2023, April 17). Ultima generazione accusata di associazione per delinquere a Padova: quello che sappiamo. *Il Mattino di Padova*. Retrieved from Ultima Generazione accusata di associazione per delinquere a Padova: quello che sappiamo - Il Mattino di Padova (gelocal.it)
- Vegh Weis, V. (ed). (2021). *Criminalization of Activism: Historical, Present and Future Perspectives*. London: Routledge.
- Ulivelli, I. (2023, March 17). Dario eroe per un giorno, vandalo placcato davanti alle telecamere: «Incontrarli? Ci penso».
- La Nazione*. Retrieved from Dario eroe per un giorno, vandalo placcato davanti alle telecamere: «Incontrarli? Ci penso» (lanazione.it)
- Vicentini, Z. (2018, March 6). Fioriere Lives Matter. *DinamoPress*. Retrieved from Fioriere Lives Matter - DINAMOpress
- Villacampa, C. (2017) Municipal ordinances and street prostitution in Spain. *European Journal on Criminal Policy and Research*, 23 (1), 41-57.
- Watts, R. (2020). *Criminalizing Dissent. The Liberal State and the Problem of Legitimacy*. Abingdon, Oxon: Routledge.
- Zirulia, S. (2019, June 18) Decreto sicurezza bis: prime novità e profili critici. *Diritto penale contemporaneo*. Retrieved from DPC | Decreto sicurezza-bis: novità e profili critici (dirittopenaleuomo.org)