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### **Repressive legacies and the democratisation of Iberian police systems**

#### **Abstract**

Literature on democratisation claims that the dictatorship's police forces are difficult to reform and that modes of transition and authoritarian legacies are linked. It predicts that a continuous transition will leave greater legacies than a discontinuous one. This paper analyses the police reforms during Spanish and Portuguese democratisations, comparing them in several dimensions: symbolic changes, demilitarisation, decentralisation, accountability, professionalisation and new service role. In both countries a democratic police was built; yet, contrary to predictions, the Spanish police underwent a faster and deeper reform than the Portuguese, a result explained by the double legacy of dictatorship and revolution in the Portuguese transition, the credibility dilemmas of the Spanish reformers and the impact of regional devolution.

#### **Keywords**

Spain, Portugal, transition to democracy, police, legacies of the past

The revolution of 25 April 1974 that overthrew the long-lasting Portuguese dictatorship surprised the authorities in neighbouring Francoist Spain. A television team was sent to Lisbon as soon as the news of the Armed Forces' Movement (MFA, *Movimento das Forças Armadas*) coup reached Madrid; the reporters arrived in time to record people's joy in the streets and the unleashing of hatred against the political police. The Spanish ministry of information found the footage to be dangerous and it was not broadcast, but the film was of interest to the now frightened francoist political elite. A private session concerning the events in Lisbon was organised, attended by six ministers and around 20 police officers. They watched the hunting of members of the political police (PIDE, *Polícia Internacional e de Defesa do Estado*) in the streets, Naval officers disarming and arresting agents and the conversion of PIDE's headquarter in a so-called 'museum of horror'.<sup>1</sup> When the film was finished, a police officer working as an escort for a minister approached the television news director and asked: 'Do you think that we will receive the same treatment?' (Cebrián 1980).

The differences between the Portuguese and the Spanish transitions —'rupture' and 'pact'— prevented anything like the generalised purge of the political police taking place in Spain after Franco's death in 1975 (Aguilar, Brito & González-Enríquez 2004; Pinto, A. C. 2008). Some well-known members of the Spanish Political and Social Brigade even took senior positions in the early democratic police. Yet, in both countries the police forces were significantly transformed during democratisation: they went through changes in structure, in accountability, in training and in the definition of their goals. The authorities defined those changes as an adaptation of the police forces to democracy and to the role of protecting citizen's rights, but in each country the transformations followed different rhythms and paths.

Literature on democratisation claims police forces are one of the institutions that new democracies have most difficulty reforming (Kádár 2001; Pereira & Ungar 2004; Hinton 2006). On the other hand, identifying police harshness as an authoritarian legacy is not an unambiguous procedure: the police use of force is also part of democratic political life, while an 'authoritarian professional culture' has been described as an organisational trait even in the most long-standing democratic countries (Reiss 1968; Bayle 1992). It is also claimed that modes of transition and authoritarian legacies are

linked, predicting that a continuous transition will leave greater legacies than a discontinuous one (Hite & Morlino 2004). Contrary to predictions, and despite the dissimilar fate of the political police, this essay shows that in most dimensions the Spanish police underwent a faster and more profound reform than the Portuguese. In order to explain this outcome, I analyse the double legacy of dictatorship and revolution in the Portuguese transition, the impact of regional devolution in Spain and the effects of the credibility dilemmas the Spanish reformers faced.

### **Authoritarian Policing**

Democratic and authoritarian policing differs in several aspects, and as David Bayley stated in his comparative study, 'sometimes the nature of policing and the nature of a political regime are virtually indistinguishable' (1990). On the other hand, even in long established democratic countries, policing is a contested issue. While in the 1970s other aspects of democratic governance, such as the freedom of speech and association, regular elections and fair political competition, were clear-cut democratic requisites, new standards and new procedures of democratic policing were being debated in western Europe and the US (Della Porta & Reiter 1998). The United Nations approved some guidelines on policing only in 1979, while its recommendations were often seen as unsuited for fighting organised crime, terrorism and other armed menaces (HRC 1979; Bayley 2005).

In both Iberian dictatorships, police legislation and practice stressed the importance of political loyalty to the government instead of service to citizens. Political and social dissent was criminalised: the political police hunted and tortured activists, shock-police units dealt harshly with demonstrations and the gendarmerie forces were often seen as a kind of occupation army rather than as a public service. The police enforced the dictatorial rules and curtailed civil liberties, and some individual political police officers became well-known as antagonists of the opposition movements. When the police resorted to illegal violence, there were no mechanisms to make them accountable. In both dictatorships the civil police had 'administrative guarantees' and could not be sued without prior authorisation from the government, while militarised police officers were protected by military jurisdiction (Ballbé 1984; Clemente 1998). The public associated the existing police with the political regime; therefore opposition militants demanded the renewal of the police forces as one of the most symbolic milestones of political change. This demand was sometimes expressed in the more radical claim of 'the abolition of the repressive forces', or, for the Basque nationalist movement 'the withdrawal of the occupying army' (Muro 2009; *El País*, 10 June 1976, 27 October 1977, 31 August 1978, 14 March 1979).

From the point of view of the police, policing was a universal need, and the differences between democratic and non-democratic countries were to be found in the legislation rather than in police organisation or training. Iberian authoritarian police forces collaborated with their democratic western European counterparts in Interpol and other forums (Pereira 2006). Even the Portuguese PIDE had believed it would survive a regime change (Pimentel 2007).

The Portuguese police structure was inspired by the French model: a military gendarmerie force for the countryside, the National Republican Guard (GNR, *Guarda Nacional Republicana*) and a civil urban Public Security Police (PSP, *Polícia de Segurança Pública*). This Portuguese PSP, despite the rank and file being civilians, had a military command structure and its higher officers belonged to the Army's officer corps. In Spain, the national police forces were even more militarised: not only the rural patrol-oriented civil guards (*guardias civiles*) were soldiers despite their name, but also

the urban Armed Police (Policia Armada) was an all military structure which garrisoned urban centres. In both Iberian countries, criminal investigation was in the hands of specialised civilian police forces: the Judiciary Police (PJ, Policia Judiciária) in Portugal and the General Police Corps (CGP, Cuerpo General de Policia) in Spain. In Portugal, PIDE was an autonomous corps, while in Spain the Political and Social Brigade (BPS, Brigada Político Social) was a division of the plain-clothes CGP (see Table 1). For the policing of street demonstrations in the main urban centres, the anti-riot units of the early 1970s were very similar in Spain and Portugal, both inspired in the French CRS. (Jaime-Jiménez 1996; Delgado Aguado 2005; Palacios Cerezales 2006).

**Insert Table 1 about here**

### **The Framing of Police Behaviour and Democracy**

The use of force is always a contested issue, and political imagination often links it to authoritarianism (Linz 1987; Hinton 2006). In both Iberian countries the behaviour of the police when confronting collective protest during the dictatorships was framed differently by the authorities and the opposition, and they competed for the favour of public opinion. The opposition interpreted police action under a pre-constructed 'civil-rights' cognitive frame, which viewed police behaviour as brutal and provocative; accordingly, it regarded demonstrators' violence as a response to police provocation and failure. On the other hand, officials portrayed police behaviour through a 'law-and-order' frame in which every use of force was a necessary step for the restoration of the rule of law and a response to deliberate acts of confrontation by organised and skilful extremist leaders and their followers (Wisler & Tackenberg 2000).

Both interpretative frames were similar in many respects to those that were in dispute in the convulsive societies of 1970s western democracies. The stigmatisation of the law-and-order frame as being akin to fascism was not unusual in Italy, France or West Germany (Roach & Thomanek 1985). All the same, the proponents of the civil-rights frame were too easily identified with 'red' subversion and terrorism. From the civil-rights frame standpoint in the democratising Iberian societies, it was difficult to identify the differences between dictatorial and democratic policing, while the law-and-order frame did not distinguish peaceful confrontation from subversion.

Once the democratisation processes had got under way in Spain and Portugal, new interpretative conflicts arose: could demonstrators block a road at their pleasure? And what should the police do when a picket line coerced those workers who did not wish to join a strike? Both the law-and-order and the civil-rights frames were active, and political contenders would understand and debate every intervention by the police within their interpretative limits, socially constructing its political meaning.

### **Revolutionary Portugal: the Eclipse of the Law-and-order Frame**

In Portugal, the civil-rights frame became dominant in the wake of the revolution. As well as dissolving the PIDE, the MFA announced a general programme of police re-organisation, claiming the existing forces 'were not fit for democracy'. First some token measures were taken in order to underline the break with the past: the ministry of the interior was renamed 'internal affairs' and police officers were issued with red carnations for the May Day demonstrations. In addition, the much hated anti-riot unit was disbanded, despite the fact its training in non-lethal intervention techniques made it very similar to its democratic counterparts.

Despite these early measures, the civil-rights frame did not recognise the existing police as a member of the new democratic polity. Every use of force by the police was

denounced as a mischief, even by members of the provisional government and the MFA. As a result, both the PSP and the GNR were demoralised and withdrew from social conflict. The military were supposed to be in charge of police duties due to police's inadequacy, but as their new role as 'liberators' was not compatible with 'fascist repression', they refused to use force 'against the people'. While waiting for the elections, the 'popular masses' that had sanctioned the carnation revolution were the main source of the MFA's political legitimacy. Therefore, public coercion became almost non-existent in social conflict, while this extraordinary under-enforcement became an excellent opportunity for the radicalisation of social protest (Durán Muñoz 2000; Palacios Cerezales 2003). Unannounced demonstrations, factory and land occupations and house squatting became widespread, while the lawful activities of political parties became vulnerable to violent counter-demonstrations (Hammond 1988; Pinto, P. R. 2008).

In September 1974 the police forces were placed under the direct supervision of the armed forces and, in April 1975, the unification of the urban PSP and the rural GNR was decreed. The authorities also looked for a democratic redefinition of the police in full accord with the civil-rights frame. If the new police was to be democratic, it had to change its internal organisation, its culture and the way it dealt with the public. This attempt at re-definition was also taking place within the armed forces. The MFA encouraged internal assemblies in every military unit, including the GNR, in which officers, non-commissioned officers and men were supposed to discuss the unit's life and advance political awareness within the military. In the PSP, non-hierarchical police assemblies were held in most districts, and each assembly had to nominate delegates for a national police gathering at which re-organisation was to be discussed.

At the first national police assembly, on 11 June 1975, the delegates discussed the purging of 'fascist' police officers, the 'principles of the fusion with the GNR' and the way in which a so-called 'alliance of the security forces with the people' could be built. As long as the issues at stake were 'the destruction of fascism' and the construction of a new society, those in command were no longer to exercise their functions by virtue of the authority ascribed to them from above, but by the consent of those serving under them and by the will expressed by the so-called 'popular masses'. Proponents of the law-and-order frame understood those experiences as a process of terrorising police officers, undermining hierarchy and handing the police to the Communist Party (PCP) (Palacios Cerezales 2008b).

A second gathering was scheduled to take place in August, but the political circumstances were changing fast and it was never held. During the 'hot' summer of 1975, the hitherto silent conservative majority in the north of the country began to mobilise under the leadership of the Catholic Church, which organised meetings, pilgrimages and demonstrations—some of which violent. Freedom and anti-communism became the rallying cry for a new broad political coalition of conservatives, democratic socialists and former Salazarists, while angry crowds sacked local PCP offices. Some hard-line MFA officers pressed for 'strong repressive action' in order to save the revolution from 'reactionary' and 'terrorist' forces, trying to push forward a revolutionary interpretation of the law-and-order frame. However, most of the military did not want to resort to shootings or to be associated with violent repression, and refused to use force to control the popular anti-communist violence.

The April 1975 elections showed that the majority of the electorate backed moderate policies. When it became apparent that the radical wing of the MFA was unable to govern without the use of force, it lost support both within and without the armed forces and, in September 1975, a moderate government replaced the radicals. Nevertheless,

social turmoil remained widespread and government was still short of authority. Several government officials were detained in their offices by angry demonstrators without the police intervening, and even the Constituent Assembly was besieged for 36 hours by a demonstration of workers. In all those instances, police was unsure of the political backing they would get in case of the use of force was needed, so they preferred not to take action. However, supporters of the law-and-order frame found a new democratic constituency, and from September until November, large crowds demonstrated throughout the country in support of the government, chanting 'order, order, order!' (Palacios Cerezales 2003).

The enduring social and political strife showed that democratic legitimacy was not sufficient to ensure compliance, so the government needed to re-establish police confidence in order to restore its authority. The unification of the GNR and PSP was halted, internal discipline re-established and both forces were provided with automatic rifles—a decision that dramatised the new political confidence in the police. As long as the 'civil-rights' frame had been hegemonic—making 'force' mean 'fascism'—the government had been unable to govern, so the democratic need for authority had to be stressed.

In a very significant episode, on 1 January 1976, the GNR shot over the heads of a far-left demonstration in Porto, killing four people in the process. Both the journalists at the scene and the subsequent Russell Commission report stated the guards had lost their temper and that the shootings had not been necessary; yet both the government and the Council of the Revolution sided with the GNR and held the demonstrators responsible for the violence (*Diário de Lisboa*, 3 January 1976). The restoration of political confidence in the police was thereby explicitly stated, encouraging the public to once more respect the indications and instructions of police officers. Popular movements soon discovered that the political situation had changed and radical collective action disappeared, allowing Portugal to once more become a demobilised and under-politicised society (Palacios Cerezales 2003).

The police resumed its usual functions. In March 1976 it presented the new anti-riot unit, which harboured many officers who had previously served in the authoritarian police. From the view point of the civil-rights frame, the restoration of police authority meant the return of some past practices. As one newspaper said after the January 1976 killings 'they kill now in the name of democracy, just as they used to kill in the name of order' (*Diário de Lisboa*, 2 January 1976).

The revolution was a traumatic experience for the police and the conservative army officers that subsequently served it: they had experienced disorder and seen the fragile nature of their authority, enduring experiences that slowed the course of police reform. The state crisis had imposed on Portuguese policing a second legacy, a variant of the 'unique double legacy of authoritarianism and revolution', which one leading scholar discovered at the heart of Portugal's nascent democracy (Pinto, A. C. 2001).

### **Controlled Change in the Spanish Transition**

In Spain, the most agitated months of the Portuguese revolution coincided with Franco's agony and the preliminary political contacts prior to the transition to democracy. Even the most open-minded authorities saw the Portuguese social turmoil and political radicalism as a confirmation of what the law-and-order frame predicted, so they were not going to risk undermining police authority. When in December 1976, one year after Franco's death, around 1000 police officers and Civil Guards broke the imaginable limits of their supposed behaviour by demonstrating in Madrid for better living conditions, benefits and demilitarisation, the government replaced the general directors

of both forces and made sure that tough disciplinary measures were taken against the men. Similar disciplinary action was taken when, in October 1978, several hundred police officers demonstrated in Bilbao against the lack of defence in face of attacks by the armed Basque nationalist movement, ETA (Euskadi Ta Askatasuna, *Basque Country and Freedom*) (Delgado Aguado 2005; *El País* 18 December 1976).

The law-and-order frame was dominant in the discourse of the Francoist elite who now backed liberalisation (Vega 2008). All the same, the Spanish government understood that credibility in the claim of being committed to democracy required a police reform. Democratic credibility was important in internal affairs, and it also was crucial to get the French government's co-operation in fighting the ever-increasing ETA violence, for ETA activists were treated in France as political refugees and were provided with a safe harbour from which to organise their armed strikes (Jaime-Jiménez 2002). In Spain, as reflected in the early 1980s academic debate on militarism, democratic credibility also implied demilitarisation, so the military were marginalised from law and order duties (Rico 1983; Ballbé 1984; Blaney 2005).

Since the beginning of the liberalisation some token measures were taken. As in Portugal, the ministry responsible for policing was renamed, here from *gubernación interior* a title with no tradition in Spanish administration. The reciprocal amnesty laws also meant the incorporation into service of some republican police officers who had been dismissed 40 years earlier and who were on the verge of retirement age—but only in the civil investigative police (CGP), and not in the militarised Civil Guard or Armed Police (*El País*, 7 September 1978; Baby 2007; Aguilar 2008).

The Moncloa agreements of 1977 included some clauses regarding police reform that were met in the 1978 Police Law, which antedated the constitution. The Armed Police was renamed the National Police and put under the supervision of the provincial civil governors, decreasing its previous operational autonomy, while the plain clothes CGP was renamed Superior Police Corps (CSP, *Cuerpo Superior de Policía*) and obtained trade union rights (Morales Villanueva 1980; Ballbé 1984). New security and patrolling schemes were also introduced—such as the 091 emergency number—in an attempt to convey the idea that the police was there to serve the citizens' needs.<sup>2</sup>

### **Conflict and Democracy**

Legitimate social conflict was one of the novelties of democracy. Other than the symbolic aspects of police reform, or the claim that the police is democratic when acting under a duly elected government, the perception that the police are behaving too harshly may undermine their claim of being democratic. Police violence can more than ever be resented as undemocratic when dealing with collective social or political conflicts. In addition, not every police action is directed by the political authorities: during an operation, senior officers 'may lose the power to control their men, who could forget their obligation to abide by the law and restore order, and act through a desire for vengeance, retaliation or "to teach the bastards a lesson"' (Della Porta & Reiter 1998). Furthermore, during the early years of the transition some police commanders had their own political agenda, which became apparent in Spain through the actions of right-wing officers serving in the National Police, the Civil Guard and the military secret services. Police brutality, ill-treatment and the torture of Basque nationalist militants—often in response to ETA attacks on the police—as well as covert anti-terrorist operations, became both a focal point of government delegitimation and fuelled radicalism.

In both Iberian countries there were some events, which can be regarded as 'police riots', which fuelled a public debate on the suitability of the police for democracy. In Spain, police brutality against a socialist representative during a demonstration in

Santander in September 1977 led to a special parliamentary commission and the dismissal of the provincial civil governor, signalling the regime's commitment to protect citizens' rights to demonstrate peacefully. The violent events in Pamplona in July 1978 and Renteria in June 1979, where the police rioted, led to the removal of senior police officers, some of whom were well-known militants of the far right. Civil Guard officers who sang Falangist tunes at a funeral were punished, while Colonel Tejero—soon to become infamous for an attempted coup d'état—was moved from his post in Malaga's Civil Guard because of the harsh way he dealt with demonstrations. Individual policemen and some higher officers were punished, but the Spanish government took care not to make the entire police force responsible for mischief: instead, it chose to voice its support to the police, mobilising the themes of the law-and-order frame (Muñoz 2000).

The Spanish government was engaged in a balancing act in order to control the police forces without alienating either them or the military. Meanwhile, ETA increasingly targeted policemen and senior army officers in an attempt to push the government into declaring a state of emergency or to provoke a repressive backlash, hoping that it would trigger a revolutionary situation in the Basque Country (Muro 2009). The far right played the same game: it mobilised around every police officer and civil guard that was killed by armed nationalist and far left groups, of which there were 149 between 1978 and 1982—advancing the law-and-order frame in order to reverse political change. The cabinet had difficulty finding suitable officers for the Basque Country, and the men serving there worked under a great deal of pressure. A new approach was badly needed also because the 'Dirty War' on terrorism, which killed 26 between 1976 and 1986, and everyday police brutality, where some of the main sources of the Basques' disaffection (Pérez & Herreros 2008). The government even risked military agitation by appointing to the police stationed in the Basque Country some army officers who had recently been punished for belonging to the Democratic Military Union (UMD, Union Militar Democrática), while there were high expectations that a new regional police force could pacify the region, breaking the vicious circle of stress, brutality and further delegitimation (Delgado Aguado 1996; 2005; Aguilar 2008).

### **Improving the Image of the Police**

The most visible reform in Spain was the alteration in the colour of the National Police's uniform, which changed from grey to brown. In addition, the numbers were increased and the National Police substituted the Civil Guard in all towns with more than 20,000 inhabitants, doubling the number of police headquarters (López Garrido 1987). In 1980, 133 new police stations were established, while the style and colour of the police presence had changed in urban Spain: a new state was on the streets.

Once a democratic constitution was approved in the two countries, the police forces had a new role. At least on paper, they were no longer forces destined to defend the state; rather, their constitutional role was to act 'in the defence of citizens' rights'. Nevertheless, a survey conducted in Spain in 1980 showed that political preferences were the main predictor of the citizen's attitude towards the police. Most left-leaning Spaniards did not feel 'the police was there for their protection', while most of those with rightist leaning did. In addition, conservative supporters of the Basque and Catalan nationalist parties also had a very negative view of the police (Justel 1982). The public was also divided over how to deal with security. Despite their confidence in the police, right-wingers were very concerned about the lack of security on the streets, while left-wingers were not. Right-wingers thought that criminality was increasing for which they

blamed the lack of authority, while left-wingers thought unemployment and difficult living conditions were the main causes of criminality (Martínez 1999).

In Portugal, the PSP was also concerned about its public image, and in 1976 it commissioned a survey on this topic that was never published. What the PSP published instead was a short children's book that read:

Children in countries such as France, the United Kingdom, Switzerland or Japan seek out the police when they need to ask the name of a street or the number of a bus, and ask for police help when they are lost in the city...children in Portugal should likewise trust the police (PSP 1979).

This book suggests the Portuguese police seeking public recognition for its new roles; it reflects its awareness of the idea that 'the simplest test of whether a police force is democratic' is to ask 'do parents teach their children that when they are away from home and need help, they should seek out the police' (Bayley 2005).

### **Structural Changes: Common Paths and Divergences**

Structural changes were greater in Spain than in Portugal. Firstly, because during authoritarianism the Spanish police was much more militarised, thus the adaptation to democracy required more changes; but also because regional devolution and municipal autonomy transformed police organisation, breaking with a 150-year tradition of centralisation through policing (López Garrido 2004). During the 1980s Spain experienced the proliferation of multi-purpose regionally and locally accountable police forces. Nothing comparable took place in Portugal, where centralisation prevails.

In Portugal, after the dismantling of PIDE and the abandonment of the radical reorganisation projects of 1975, the national police forces remained almost the same. In 1976 the new border police (SEF, Serviço de Estrangeiros e Fronteiras) was created to deal with some of the immigration duties formerly carried out by PIDE, while in the early 1980s the Fiscal Guard (Guarda Fiscal) was merged with the GNR, but these were minor changes: Salazarism's three major police forces, the PSP, GNR and PJ, survived the democratization.

In Spain, eight years after the 1978 reform, additional changes took place. The 2/1986 Law unified the National Police and the CSP into the all-civilian National Police Corps (CNP, Cuerpo Nacional de Policía), which was to wear a blue uniform. The new law also contained provisions for the development of regional and local police forces, a common ethical code for all police practice, including the instruction 'not to obey illegal orders', and regulated police trade union rights (Macdonald 1987).

The democratisation of local power also affected the police. In Spain, where the municipal police (*policia municipal*) are independent forces, the local authorities addressed policing as a municipal public service. In the larger cities, municipal police have developed into full multi-purpose forces that deal with traffic, public security, criminal investigation and even the policing of mass demonstrations, although most of them prefer to leave the latter to the national or regional forces. In Portugal, in contrast, municipal police officers were and remain small detachments of the PSP that work for local authorities.

The deployment of regional police forces, under the authority of autonomous regional governments, has been the other great break with the Spanish authoritarian past. The 1978 constitution permitted regional police and its importance for regional devolution and, in the Basque case, pacification, was widely debated. The change affected the Basque country first, where the Ertzaintza (Public Guard) took over responsibility for general patrol and security duties from the CNP and the Civil Guard during the late-

1980s and early-1990s. This model was then followed in Catalonia with the deployment of the Mossos d'Esquadra (Squadron Lads) (Jar Couselo 1995).

While in Portugal the police map has barely changed with the transition to democracy, in Spain, only the Civil Guard has retained some structural and symbolic continuity with the 1970s. Even so, it also underwent meaningful change, with professional training, the opening of the ranks to women and the abandonment of its iconic tricorne hat. These changes transformed its professional culture and its image. Finally, the withdrawal of the Civil Guard from rural patrol in the Basque country and Catalonia put an end to its secular mission of reinforcing the central state based in Madrid (López Garrido 2004). If police officers are one of the most representative faces of the state in everyday life, the removal of the Civil Guard and CNP from Basque and Catalan streets, roads and countryside symbolises the extent of the changes that have taken place in the territorial administration of Spain.

### **Protest Policing for the New Times**

After the 1976 re-equilibrium, the Portuguese police forces were again politically protected under the law-and-order frame. Furthermore, the memory of the police's loss of authority in 1974-1975 served as an alibi for police excesses in the use of force. Nine demonstrators were killed by the police between 1976 and 1981 (Table 2), but when confronted with criticism, the government consistently expressed its confidence in it:

The institutionalisation of democracy is indebted to the police forces, because they made it possible for the laws passed by parliament to be enforced throughout the country, quite often in the face of the forces of disorder who sought to impede it (*DAR, Diário da Assembleia da República* 27 May 1981, p. 2711).

### **Insert Table 2 about here**

Despite this law-and-order stance, the consolidation of democracy and the waning of anti-constitutional political alternatives made possible the adaptation of public order policing to the trends taking place in other democratic countries. These trends implied the differentiation of the notions of law, authority and order, the substitution of the doctrine of the escalation of force for the protection of the right to demonstrate and the police search for the negotiation of the use of public space with the social movements, delineating the so called 'under-enforcement model' of protest policing (Della Porta & Reiter 1998; Waddington 2007)

In Portugal, the new under-enforcement model was only adopted after the political debates about the police riots of 1981 and 1982, while the centre-right Democratic Alternative (AD, Alternativa Democrática) coalition was in power. The AD government's mobilisation against the general strike of February 1982 and the shootings in Oporto on the eve of May Day that year, in which the police killed two unarmed trade unionists, made it evident the government was using the police for partisan aims. During the night of confrontations in Oporto, some shouted 'down with fascism', while the historian César Oliveira compared the police behaviour with his previous eyewitness account of charges by the authoritarian police (*DAR* 27 May 1981, p. 2703). Was the 'fascist police' back, as some feared?

The socialist and former minister of internal affairs, Jaime Gama, made a more valuable diagnosis. He recognised that 'since 25 April 1974 much had been done for the affirmation of democratic authority without following the temptations of

authoritarianism'. Yet, he also believed several Portuguese practices departed from those associated with democratic policing:

Firstly, the government's direct participation in police operations, restraining the tactical and technical autonomy that is needed in order to successfully fulfil police operations; secondly, the use of security forces as a décor for the authoritarian discourse of some members of the government, hampering the independence of the police's judgement and action when faced with the specific motivations of each conflict; and thirdly, the attempt to use the security forces in social disputes with a class bias and in disregard of the law and public peace (*DAR* 11 March 1982, p. 2680).

The judicial report into the 'bloody May Day' of 1982—which the government sat on for six months after its completion—said the government's political disinformation had been the main trigger for police violence (Livro Branco 1984; Colaço & Gomes 2001). In the aftermath of the scandal, the police forces acquired greater operational autonomy, while the use of firearms during the control of demonstrations was limited. The transition to the new democratic 'under-enforcement model', was first announced by the GNR's senior commander:

The technical execution of the acts of authority cannot rely only on its legal base; it has to take into account the need to avoid creating a greater evil than the evil it seeks to hinder (*DAR* 5 May 1982, p. 3525).

In accordance with these new guidelines, the GNR also developed its own anti-riot force for rural Portugal, and new operational guidelines (Oliveira 2000). These innovations reduced the casualties in the policing of mass demonstrations (Table 2)

Restraint in the use of force during demonstrations was also encouraged in Spain. Prior to 1982, the law was interpreted strictly and civil governors often did not permit street demonstrations in their provinces, while unauthorised demonstrations were always subject to police intervention (Vega 2008). After the victory of the Socialist Party in 1982, the new civil governors pressed the police to be more restrained. After the policing failures at Riaño in 1987 and Reinoso in 1988 the Civil Guard also modernised its public order brigades' training, gear and guidelines (Jaime-Jiménez 1996).

After 1989, the prospect of holding the Olympic Games and Expo in 1992 led to a further reorganisation of the anti-riot units. By the 1990s, the change had been such that only senior officers had served since the 1970s, while 'the need to distance the police from the practices of the Franco regime resulted in many protest events being handled with less energetic methods than in other countries with longer democratic tradition' (Jaime-Jiménez 1996).

In Portugal, the consolidation of a democratic protest policing doctrine can be found in the teachings of the police academy, which are abandoning previous notions about the supposed irrationality of crowd behaviour and explain that demonstrations and strikes are a normal feature of modern democratic life. (Oliveira 2000; 2005).

### **Democratic Accountability**

Accountability is key to democratic policing (Greenwood & Huisman 2004). An open political arena in which the press and public can demand better policing services is the first accountability level differentiating democracy from authoritarianism. In case of misbehaviour, political authorities can be pressed to introduce changes, and even be voted out of office. In theory, if public administration, civil courts and representative government worked perfectly no other power of redress or oversight would be necessary. The problem is that there is a structural propensity towards dysfunction within the police—even if only at the margins. Anthropological studies show that police

forces develop violent subcultures, cynical attitudes and a siege mentality against external examination, and therefore the protection of rights demands extended systems of control over police behaviour (Bayle 1992; Rosanvallon 2006).

A two-fold development took place during the early stages of the Iberian transitions. First, governments used the democratic origins of their power, of the constitution, and therefore of the civil and penal laws the police enforced, as a sufficient condition for the democratic nature of police behaviour. Second, governments only recognised individual police misbehaviour, and encouraged the public to seek redress in civil courts, stressing that once police officers lost the protection of 'administrative guarantee' they were liable to civil prosecution.

In both countries, the inability of the courts to monitor and control the police was clear from the very beginning of democratisation. Even in Portugal the authoritarian judiciary had survived almost intact (Pinto, A. C. 2008) and a pattern of collusion between it and the police emerged. The judiciary sided with the police and gave more credit to it than it did to the public. In addition, the police forces tended to protect their own, concealing the identity of accused officers. All the same, in both Iberian democracies the government withheld from public view those internal reports that uncovered police prevarication.

In 1986 the Portuguese ombudsman (*provedor de justiça*) issued a damning report that claimed the Portuguese police 'was not fit for democracy'. It spoke of 'systematic violence, abuse of power, disregard for the law and misuse of firearms', as being among the main traits of the police. It found that internal controls provided no redress, and called for improved training and greater accountability. Even while there were no deaths as a consequence of the policing of demonstrations after 1982, the Portuguese police soon became one of the most lethal in Europe when dealing with petty offences, detention and custody. Demilitarisation and improved training were the suggested solution (Câncio 2001; Colaço & Gomes 2001).

In both countries professionalism was encouraged. New academies were opened and new recruits received longer and more specialised training (longer in Spain than in Portugal). During the 1980s the urban police forces were demilitarised and the new commanding officers ceased to be transferred from the army officer corps. Instead, new higher education police academies were created and the recruitment of officers with a university degree was encouraged. In Spain the civilianisation of the urban police was completed with the passage of the 1986 law. In Portugal, the military structure of the PSP remained in place until 1999. Trade union rights for police officers, which had been established in Spain in 1986, were not granted in Portugal until 2002, and even then the new trade unions had difficulty obtaining legal status (Colaço & Gomes 2001; Durão 2008). The gendarmerie forces changed more slowly, but professional training for commanding officers and men was also reinforced.

In order to establish greater accountability the Spanish government relied on the improvement of the professional culture and the strengthening of internal controls within both the CNP and the Civil Guard. The ministry of the interior believes this procedure has been a success, and is seeking to introduce similar systems into municipal police forces, some of which have been involved in corruption scandals (*El País* 12 May 2008). Nevertheless, civil rights activists complain about police impunity when dealing with victims of exclusion—such as gypsies or migrants—and when dealing with alternative movements, such as squatters, anarchists or nationalist radicals, a complaint also voiced by the United Nations Human Rights Committee (HRC 1996; HRC 2008, Martí, Domingo & Ibarra 2007).

Following the victory of the Socialist Party (PS, Partido Socialista) in Portugal's 1995 general elections, the new prime minister, António Guterres, proposed 'the reinforcement of control mechanisms over the police' (*DAR* 8 November 1995, p. 6). With the persistence of violence and corruption, the government took the most modern approach to police accountability: the creation of a new institution to oversee the police—the Inspectorate General of Home Affairs (IGAI, Inspeção-Geral da Administração Interna). The IGAI has investigated the excessive use of force, and its reports have resulted with some officers being punished. It also has established a new set of rules for the use of firearms by police officers (Lima 2006).

**Insert Table 3 about here**

### **Conclusions**

During the transitions from authoritarianism in Spain and Portugal the role the police had played during the previous decades was questioned, while democracy demanded a transformation of policing purposes and attitudes. Police behaviour was understood through two pre-constructed cognitive frames that delimited the contents, direction and social meaning of police reform: the civil-rights frame had difficulty recognising the progress towards democratic policing, while the law-and-order frame held back the improvement of accountability.

In Portugal, a radical renewal was proposed during 1974 and 1975; however, it led to police inaction and the government's loss of control in face of any collective group that was determined to act unlawfully. The experience of police paralysis acted as a second legacy that was imposed over the authoritarian one, delaying subsequent such police reforms as demilitarization and the right of police officers to join a trade union.

After 1976 the police forces in both countries underwent a process of professionalisation. In Spain, with the government fully aware of the Portuguese dilemma, the police was seen to be a crucial tool of government that the politicians never risked undermining, despite the cost of this approach in terms of democratic credibility. Nevertheless, the more fully militarised Spanish police forces underwent a more rapid and extensive change than their Portuguese counterparts, in part because a broad transformation was necessary in order to overcome the same credibility deficit (Table 3). In addition, regional and local devolution triggered a further renewal of policing structures. The double legacy in Portugal, and the credibility deficit and regional devolution in Spain, explain the counter-intuitive finding: that Spain's continuous transition moved beyond the authoritarian policing system much more quickly and fully than Portugal's discontinuous transition.

Since the late 1990s, the problems and deficiencies of the Iberian police forces have not been direct legacies of the past. The police violate rights and accountability often fails; however, there are analogous situations in the United States, France and the United Kingdom, so it is more useful to understand those failures as problems of democratic quality. This remark also makes it necessary to re-evaluate police violence under authoritarianism—an evaluation freed from the misjudgements of the law-and-order and civil-rights frames, and which is capable of distinguishing which police violence was the product of the regime's repressive policies, and which was due to failure, lack of training or to the internal tendencies of police organisation to prevaricate and to act with brutality and lawlessness.

## References

- Adell, R. (1997), 'Manifestations en Espagne et transition démocratique', *Cahiers de la Sécurité Intérieure*, vol. 27, pp. 203-221.
- Aguilar, P. (2008), *Políticas de la memoria y memorias de la política*, Alianza, Madrid.
- Aguilar, P., Brito, A. & González-Enríquez, C. (eds) (2004), *Política da memória: Verdade e justiça na transição para a democracia*, Imprensa de Ciências Sociais, Lisbon.
- Amnesty International (2001), *Portugal: Small problems...? A summary of concerns*, 31 July, EUR 38/002/2001.
- Baby, S. (2007), 'Sortir de la guerre civile à retardement: Le cas espagnol', *Histoire@Politique: Politique, Culture, Société*, vol. 3, pp. 1-13.
- Ballbé, M. (1984), *Orden público y militarismo en la España constitucional, 1812-1978*, Alianza, Madrid.
- Bayle, J. L. (1992), *La police: Approche socio-politique*, Montchrestien, Paris.
- Bayley, D. H. (2005), *Changing the guard: Developing democratic police abroad*, Oxford University Press, Cary, NC.
- Bayley, D. H. (1990), *Patterns of policing: A comparative international analysis*, Rutgers University Press, New Brunswick, NJ.
- Blaney, G. (2005), 'La historiografía sobre la guardia civil: Críticas y propuestas de investigación', *Política y Sociedad*, vol. 42, no. 3, pp. 31-44.
- Câncio, F. (2001), 'Licença para matar [1992]', ed J. Vega, *Reportagem: Uma antologia*, Assírio & Alvim, Lisbon, pp. 83-104.
- Cebrián, J. L. (1980), *La España que bosteza: Apuntes para una historia crítica de la transición*, Taurus, Madrid.
- Clemente, P. J. (1998), *Da policia de ordem pública*, Governo Civil de Lisboa, Lisbon.
- Colaço, A. B. & Gomes, A. C. (2001), *Sindicalismo na PSP: Medos e fantasmas em regime democrático*, Cosmos, Lisbon.
- Delgado Aguado, J. (2005), *Los Grises: víctimas y verdugos del franquismo*, Temas de Hoy, Madrid.
- Delgado Aguado, J. (1996), *Prietas las filas: recuerdos de un capitán de los Grises*, Editorial Libros PM, Barcelona.
- Della Porta, D. & Reiter, H. (eds) (1998), *Policing protest: The control of mass demonstrations in western democracies*, University Of Minnesota Press, Minneapolis, MN.
- Durán Muñoz, R. (2000), *Contención y transgresión: Las movilizaciones sociales y el estado en las transiciones española y portuguesa*, Centro de Estudios Políticos y Constitucionales, Madrid.
- Durão, S. (2008), *Patrulha e proximidade: Uma etnografia da polícia em Lisboa*, Almedina, Lisbon.
- Greenwood, D. & Huisman, S. (2004), *Transparency and accountability of police forces, security services and intelligence services*, DCAF, Geneva.

- Hammond, J. L. (1988), *Building popular power: workers' and neighborhood movements in the Portuguese revolution*, Monthly Review Press, New York, NY.
- Hinton, M. S. (2006), *The state in the streets*, Lynne Rienner, Boulder, CO.
- Hite, K. & Morlino, L. (2004), 'Problematizing the links between authoritarian legacies and "good" democracy', eds K. Hite & P. Cesarini, *Authoritarian legacies and democracy*, University of Notre Dame Press, Notre Dame, ID, pp. 25-83.
- HRC (Human Rights Committee) (2008), 'Report of the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. Martin Scheinin: Addendum-mission to Spain', A/HRC/10/3/Add.2, Geneva.
- HRC (1996), 'UN Human Rights Committee: Concluding observations: Spain', 3 April, CCPR/C/79/Add.61, Geneva.
- HRC (1979), 'United Nations code of conduct for law enforcement officials', available online at <http://www2.ohchr.org/english/law/codeofconduct.htm>.
- Jaime-Jiménez, Ó. (2002), *Policía, terrorismo y cambio político en España, 1976-1996*, Tirant lo Blanch, Valencia.
- Jaime-Jiménez, Ó. (1996), 'Orden público y cambio político en España', *Revista Internacional de Sociología*, 3ª época, no. 15, pp. 147-167.
- Jar Couselo, G. (1999), 'El papel de la policía una sociedad democrática', *Revista Española de Investigaciones Sociológicas*, vol. 85, pp. 199-220.
- Jar Couselo, G. (1995), *Modelo policial español y policías autónomas*, Dykinson, Madrid.
- Justel, M. (1982), 'Imágen pública de la policía: Opiniones y actitudes de los españoles sobre las fuerzas de seguridad del estado', *Reis: Revista española de investigaciones sociológicas*, vol. 18, pp. 85-114.
- Kádar, A. (ed) (2001), *Police in transition*, CEU, Budapest.
- Lima, A. M. (2006), 'Reuniões, manifestações e acção policial: Notas para uma conferência', available online at <http://igai.pt/publicdocs/IntervencaoIG2006Mai05.pdf>.
- Lima, C. R. (2007), 'Agentes da PSP acusados de comportamentos racistas', *Expresso*, 9 June.
- Linz, J. J. (1987), *La quiebra de las democracias*, Alianza, Madrid.
- Livro Branco (1984), *Livro Branco sobre a madrugada sangrenta do 1.º de Maio 82 no Porto*, Um de Outubro, Lisbon.
- López Garrido, D. (2004), *La Guardia Civil y los orígenes del estado centralista*, 2nd ed, Alianza, Madrid.
- (1987), *El aparato policial en España*, Ariel, Barcelona.
- Macdonald, I. R. (1987), 'Spain's 1986 police law: Transition from dictatorship to democracy', *Police Studies*, vol. 10, no. 1, pp. 16-20.

- Martí, S., Domingo, P. & Ibarra, P. (2007), 'Democracy, civil liberties, and counter-terrorist measures in Spain', eds A. Brysk and G. Shafir, *National insecurity and human rights*, UCLA Press, Berkeley, CA.
- Martín Villa, R. (1984), *En defensa del estado*, Planeta, Madrid.
- Martínez, M. H. (1999), *La inseguridad ciudadana de la transición a una sociedad democrática: España (1977-1989)*, Universidad de Castilla La Mancha, Cuenca.
- Morales Villanueva, A. (1980), *Las fuerzas de orden público*, San Martín, Madrid.
- Muro, D. (2009), 'The Basques alter Franco: The story of a long transition', ed G. Alonso & D. Muro, *Politics and memory of democratic transition: The Spanish model*, Routledge, London and New York, NY.
- Oliveira, J. F. (2005), 'Os movimentos colectivos de protesto, em especial a acção manifestante, enquanto modalidade de participação e de exercício da cidadania', ed G. M. Silva & M. M. G. Valente, *Volume comemorativo 20 anos do ISCPSI*, Almedina, Coimbra, pp. 227-258.
- Oliveira, J. F. (2000), *A manutenção da ordem pública em Portugal*, ISCPSI, Lisbon.
- Palacios Cerezales, D. (2008a), 'Estado, régimen y orden público en el Portugal contemporáneo (1834-2000)', Ph. D Dissertation, Complutense University, Madrid.
- Palacios Cerezales, D. (2008b), 'Fascist lackeys? Dealing with police past during Portuguese transition to democracy', *Portuguese Journal of Social Science*, vol. 6, no. 3, pp. 155-169.
- Palacios Cerezales, D. (2006), 'Técnica, política e o dilema da ordem pública no Portugal contemporâneo (1851-1974)', ed P. T. de Almeida & T. P. Marques, *Lei e ordem: Justiça penal, criminalidade e polícia. Séculos XIX-XX*, Horizonte, Lisbon, pp. 145-172.
- Palacios Cerezales, D. (2003), *O poder caiu na rua: Crise de estado e acções colectivas na revolução portuguesa, 1974-1975*, Imprensa de Ciências Sociais, Lisbon.
- Pereira, A. W. and Ungar, M. (2004), 'The persistence of the *mano dura*: Authoritarian legacies and policing in Brazil and the Southern Cone', ed K. Hite & P. Cesarini, *Authoritarian legacies and democracy*, University of Notre Dame Press, Notre Dame, ID, pp. 263-304.
- Pereira, V. (2006), 'El poder de la impotencia: policías inmigración clandestina entre Portugal y Francia (1957-1974)', *Política y Sociedad*, vol. 42, no. 3, pp. 103-120.
- Pérez, E. (2002) 'Polices de Europe', *Pouvoirs* no. 102, pp. 71-76.
- Pérez, J. A. & Herreros, C. C. (2008), 'La radicalización de la violencia política durante la transición en el País Vasco', *Historia del Presente*, vol. 12, pp. 97-111.
- Pimentel, I. F. (2007), *A História da PIDE*, Circulo de Leitores, Lisbon.
- Pinto, A. C. (2001), 'Settling accounts with the past in a troubled transition to democracy: The Portuguese case', ed A. B. de Brito, C. González-Enríquez & P. Aguilar, *The politics of memory and democratization*, Oxford University Press, Oxford.

- Pinto, A. C. (2008), 'Political purges and state crisis in Portugal's transition to democracy', *Journal of Contemporary History*, vol. 43, no. 2, pp. 305-332.
- Pinto, P. R. (2008), 'Urban social movements and the transition to democracy in Portugal, 1974–1976', *The Historical Journal*, vol. 51, pp. 1025-1046.
- PSP (Polícia de Segurança Pública) (1979), *Uma pequena história da PSP*, Ministério da Comunicação Social, Lisbon.
- Reiss, A. J. (1968), 'Police brutality: Answers to key questions', *Trans-actions*, vol. 5, no. 8, pp. 10-19.
- Rico, J. M. (1983), *Polícia y sociedad democrática*, Alianza, Madrid.
- Roach, J. and Thomaneck, J. (1985), *Police and public order in Europe*, Croom Helm, London and Dover, NH.
- Rosanvallon, P. (2006), *La contre-démocratie*, Seuil, Paris.
- Vega, R. (2008), 'Demócratas sobrevenidos y razón de estado: La transición desde el poder', *Historia del Presente*, vol. 12, pp. 129-154.
- Waddington, D. P. (2007), *Policing public disorder: Theory and practice*, Willan Publishing, Cullompton.
- Wisler, D. & Tackenberg, M. (2000), 'The role of the police: Image or reality?', ed C. Emsley & R. Bessel, *Patterns of provocation: Police and public disorder*, Berghahn Books, Oxford.

**Table 1:**

[see Table1\_IberianPolice.doc document]

**Table 2:** People killed by the police during strikes and demonstrations in Spain and Portugal (1970-1995)

	Spain	Portugal
1970-1975	18	5
1976-1981	59	9
1981-1995	16	2

Source: Adell (1997) and Palacios Cerezales (2008a).

**Table 3** Comparative synopsis of changes in urban police forces

	Portugal	Spain
<b>Retributive justice</b>	Yes, but only in the political police	No, reciprocal amnesty.
<b>Symbolic breaks with the past</b>	Yes, but those of 1975 were short-lived - Change in ministry name (Year 1)	Yes, longstanding: - Change in ministry name (Year 1) - Change in force name - Two changes in uniform colours
<b>Changes in structure</b>	No	Yes: Armed Police and CGP/CSP merged in a new CNP
<b>Decentralisation</b>	No	Yes: - Regional forces in the Basque Country and Catalonia - Municipal forces in most cities.
<b>Demilitarisation</b>	Yes, but slow: - New civilian officers only in 1986 - Civilian structure in 1996 - Trade union rights in 2007	Yes, fast. - Trade union rights in 1978 (CSP) and 1986 (CNP) - New civilian officers since 1978, issued from CGP
<b>New officers' school</b>	Yes, university degree in 1996	Yes, university degree in 1984
<b>Longer training for recruits</b>	Yes, but slow (1996)	Yes, fast (1981)
<b>New service role</b>	Yes	Yes
<b>Plural accountability</b>	Yes, internal and external, but slow - IGAI in 1996	Yes, but mainly internal.

Source: Macdonald (1987); Santos (1999); Jar Couselo (1995); Colaço & Gomes (2001); Durão (2008) and Palacios Cerezales (2008a).

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<sup>1</sup> PIDE was renamed the General Security Directorate (DGS—Direcção Geral de Segurança) in 1969, but the name PIDE remained widely used.

<sup>2</sup> For Bayley ‘the emergency number should be view as a major contribution to democratic government. It represents the transformation in the orientation of police, still rare around the world, from serving regimes to serving the public’ (Bayley 2005). See also Martín Villa (1984). A critique of the shortcomings of the reform in López Garrido (1987).