

Dear Protest and Politics readers,

Thank you very much for engaging with this paper of mine. I look forward to your input on it. First I have to apologize that I am sending something else than what was promised in the title of the schedule. I realized that your input on this paper would be much more valuable for me at this moment. I hope that is OK.

This paper is one of the chapters of my thesis, but I am considering turning it into a stand alone article. In addition to comments on the content as such, I would also be interested in hearing from you whether you think it has the potential and enough empirical or theoretical contribution for an article. As it did start as a dissertation-chapter, I do at times refer to my dissertation to clarify the context in which I have been writing.

Prisoner support groups initially were no object of my study: I only drew upon information they provided as I was researching the development of the interpretive struggle regarding criminal law enforcement in contentious episodes. As my research progressed I began to find these groups, their actions, and their relation to the political conflict dynamics increasingly interesting. Now I have written down some of my observations and the parallels and differences between my three case studies, and I am wondering whether it is indeed as fascinating as I thought it might be, and if so, what (theoretical) perspective would be good to engage with to look at it.

One specific question I have is whether the drawing upon three very different cases 'works.' If not, would there be a way in which I can make it work, or would it be better to focus on one of the cases?

The paper is a very early draft, so I am open to drastic suggestions regarding theoretical framework and structuring. I am afraid that at this point there still is a discrepancy between what I say that I am doing and what I'm actually doing. I look forward to all ideas and comments you may have,

Carolijn

Freiburg, Wednesday 14 March 2010

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**Prisoner support mobilization: the interpretive battle in the criminal cases of
Basque militants, Mapuche activists, and eco-prisoners**

“In short, no one, neither the defendants nor their representatives, challenged the very logic of the court authority effort – their very definition of the situation – with the result that the court authority effort to ‘resolve’ its contradictions met with no opposition”
(Balbus 1973:258-259).

1. Introduction

October 1997, United States: Six raids in the Midwest just before the pelting season: between 8,000 and 12,000 minks released, two fur farms out of business. Opposing interpretations either emphasize the enormous economic losses for these farming families or joy that many animals escaped death for profit.

October 1999, Chile: a forestry plantation is set on fire in the south of Chile. The plantation belongs to a large forestry company owning currently 391,000 ha of plantations while an adjacent indigenous Mapuche community claims historical right to the land. Opposing interpretations either indicate anger about the economic loss for the forestry company and the lack of a rule of law or happiness to see the invasion of imported water-consuming trees turned into ashes.

March 1992, Spain: three Molotov cocktails set the offices of the national train company in Bilbao on fire. Opposing interpretations either claim this is terrorism and related to the armed organization ETA or view it as some youth expressing their anger because of police violence during a demonstration earlier that day.

Each of these incidents formed the material for criminal prosecutions. P. Young, who released the minks, spent two years in jail. J. Nain, leader of the Mapuche community that ultimately received the disputed land, who always denied responsibility for the arson in the plantation, was convicted to five years and one day. J. Larrinaga, member of a

left-nationalist Basque youth group, was convicted under terrorism laws to ten years in prison. The events were subject to a struggle of interpretation. The criminal proceedings were as much a site for this struggle as a significant contributor in this struggle.

The interpretive struggles analyzed in my dissertation are the struggles that take place in and around the criminal justice proceedings and specifically around the interpretation that is constructed by the prosecutor. The story that the prosecution chooses to tell reinforces one truth about the political contention and institutionalizes this in the form of legal documents if the judges ratify that interpretation. Further, the story chosen by the prosecutor enables the punishment and specifically incarceration of some individuals and not of others. The interpretation offered by prosecutors in isolated cases can add up to or fit in a general understanding which underlies criminal law enforcement in relation to cases that arise in a specific context. This specific context is often recognized explicitly by law enforcement agencies, for example in Chile recently a specific prosecutor has been appointed to deal with “Mapuche conflict cases.” It should be clear that this is a quite unorthodox way to deal with crime as the sorts of charges can range from land usurpation and theft to ‘terrorist’ threat and arson. The importance of a process of classification in relation to criminal proceedings is recognized by De Roos (1987:4) who defines criminal policy as the “development and application of classifying concepts with regards to deviant behavior and its social definition, in which the key question is the reach and organization of the criminal law and criminal justice system” (translation is mine). It is the interpretive struggle about the development and application of classifying concepts in criminal cases throughout the contentious episode which forms the subject of my dissertation.

In my dissertation I provide an analysis of the struggle of interpretation as it took place in the criminal proceedings in major domestic contentious episodes in the US, Chile, and Spain. In the US, eco-activists demand the closure of an animal testing company, the end of experimentation with animals, defense of nature against infrastructural projects, and restrictions on logging companies. In Chile, Mapuche activists reclaim the lands that they have lost since their reduction in reservations in 1881. In Spain, Basque left-

nationalists fight for an independent and socialist Basque Country. In each of these ongoing conflicts many incidents have occurred that came to the attention of the government with a claim to criminal investigation and prosecution. It is the struggle for interpretation in and around these criminal cases that is the subject of my analysis. Paul Brass emphasizes the importance of this analysis by focusing his book *Riots and Pogroms* on “the struggle to interpret violence, the attempts to govern society or a country through gaining not a monopoly on the legitimate use of violence but to gain control over the interpretation of violence” (1996:45).

The conducted fieldwork in Chile, the US, and Spain has consisted of participant observation during various criminal trials and political meetings; more than hundred interviews with activists, victims on different sides, prosecutors, lawyers, defendants, and state officials; the collection of trial transcripts in numerous cases such as indictments, jury instructions, verdicts, prosecutorial conclusions, trial minutes, motions, documentary evidence, and dossiers from investigative judges; and the collection of public declarations, press releases, statutes, websites, and other documents from protesting activists, victim organizations or target alliances, and government institutions.

Tilly defines a contentious episode as an interaction between at least two parties in the course of which at least one party makes claims that, if realized, would affect another party's welfare. “Episodes are continuous streams of contention including collective claim making that bears on other parties' interests” (Tilly 2005:212). Victims and politicians often advocate for criminal prosecutions as a solution to what they label as “violence” and “disorder.” Many governments today have to confront the investigation of incidents that have their origin in political conflicts (Miall 2001:23). Consequently they face the prosecution of an accused who at times represents a larger group within society voicing their grievances. The stakes in these cases can be high. Even the legitimacy of the government itself may be at risk. The choices a government has to make in this situation are difficult.

An actual risk of criminal prosecution might be that it does indeed stop the violence in the short run, but radicalizes the protesters in the long run (Balbus 1973). This real counterproductive effect is also visible in the case studies. On the one hand, locking people up or at least keeping them busy in criminal proceedings has proven very effective in disturbing mobilization. Still, as legal scholar Ignacio Muñagorri says, the state's strategy in a way has also proven to be criminogenic (interview with author, May 2008). In the Basque country, he signals a push towards clandestinity. Strong prosecution of relatively minor street violence has led to a surge of the youth willing to militate for ETA. Similarly, in the US, hearing of the high sentences against the SHAC-people who managed a website, many animal rights activists commented that when that work already was labeled 'terrorist', then it would be more worthwhile to go underground and do the 'real work.' Several strong criminal cases in Chile in 2003 led to a decrease of illegal action for a while, but five years later actions resurged even more violently. Having observed the radicalized interpretations of the penal interventions in 2003, this unfortunately came as no surprise.

It is the balance between the "immediate interest in order" and the "long-run interest in maximizing legitimacy" that is at stake here (Balbus 1973). The dilemma lies in the fact that both intervention and abstention may in fact breed polarization and radicalization of the opposing parties. The capacity of criminal trials to have a counterproductive effect has been recognized for example by Christenson: "A just trial may bring the revenge cycle to a halt, but an unjust trial will encourage the wronged faction to 'get even' and 'right the balance,' next time in their favor" (Christenson, 1999:4). Of course, the perception of what is a "just" trial remains open to contestation. The same dilemma has been observed by scholars who study police responses. For example, Gurr wrote that "[e]xclusive reliance on force eventually rises up the forces that destroy it" (Gurr 1971). And Nieburg describes how using normal policing methods in conflictive situations may work counterproductive (Nieburg 1968), for similar remarks see (Goldstein 1969) and (Balbus 1973)).

The different rationales behind this dilemma have been backed by scientific evidence that shows support both for the claim that coercion diminishes dissent and for the claim that dissent is sparked by coercion. The resource mobilization theory and rational choice theory both argue that repression will decrease mobilization, as it is a cost and reduces available resources. Deprivation and relative deprivation theory predict the opposite effect. LaFree hypothesizes that there is an “optimal” level of repression balancing deterrence and defiance (LaFree 2007). It is suggested that among the major determinants of the effect that repression will have is the perception of the legitimacy of the repression, and the amount of popular support that protesters have (Opp and Roehl 1990). In this paper I will discuss this element in more detail by focusing on the support for protesters facing criminal prosecution.

Whereas the public debate on penal intervention is often framed in dichotomous terms, i.e. whether or not to prosecute, it is important to realize that even more important may be the *how* to prosecute (Mansfield and Peay 1987). In my dissertation an analysis of the manner of prosecution is central. Rather than assuming that the criminal justice system and its performance are fixed and natural, I have approached this institution from the perspective that it may be challenged and can subsequently change its performance (Garland 1990:4). If so, the question is when and how. My dissertation provides three in-depth case studies on this phenomenon. The research was set up as an exploration of the interpretive struggle about criminal enforcement in contentious episodes. The case studies were therefore chosen to benefit from possible variations in the process of criminal law enforcement throughout the episode.

In this paper, I focus on the ways in which people mobilize to challenge the definitions the prosecutor presents in criminal proceedings. It should be noted that prisoner support is not the exclusive domain of activists. Whereas defendants are often activists making claims and people mobilizing for prisoner support tend to be fellow protesters, there are also cases where the defendant is a state agent (such as a police officer) and the people mobilizing in support come from other parts of the political spectrum. In some of the cases in which state agents were prosecuted and convicted, one can also observe

mobilization around their cases, either in explicit defense of their actions or in support of their innocence-claim. In 2006, journalist Jesús María Zuloaga writes the prologue for the book in which Enrique Rodríguez Galindo writes his memoirs “My life against ETA: the antiterrorism struggle from the Inchaurreondo quarters.” Galindo has been convicted in 2000 to 75 years in prison for the illegal detention and murder of two Basque youth supposed to be involved in ETA. In addition Galindo lost his military status. Zuloaga defines Galindo as a “first line servant of Spain” (p. II). He also describes the criminal proceedings against Galindo as a “mediatic process with clear political goals” (p.II) and he believes that time will show that Galindo is indeed innocent, something he has never doubted (p.III). During Galindo’s stay in prison, his family presented a petition for a pardon with 100,000 signatures. In 1998 two other officials involved in the GAL received a partial pardon for one of the GAL-cases (el Caso Marey). Galindo did not receive a pardon, but was later conditionally released on 1 October 2004 because of health reasons and allowed to sit out his sentence at home. This example shows the importance of analyzing the features of prisoner support mobilization in cases of state agents. However, there are important differences in the nature of the prisoner support mobilization in relation to state agents as compared to the mobilization of activists who challenge the state. In this paper therefore, I have limited my analysis to the prisoner support mobilization of activists who make political claims.

2. Prisoner support mobilization

The battle of interpretation that takes place in and around criminal cases can be divided into the battle about the facts underlying the criminal charge and the battle about the legitimacy of the criminal proceedings. Some criminal cases can become what can be called “significant” cases. They gain a symbolism within a specific community that can be referred to years later. The Burgos-trial in Spain during the Franco regime was such a significant case, symbolizing unjust state repression. In Chile, the trial against the lonkos of Traiguén has become a widely shared symbol of unjust repression against legitimate Mapuche activists. Cases can obtain very different meanings dependent on the interpretive community. Thus, whereas the SHAC-case is ‘the’ chilling of free-speech

case among many social justice activists, among the prosecutors and 'victims' it was claimed as the first "victory" (press release prosecutor 3 February 2006).

Penal interventions and also the lack thereof can have a direct impact on conflict dynamics. Law enforcement practices are interpreted and provide the basis for new actions. ETA for example communicates explicitly about the criminal justice measures taken in the Basque country: "Don't attack Euskal Herria. Don't pass measures such as the Parot doctrine to target Basque political prisoners. Don't prosecute and imprison Basques like Iñaki De Juana. The trials of large numbers of Basque youths, and so on and so forth, are all further examples of the exceptional state of affairs in our country. Let all this stop, and ETA will have no need to react" (Gara 8 April 2007).

The perception of government inaction can equally have an impact. On 11 June 2005 the reactivation of the Hernán Trizano Commando is announced in an anonymous phone call to the local newspaper of Temuco. A note was left: "we are ready to start a reprisal against the indigenous gentlemen, in defense of the agriculturors, the forestry companies and the hydro-electric companies... Given that the Government has done absolutely nothing to stop the violent community members nor guaranteed the security of the agriculturors... Because of this, we communicate our constitution, to go in support of those that are trampled upon, we have the means and the people in the 8th and 9th region and won't hesitate to set bills against the Mapuche terrorists, and Chileans and foreigners who support this subversion" (*Azkintuwe* 21 June 2005).

In this paper I analyze prisoner support groups as active actors in this battle of interpretation. The whole process of criminal proceedings within any criminal case is constituted by many moments and issues around which activists and supporters can rally. Before being judged and convicted, a defendant for example can face considerable limitations of freedom. Preventive detention is common, and if the defendant is allowed to be in the streets while awaiting trial, often precautions are taken such as a prohibition on foreign travel. These measures are often highly criticized, firstly because of the

presumption of innocence, secondly, because many charges are dropped later on, with the damage already being incurred.

There hasn't been much writing on the role of prisoner support organizations in the social movements they support, their features and their internal dynamic. Barkan addresses prisoner support groups briefly in his book *Protestors on Trial* (1985). More recently, Zwerman and Steinhoff discuss the features of support groups in the US and Japan in the end 60s and early 70s (in: Davenport (ed.) 2005). They emphasize the striking similarities between the support systems in these two countries. They describe the support effort in Japan as a response to the state's strategy to pressure detainees into confessions (2005:96). The support in Japan was successful in shifting resistance to the state into the criminal justice system. This shift of resistance into the criminal justice arena occurred to a great extent in each of the country-studies in my dissertation. Also, in line with my observations in my cases, Zwerman and Steinhoff note that prisoner support in Japan became "a social movement activity in its own right" (ibid.). The activities that they describe are very similar to the activities undertaken by the prisoner support organizations in my research. They do not discuss in detail though, how and to what extent the prisoner support groups contest the criminal label imposed by the state. That is the focus of my research.

The importance of the work of prison support groups and the effort of defendants to stick together and refuse to cooperate is affirmed by the analysis of Isaac Balbus regarding the criminal prosecutions against 'black rebels in American courts.' For Balbus, it seems to be a side reflection on his study when he ponders how the success of the authorities in managing the riots can be accounted for. How were the authorities able to conceal the contradicting interests that were at stake when they dealt with the riots? He asserts that the flagrant violations of formal rationality were not as de-legitimizing to the system as they would have been if the defendants had been white. "Had civil rights leaders demanded amnesty, had the defendants themselves refused to 'cooperate,' and had their attorneys refused to play by the ordinary rules of the cooperative criminal court game, court authorities would probably have been unable to achieve a favorable balance among

their interests in order, formal rationality, and organizational maintenance. One crucial reason why court authorities *were* able to achieve such a balance, in other words, was precisely that *they encountered no sustained effort to prevent them from doing so* on the part of the ‘rioters’ and/or their political and legal spokesmen” (1973:258, italics in original). This observation points to the relevance of people and organizations consciously bringing about this de-legitimizing effect.

Balbus notes that no major civil rights leader actually challenged the effort to criminalize the revolts. The only voices that were raised according to Balbus would fit what I have called the “human rights support” (see below) and fitting the logic of formal rationality as those voices would assert that rioters should be afforded the same rights as normally afforded to a criminal suspect. Balbus notes that in the riots he studied few defendants actually possessed the consciousness and the commitment to take such a principled and defiant stance vis-à-vis the court system. The defendants in the cases of my research generally *do* have this determination. A defiant strategy entails huge risks, as some of the defendants in the cases to be described have experienced themselves, and this weighing of risks will be discussed in the choices defendants make in the trade off choice between cooperation and defiance.

Balbus emphasizes that in challenging the logic of the court, the protesters would have had to sacrifice their short-term interest in the name of the consciousness of a broader, longer-run interest. The formation of an interest that belongs to a collective, not to an individual, is part of the process in which defendants come to decide against their individual short-term interest. This process of conscientization is an important part of the process towards further de-legitimization of the state. Balbus notes that the black rioters at the time lacked a conception of a black nation or blacks as an economically exploited class, thus lacking the grounds to oppose a “policy of repression by formal rationality” (1973:259). Balbus notes that the rioters did not present grievances, and were not able to express the meaning of the riots. Rioters themselves, thus, were also accepting the definition of “ordinary crime.” Balbus emphasizes at the end of his book that the presence of “consciousness” among protesters is a crucial condition for a potential

breakdown of the strict adherence to formal rationality (1973:261). As Balbus points out, the battle of interpretation, which is the subject of my study, didn't take place around the riots of the late 60s. In this paper we will see how prisoner support groups work hard to place this battle of interpretation at the heart of the criminal prosecutions.

In this paper I ask how and to what extent prisoner support groups mobilize to challenge the state's criminal definition of the conduct which is subject of the charge and delegitimize the criminal justice measures taken as a result of that definition. The empirical commonalities and differences between the country-studies are used to provide insight in the characteristic features and possible variations in this process. In addition, the aim of this paper is to analyze how prisoner support mobilization relates to the social movement mobilization in general as well as to the subsequent course of criminal law enforcement. [I should note here that in an earlier chapter of my thesis I dwell quite a bit on the concept of legitimacy. I interpret prisoner support mobilization as an alternative bid for legitimacy in dissent from the state's legitimacy to set rules. I have not really developed this perspective in this paper.] The process of prisoner support mobilization can be divided in three steps or elements.

1. Creation of a prisoner support group: a call for solidarity
2. Bringing the 'political' back in: identification as a political prisoner
3. Persuading the public of the political definition

1. Creation of a prisoner support group: a call for solidarity

“Have you heard the radio? This morning there was a search in Tirúa, and they detained eleven people!” I accompany Juan to one of the Mapuche communities. The whole day the events in Tirúa are subject of conversation. Everyone is involved with the news, and feels for their brothers that have “fallen.” There is no mentioning of whatever the charges against them may be, and/or whether they might be guilty of these charges. As in the usual conversations between activists, that is virtually irrelevant. The detentions are viewed as one more of the actions of repression of their struggle and their people.

The transfer of a political struggle to the criminal justice arena has as an important consequence that activists switch part of their time and money from their political goal to issues of criminal justice in reaction to the legal repression they face. Activists tend to become focused on their own security or solidarity with other activists who suffer repression sometimes even more so than on the political issue that started the protest mobilization. Criminal justice issues come to replace, overshadow, or complement the original political claims. In the United States for example we can observe trainings for how to deal with a grand jury investigation, and the term “security culture” is widespread among activists.¹ Faced with repression, some activists decide to cooperate with the state as they are confronted with severe charges and possibly high sentences. Activists thus face the question how to deal with “snitches.” How to deal with people who inform on activists or more generally how to deal with people who seek individual solutions and leave the collective of activists? Accusations of being a snitch are not uncommon within social movements facing repression. Not only activists-turned-informants but police investigations in general can create a suspicious atmosphere amongst activists. Other scholars have similarly observed this shift from the political project to self defense (Starr 2008).² Some activists claim that this diversion is exactly the aim of those prosecutions.

As fellow activists are detained, other activists can decide to act in solidarity and assist them. Prisoner support is about solidarity and constitutes a collective rejection and dissent to state prosecution and criminalization. Madariaga, in his last word in the Gestoras-trial in Spain in which he was a defendant said that “any injustice creates an antidote which is solidarity. Solidarity is real” (Audiencia Nacional 18 June 2008). In many of the cases that I observed state repression is ‘generalized’ by a process of identification as people perceive that “their repression is our repression” as one activist put it. This process has been observed by other scholars as well. “When the police are perceived as ‘overreacting,’ a process of ‘solidarization’ is set in motion between those who are the direct target of repression and larger – often more moderate – forces” (della Porta and Reiter 1998). A response common to the three country studies is the founding of so-called “prisoner support groups.” Differences between the organization and nature of these groups are considerable between the cases, for example in the US there exists a

support group for each imprisoned individual, whereas in the Basque Country that would be unimaginable as there is a strictly run united support group for all prisoners. Without ignoring these important differences, this paper will discuss the shared features that these support groups display as they question state criminalization.

Activists in general and prisoner support groups in particular claim that the state is repressive and engaged in unjust criminalization. This leads to the call for solidarity among the people that are considered to identify themselves with the defendant. One Mapuche activist explains why he feels solidarity with “political prisoners,” which to him are all imprisoned activists. “It is a familiar fight, when a Mapuche struggles for his people.” [Notice the reification and generalization of “a” Mapuche.] Activists sometimes voice the notion of an unequal distribution of repression: in that case they perceive that the other person receives the repression that also belongs to them. They show solidarity to reduce the suffering of the one person who receives the blow for everyone.

A clear incentive for the support group to be created is the emergence of practical issues that a criminal prosecution brings along, such as money needed for the defense lawyer and the practical needs of a prisoner locked up. The prisoner support group also functions as a coordinator of all the actions that occur regarding the prosecution. As a case drags on, and of course also during the time of imprisonment, there are infinite moments for outcry and rally. So, there are demonstrations in front of prisons, honoring ceremonies for prisoners, and hunger strikes for better prison conditions.³ Prisoner support groups distribute information about the trial dates and the treatment of the prisoner. Solidarity in this specific context consists of the actions intended to share or alleviate the *suffering* of the imprisoned people. A clear example is the hunger strike that Paula initiated in solidarity with a hunger strike that prisoners had started in the prison.

Prisoner support can be very pragmatic and practical. What follows is an example of such a call for support: “[Prisoner’s name] is currently being held in [location], CA - which is almost 7 hours from where I live. Renting a car and paying for gas is incredibly

expensive, and it's a cost I just can't carry on my own. The support [prisoner's name] has received from all of you over the last four years has been amazing, and we are more than thankful for all you have done. [Prisoner's name] has shown a steadfast, unwavering commitment to do the right thing and fight the outrageous charges against him, despite facing severe repercussions for that decision. Please consider making a donation to support him, however small. Every tiny bit helps. Keeping our connections with each other in situations like this is absolutely essential. The state has tried to sever [prisoner's name] connections to his family and communities. They know that this is where our strength lies. Our visits together are a very powerful tool in fighting the isolation and loneliness that prison can bring and in keeping each other strong. Please consider donating to help us keep these connections with each other” (from an e-mail on a listserv on 24 February 2010).

Prisoners themselves often lack the means to mobilize much support for their cause. One well-known and oft-used ‘weapon’ against the state is the hunger strike. Its sole strength lies in its capacity to de-legitimize the state. Various prisoners in the studied cases have used this tool effectively to pressure the state, for example Patricia Troncoso in Chile (demanding better prison conditions while saying “if my death will serve for the liberty of my brothers, I won't desist”), Eric McDavid in the US (demanding vegan food in prison), and Iñaki de Juana in Spain (demanding release from prison). In these hunger strikes, prisoner support groups are essential in taking care for communication and spreading information about the case.

2. Bringing the ‘political’ back in: becoming a ‘political’ prisoner

How does one become a political prisoner? One has to self-identify as a political prisoner, and one has to be recognized as such by others and receive support. Regarding the self-identification as a political prisoner, there may be several different considerations. Put simply, there is the political cause and the criminal case. Self-identification as a political prisoner may advance the political cause but prejudice the criminal case. Each activist-prisoner has to make this decision. Defendants also have to

decide on the kind of defense they give during their trial. ETA-members for example never defend themselves in court.

Choosing the status as a political prisoner has important implications. Activists commit themselves to a 'political' solution in the political cause in contrast to 'individual' justice in the criminal case. Former SHAC-prisoner Darius Fullmer expresses his commitment as follows: "I couldn't imagine myself not being involved in activism. Right now I'm focused on the appeal because we have to get rid of this law, the Animal Enterprise Terrorism Act. It's a horrible precedent, not just for the animal rights movement, but for anybody who believes in freedom of speech, whether that's a labor union, environmentalist or anybody who values their right to speak their mind." He claims to be fighting his appeal, not necessarily for their own freedom or justice, but to create a better precedent for the movement thus placing the collective goals of his activism above his individual justice. This commitment can be strictly enforced as we observe in Spain where the collective of ETA-prisoners is maintained under social and even physical pressure and individual ways out are not accepted. Yoyes was shot in her own village after she had accepted the governmental program for individual reinsertion.

Prisoner support groups are the vehicle in gaining recognition for the prisoner as a "political" prisoner. But what exactly do activists claim when they take on the label of "political prisoner"? First of all, 'political' prisoners contrast themselves to common prisoners, or what Basque activists call "social" prisoners. An example:

"For our organization, a Mapuche Political Prisoner is any Mapuche whose liberty is taken away, or is in the process, as a product of his/her participation in actions that lead to the reconstruction of the People-Nation Mapuche, understanding as such the processes of recuperation of lands and/ or executing Territorial Control over recuperated lands, action of resistance against police repression, as well as mobilizations that lead to the recuperation of Political Rights of the Mapuche People. With the before mentioned criteria, clearly our brothers are not common prisoners or delinquents as the oppressive state has treated them" (Preamble to the most recent list of political prisoners, May 2009, by Meli Witran Mapu).

The difference between political and common prisoners is further communicated in different ways. Mapuche activists often mobilize to ask for special privileges, such as the ability to do a traditional religious ceremony in prison. Mapuche activists who consider themselves political prisoners as well as Basque “political” prisoners sign their communications with the state authorities with their names and the addition “political prisoner.”

It is important to distinguish between two different kinds of political prisoners. A political prisoner can be called “political” simply because he or she perpetrated the criminalized action with a political motivation. Alternatively, a prisoner can be called “political” because the initiation of criminal proceedings against the person was motivated by political considerations. Whereas activists admit the first definition is the most appropriate, it is the second definition that communicates a charge against the state’s initiation of criminal proceedings. Where the state perceives this charge, it categorically rejects all suggestions about political prisoners. In her visit to the Netherlands, President Michelle Bachelet declared that in Chile there are no Mapuche political prisoners. “No one is imprisoned [in Chile] because of a specific ideology or because of belonging to an original ethnic group [*etnia*],” (cited by Daniela Estrada in: *Azkintuwe*, 29 May 2009). It is noteworthy that the United States does not seem to do any effort to dispel notions of ‘political’ prisoners.

It is possible to observe differences in the attitude taken by the defendant towards the criminalization of his/her alleged conduct. A useful categorization can be made by looking on the one hand at whether the defendant signals approval or disapproval towards the conduct subject to criminalization. On the other hand one can distinguish between defendants who claim responsibility for the action and those who reject responsibility. These different activist attitudes are related to two different definitions of prisoners: the so-called “prisoners of conscience” and “political prisoners.” *Prisoners of conscience* are those who deny any involvement in the imputed criminal facts, and claim that their detention is political, because their detention is not a mistake, but intentional, because of their political ideas and activities. (These prisoners might even explicitly condemn the

imputed facts, i.e. agreeing with their criminal nature. They claim not only that they did not do it, but also would not do it.) *Political prisoners* are those who admit having committed the imputed facts, or leave that up to the judge, but regardless of those facts claim that their detention is political. These prisoners explicitly do not condemn the facts as such. They claim that their detention is due to the political nature of all their activities (including or not including the imputed acts), not due to their criminal nature.

Table 1 Defendant's position vis-à-vis the charge

Position defendant towards protest action/ charge	Innocent	Responsibility
Overt approval	The defendant claims innocence whereas taking care not to condemn the action. The defendant demonstrates outrage about the political persecution.	The defendant claims responsibility and defends the action. The action can be defended in terms of internal criminal legal justifications (denying criminal nature) or by references to politics.
Overt disapproval	The defendant claims innocence and explicitly condemns the action. The defendant demonstrates outrage about the allegation.	The defendant claims responsibility and apologizes or attributes “real” responsibility to other forces that made him/her do it.

In the next table I give different examples from the empirical cases to illustrate the analytical table presented above. It is illuminating to compare different criminal cases as well as the tendencies among the country studies. ETA-members accept fully that they at some point will have to go to jail. As Alcedo (1994) describes it, there are only three ways to end life as an ETA-member: death, exile, or prison. In contrast, Mapuche

activists defend themselves generally by denying the charges and don't accept prison as a consequence of their activism.

The defendant's attitude vis-à-vis the charge determines in what ways the defendant and the prisoner support group proceed to challenge the state. Only when the activist is willing to accept responsibility for and defend his/her actions underlying the charge, it is possible to observe an open contestation of the prosecutor's interpretation of the events and the criminal label of the actions. This enables P. Young to claim that his actions should be seen as the "saving of lives" instead of the criminal label which defines his conduct as "property destruction" or "animal enterprise terrorism."

Table 2 Examples of defendant's position vis-à-vis the charge

Position defendant towards protest action/ charge	Innocent	Responsibility
Overt approval	E. von Jentschky is accused of the burning of two trucks. He claims innocence but acknowledges that he would have done it.	P. Young claims responsibility for the 'liberation' of minks. He says he would do it again.
Overt disapproval	M. Figueroa is accused of burning a plantation and claims she would not fight in such a way	This tends to occur only as time passes: After having left the organization, Yoyes harshly criticized the actions of ETA.

Just as we can analyze the kind of claim that 'political' prisoners make regarding the criminal charge, we can also analyze the kind of claim that supporters make. In the table below I identify three different kinds of prisoner support.

Table 3 Identification of different kinds of prisoner support

Nature of prisoner support	Role/identity of supporters	Recognition as 'political' prisoner
Humanitarian support	Family and friends	No
Human rights support	Human rights activists	No
Political support	Fellow activists	Yes

We can distinguish between three different forms of prisoner support activities. *Humanitarian* support is often given by family members of the activists. This is the kind of support that is given regardless of the criminal facts, and regardless of the political cause. The prisoner is recognized as a human being worthy of a human treatment.

Human rights support is given by people who (mistaken or not) think the prisoner is detained innocently while not guilty of the imputed facts, and would not support the prisoner if the imputed facts were proven. They are motivated by a general adherence to liberal legalism, not by the specific political cause. These supporters by nature only support prisoners of conscience, not political prisoners. Alternatively, human rights supporters may abstain from a judgment regarding the innocence of the prisoner and narrowly advocate against human rights violations, such as torture or long preventive detention. I reckon to this category the people who think that a defendant should be prosecuted, but under a different law. This is for example the case with the people who argue that Mapuche activists involved in illegal activity should be prosecuted, but not with anti-terrorism laws.

Political support is often given by people who are politically active for the same cause. Only political supporters recognize the prisoner as a 'political' prisoner. Political support is also sometimes given by groups who are not necessarily politically active for the same cause, but do respect that cause, and choose sides as a political actor. This is often called "solidarity." We can see this in Mapuche activists supporting the Palestinian prisoners, and the Chilean anarchists supporting the Mapuche prisoners. Sometimes, this kind of solidarity is expected to be reciprocal. Characteristic for political supporters is that the

underlying facts of the charge often seem irrelevant. “No one ever asked me whether I did it or not,” says Miguel in Chile. He is not sure whether people assumed he did it and didn't care or whether they thought he was innocent. He thinks people just didn't care about *why* he was in prison. “No, once I was asked,” he adds after a while. “A *lamngen* asked me whether I did it or not. When I said I had, she said ‘oooooooooh’ disapprovingly.”

These categories enable the analysis of the support activities and the changes in those activities in the episodes. This makes it possible to assess whether or not ‘mainstream’ activists recognize a detention as ‘political’ and what kind of support they are willing to give to the prisoner. Another interesting development is the transition from humanitarian supporters into political supporters. The parents of more than one activist have gone through this transformation, such as the parents of Txomin who moved from the mainstream nationalist party PNV to the more radical *izquierda abertzale*. Mapuche activist Pablo bluntly admitted that this transformation is one of the objectives of prisoner support. Lawyers can (be perceived to) belong to the category of political supporters. This makes them often the target of criticism from ‘victims’ or government officials. It can also make them vulnerable to criminal investigation such as telephone interception.

Reinforcing the political: rejecting liberal legalism

In Spain, newspaper *El País* (1 June 2008) called them the “Ambassadors of ETA”: human rights organizations, researchers, or even the former UN Rapporteur on Torture: Theo Van Boven. What is the function of these institutions and their work? They undoubtedly contribute to the labeling of conduct, the stigmatization or de-stigmatization of prisoners, and they often deliberately focus their work on stirring the government into moving its criminal justice system in one direction or the other. Still, there is significant difference between human rights groups criticizing the state and its criminal procedures and prisoner support groups criticizing the state and its effort to criminalize specific persons or conduct.

Naomi Klein describes in her book “the Shock Doctrine” how human rights organizations during the military regimes in the southern cone were very effective in bringing to light violations of civil and political rights, such as torture. In exchange for having the possibility to address these issues however, she argues that these human rights organizations had to give up the link between these violations and the implementation of an economic model that the victims of these violations pretended to fight. “Human rights” thus has served for a long time to disconnect law and politics. Recent efforts to bring social and economic rights to the same level as civil and political rights attempt to reinstate this connection. Some human rights work explicitly takes the broader view in which different rights are connected, other human rights work limits itself to an analysis or denunciation of the violation of specific rights.

This can help to make explicit the difference between a ‘human rights’ group and ‘prisoner support’ group. Human rights groups take seriously liberal legalism and maintain the difference between ‘formal’ support (to the legal case) and ‘substantive’ support (to the political cause). On the contrary, a prisoner support group does not just care about formal human rights violations whoever the person is and whatever that person has done. The prisoner support group affiliates itself explicitly with a political activist for a specific political cause. The prisoner support group can in this regard be taken as a rejection of liberal legalism.

It should be noted though, that in various cases prisoner support groups choose a ‘human rights’ approach to their case. The variation in the attitude of the activist towards the charge already shows that not all activist-prisoners reject liberal legalism. It has also been suggested that this ‘human rights’-strategy is a deliberate political strategy to delegitimize the state. Such are the accusations of being “ambassadors of ETA”: the journalist of El País criticizes the “cover” organizations for ETA whose only real goal would be discredit the Spanish state and he criticizes international organizations such as Amnesty International that their one-sided commitment to human rights is naïve and counterproductive when their informants are *etarras*. He ends his article with the advice that Spain should not only *be* respectful to human rights, but also *seem* that way.

Therefore, it has to step up its efforts to counter the initiatives “ETA-Batasuna” is undertaking to improve its profile in the international arena (1 June 2008).

The contestation of truth in the courtroom and legitimacy of evidence is a severe battle in each of the three country studies. In Spain we can observe this struggle in the ongoing debate about torture. On the one hand detainees continue to file complaints about torture during their incommunicado-detention. This torture-claim discredits any declarations that are signed by detainees and devalues its evidentiary value. On the other hand these complaints are de-legitimized by the prosecutorial argument that ETA orders its militants in its manual to denounce torture upon arrest in order to delegitimize the Spanish state. In order to counter the continuing stream of what are thought to be false denunciations, in some cases, charges were made for the crime of “false complaint” against several of the lawyers who filed such a complaint. An example of such a charge is the case against Begoña Lalana in 1992 which was dropped later on (3289/92 Instruction Court #34 Madrid).⁴

In Chile we observe a struggle about the truth and legitimacy of evidence in the battle regarding the credibility of anonymous witnesses. The use of anonymous witnesses is widely condemned within the Mapuche movement and by various legal scholars. Mapuche activists believe that anonymous witnesses are bribed and lying, confirming their idea that Mapuche leaders are prosecuted without having committed a crime. Police and prosecutors as well as landowners defend the practice of anonymous witnesses referring to the cases where witnesses were threatened by Mapuche activists, and the absence of any case when nobody dares to testify. They claim the witnesses speak the truth and need the protection to bring a case to court. In addition, they claim that the fact that the lawyer can interrogate the witness during the trial guarantees sufficiently the rights of the defendants. Prisoner support groups generally link their complaints about faulty procedures to the political struggles, claims, and identities that are at stake.

Emphasizing the importance of the political context of the criminal cases, prisoner supporters invariably argue that their repression has nothing to do with the supposed

illegality of their actions, but with the effectiveness of their actions. The more effective the tactics the political movement employs, the more repression the state will use, is the reasoning. Thus the story activists tell regarding the criminal case against SHAC is that SHAC's strategy of secondary and tertiary targeting was highly effective. The state didn't want this tactic to spread to other social justice movements. In the Basque Country, a leader from the illegalized youth organization Segi argued something similar: "we reach so many youths. We are actually effective in negotiating housing for students. That is why they are targeting us."

Effective de-legitimization of the courts' decisions can lead people to doubt whether prisoners are criminals. This is the case in some parts of the Basque Country. It leads people to believe that people in prison should simply not be there, either because they are entirely innocent or because they didn't have a legitimate trial. This contrasts strikingly with the assumption generally shared in liberal democracies that everyone in prison has a good reason to be there.

'Political' prisoners generally defy the state's legitimacy to condemn their actions. The possibility of punishment involves a claim to legitimacy (Hulsman 1971; Fletcher 2007). If there is no relationship in which the subordinate accepts the authority of the punishing entity, the punishment is transformed in simple violence. Real punishment presupposes an agreement between the parties. "If the litigants have rules of rightdoing different from those of the judges, the judges can punish them, but not convict them" (Gluckman 1963:182 in Norrie 1993:59). Routinely, 'political' prisoners repeat these words that the courts may judge them, but can never condemn them. Activists are always ready to attack the legitimate jurisdiction of the state, the court, the laws, or the criminal justice system. In the US, Young said in his statement in court: "I don't wish to validate this proceeding by begging for mercy or appealing to the conscience of the court, because I know if this system had a conscience I would not be here, and in my place would be all the butchers, vivisectioners, and fur farmers of the world. [...] It is to those animals I answer to, not you or this court." In Spain, activists for example criticize the National Court in Madrid. They effectively ask: What makes the Audiencia Nacional a "court" instead of

a “political institution”? What makes their decisions “law” instead of “politics”? In Chile, activists criticize the use of military courts.

Apart from the legitimacy issue, Sharp argues that repression can only be effective when the persons against whom repressive measures are taken, support the norms that are supposed to be protected by the sanction (Sharp 1973:14). A sanction is supposed to be more effective when the party involved cooperates and obeys. Otherwise, repression can have the opposite effect. In each of the country-studies we can observe activists who come out of prison as radical or even more as they went in. In addition, we can observe activists resisting their penalty as they choose to become a fugitive, with the help of their respective supporting communities.

Defense lawyers play an important role in criminal cases. Again, dynamics in the three country-studies vary widely. The most significant difference between lawyers is their type of commitment to the criminal case respectively the political struggle. Balbus noted the important role of defense lawyers in swaying the balance and the political definition of the case, starting off where he notes that the “powerful establishment bar associations” had decided not to put their prestige on the line in the interest of formal rationality for black “rioters.” This means that the bar associations accepted instead of fought the label chosen by law enforcement officials. They were as interested in ending the riots as the law enforcement officials were. He observes how in Detroit the efforts of some non-establishment attorneys were frustrated by police court lawyers who took up a large amount of the cases, thus making a disruptive, jury trial strategy impossible.

Balbus relates of what happened in Detroit when a large group of black lawyers and several white guild lawyers came together in a defiant defense of the rioters in a small riot. The attorneys refused to play by the rules of an ordinary criminal court game and demanded jury trials (1973:243). This resembles highly the strategies followed in the cases of the Green Scare. In Detroit, this strategy leads to only 40% of those prosecuted being convicted. Balbus notes explicitly the complete absence of a defiance of the state definition of the violence as riots. He notes that few if any amnesty demands were made,

and that none received support from the defense community. As we will see, this is highly different in the three cases under study here. Interestingly, he notes that some of these lawyers later expressed regret that they had lent legitimacy to the authorities' efforts to treat the revolts as ordinary crime.

Defense lawyers in the Basque Country are united in the Lawyers Collective. Basque 'political' prisoners are obliged to take a lawyer from this collective. In the US, lawyers and activists employ the categorical difference between 'political' lawyers and 'normal' lawyers. Some activists choose a 'political' lawyer, others a 'normal.' In Chile, there are a few lawyers who are committed to the political struggle; however, the criminal defense of the cases is always done within the framework of liberal legalism. One lawyer actually said that he would love to be able to do a political defense in the courtroom on behalf of one his clients. No Mapuche activist so far has dared to take that step. One of the well known lawyers taking many cases of the Mapuche movement, in particular defendants of the CAM, expressed his motivation for taking up their defense by saying: "this *pueblo* is the only that fights against the owners of this country." This attitude resembles highly the motivation of one of the lawyers in many of the Green Scare cases: "these kids are the only real dissent in this country."

3. Persuading the public of the political definition

Activists often openly dispute the illegitimate tag the state gives their action by claiming their actions and widely publicizing, explaining, justifying, and defending it. In the US there are specific "press offices" to defend the actions taken by people in the name of the ELF or ALF. ETA has the habit to issue declarations in which they claim and explain their actions. In this regard it is significant that for a long time Mapuche activists never claimed their actions, explained by one activist as a consequence of the fact that the Mapuche people were not 'ready' for such actions yet and would not have accepted them. Some activists take their opportunity during a trial to defend their actions and explain the political significance. Convincing the public of the political meaning of protest actions

ultimately also is supposed to persuade people to adopt the world view of the activists and support their political cause.

Opp and Roehl (1990) distinguish between the 'direct' and the 'indirect' effects of repression; direct always being a cost; indirect being a cost or a benefit depending on whether the result is stigmatization or the transformation into a hero. Prisoner support is about countering the stigma of the prisoner (or defendant). Some prisoners indeed get turned into heroes. The criminal justice system generally creates a distance between the 'ordinary citizen' and those 'imprisoned'. Garfinkel argues that a criminal procedure can be seen as a "status degradation ceremony" which is similar in many societies even despite other differences (Vold, Bernard et al. 2002). This status degradation ceremony can be torpedoed by activists claiming the status of "political prisoner." The distance between activists and prisoners can be small as political prisoners tend to stand in very high regard among activists. Young Mapuche activists for example invariably talk highly of the prisoners, for example as people from whom they can learn. A Mapuche student group in Temuco set up organized visits to some of the political prisoners to learn from them for the struggle. Not always do prisoners receive enough support to counter effectively the state stigmatization. "I came out of prison as the most thrown away leader of the Mapuche movement" says Carlos, when I visit him in his house in his community. I asked him whether there was a party as he came out of the prison. "Not at all." He relates how people around him in his community have accepted the stigma imposed upon him by the state that he is "violent" and a "terrorist." He lost his status as a leader, and as someone with a legitimate voice.

Prisoner support groups or even the defendants themselves if they are not in pre-trial detention often travel around the country to tell their side of the story. Thus, for example, the defendants in the case of Gestoras pro Amnistía gave talks in many places in the Basque Country and in Madrid to present their interpretation of the prosecution, which was that they were prosecuted because of their support to Basque 'political' prisoners. Similarly, in Chile and in the US, defense lawyers, activists involved in prisoner support and defendants also traveled and gave speeches on many occasions. In these speeches,

the goal generally is (1) to present the defendant's interpretation of the events that led up to the charge, (2) the state's 'real' motivation for the prosecution, or (3) criticize the proceedings in terms of undue process. Mapuche activists for example generally claimed that they were prosecuted because of their Mapuche identity and their legitimate demands for land, denying all involvement in the alleged illegal activities. Even seemingly just decisions can be interpreted by activists as manipulation by the state. For example, in the trial against Gestoras, the prosecutor dropped the charges against two of the defendants. The lawyer in that case argued that this was only done to demonstrate that the state keeps the guarantees of the law, but that underneath the verdict was already decided even before the trial had started. As an example of criticism on the trial proceedings, EH Watch claimed that the requirement of the judge that the defendants in the 18/98 trial all had to be present, made it into a sanction without a conviction as the trial took 16 months (EH Watch 6 February 2008, analysis of 18/98).

Successful prisoner solidarity achieves that prisoners in themselves turn into a political issue. For a long time the public debate in Spain regarding the Basque struggle was engaged with activist-demands regarding their prisoners about amnesty, reintegration, and dispersion. In Chile, much debate has been generated by the cases that are at the moment in the Inter American Court for Human Rights, as well as by the use of Anti Terrorism Legislation.

Prisoner support groups attempt to create support for the prisoner that they defend. They also attempt to create awareness among the wider population of the existence of what they perceive as arbitrary or political repression. Often, they argue that the population should be concerned about this repression, not only because it is unjust, but also because it might victimize *them* at some point. Basque left nationalists for example talk about the Basque country as a laboratory of repression techniques that will be exported to the rest of the world. Similar claims are made by eco-activists. For example, on the 11th of January 2010 an eco-activist sends out an e-mail on a listserv calling on people to support a defendant charged with conspiracy regarding an ALF action in 2004 at the University of Iowa.⁵ He writes: "Over the last ten years, the government has led a campaign to

smash radical environmental and animal liberation movements. This campaign is referred to as the "Green Scare" by activists and organizers involved in these movements. Some believe that these movements have been targeted because they are "bastard movements," often unsupported and unpopular within the broader left, and thus a place that the government can set precedent and normalize their tactics of repression, with passive consent from society and the larger left. **These same tactics have been used to divide and repress social movements against oppression** since the chicken & the egg, and this will continue as long as our movements remain divided" (bold in original statement). Two Catalan lawyers write along similar lines in an opinion piece as they comment specifically on the general reactions regarding the sentence in the so-called 18/98 trial. They refer to the poem written by Brecht (which is actually wrongly attributed to Brecht, as the original poem was written by Martin Niemöller): "first there were a few, and then followed others, but when it was my turn, it was already too late. Hopefully this warning will reach those who applaud today or simply look the other way" (Asens and Pisarello 2007).⁶

Convincing the public of the political meaning of protest actions has as a very practical goal to obtain support, in the form of money, but also in the form of assistance by the avoidance of law enforcement. Various activists indeed go so far as to protect fellow activists from law enforcement, for example by offering a place to hide to fugitives which is a frequent practice in each of the cases studied here. A fugitive signifies an explicit defiance of the criminal justice system. Aiding a fugitive similarly means defying the criminalization.⁷ Several animal rights activists in the US who have been called upon to testify for a grand jury have refused to talk, thus risking imprisonment. More in general, evidence is difficult to collect without the cooperation of citizens. This has been a big challenge for law enforcement in Chile and Spain in relation to the cases studied here. Even the detection of crimes becomes difficult if citizens fail to report with the police.

Extremists, sympathizers, mainstream

Three characteristics can be used to determine the position of an activist on a spectrum comparative to other activists: the nature of the demands, the acceptance of illegal or violent means, and the amount of social support.

Table 4 Qualification of groups in the poles of a continuum

Nature of the demands	Compromising	Radical
Nature of means	Moderate	Extremist
Amount of social support	Mainstream	Fringe

Formal rationality in criminal law reinforces the distinction between demands and means by its claim of exclusive focus on means, not ends. Whereas ‘moderates’ tend to accept this distinction and acts upon it, ‘extremists’ often reject the very distinction and argue that movements must not be divided over the means of struggle, but accept a “diversity of means” (Gelderloos 2007). This division process can lead to a situation in which extremists support extreme protest activity and claim their prisoners as political prisoners whereas the moderates ignore or condemn them. It is obvious that this division between moderates and extremists can and does occur multiple times leading to the emergence of splinter groups that operate in relative isolation. Of course, the division between moderates and extremists often is not only an issue of means (extreme, illegal, or even violent). More often than not, the division is *also* related to the extent of the demands posed by the groups or persons.

There are many cases where defendants come not from the most extreme part of a political movement, but from the more moderate ranks. In these cases (for example the prosecution of Atutxa, the former president of the Basque president) prisoner support mobilization tends to be widespread and reach many people. Often, but certainly not always, prisoners come from the more extreme side of the political spectrum. It is instructive to note for example that the tactics employed by SHAC were considered to be extreme also within the activist community even before the criminal prosecution had started against them. A lawyer of their case expressed: “SHAC decided to leave the

ranks, to be unpopular, be aggressive, and be offensive. They were unaware though that what they were doing might be considered illegal. In their view PETA did not go far enough and was in bed with corporations.” Still, many activists who were not at ease with the tactics employed by SHAC do not agree with the criminal prosecution against them. It is exactly this line between what we are not comfortable with and what we criminalize that is explored at length in my dissertation.

Criminal prosecutions can work as a watershed in activist communities as they can create or strengthen distinctions between the “moderates” and the “extremists.” The moderates have to decide whether or not they support or even cooperate with the state’s prosecution. The moderates can choose to explicitly take distance from the extremists and reject illegal means as illegitimate. This active rejection can be more or less required by the government. Prisoner support groups vary in how much their efforts are geared towards the mainstream. Often, prisoner support mobilization stays within the small circle of fringe activists without much outside repercussion.

Mainstream eco-organizations in the US actively resist the tendency by the press to lump all environmentalist organizations together and all animal rights organizations together. In a press release in 2003 the Sierra Club distances itself from the Earth Liberation Front and complains that their actions hurt the entire movement (25 August 2003).⁸ "They make it more of a challenge for us because, unfortunately, we all get lumped together in the eyes of the public" (Sandy Bahr, legislative liason [sic] for Arizona's Sierra Club chapter, *Christian Science Monitor*, 2/9/01). Another citation indicates the boundary drawing that takes place: "I walk in to a meeting of the Natural Resources Committee and they say 'Oh, you're with those extremists!'" "So I have to take time explaining that the Sierra Club isn't part of this and doesn't support these actions" (Caryl Terrell, Sierra Club legislative coordinator in Madison, *Shepard Express Metro*, 11/23/00, Milwaukee, WI).

Similar press releases are sent out for example by the Humane Society in reaction to actions by the Animal Liberation Front. These public statements are accompanied by clear changes in their organizing efforts. The Human Society since a couple of years

organizes its own animal rights conference. The 'other' annual animal rights conference gives a podium to for example the SHAC-people and other people who have done direct action, such as Rod Coronado. Another example of the distance organizations seek from activists who are identified as too radical is that Paul Watson of the Sea Shepherds kicked Jerry Vlasak off the board of the Sea Shepherds after he had expressed the opinion that killing a scientist or animal tester could save many animal lives.

Interestingly, Balbus comments on the fact that at the time of the riots the respected black political leaders were still firmly wedded to the concept of nonviolent protest. Given the commitment to nonviolent, the ghetto revolts were a source of embarrassment and defensive reactions, relates Balbus. "The commitment to nonviolence, in other words, like the focus on political equality, militated against the capacity and inclination of black political leaders to oppose the court authority definition of the situation as one of 'ordinary crime'" (1973:259).

Similarly, for the Sierra Club the line is drawn at "violence": "While nonviolent civil disobedience has a distinguished place in American history, the Sierra Club uses only lawful means to protect the environment. We can respect the decision of those who, by undertaking acts of nonviolent civil disobedience, put themselves at risk, but peaceful disobedience and violence are vastly different acts. No matter what the motivation, the Sierra Club does not condone any acts of violence" (press release 25 August 2003). It is essential that the Sierra Club thus take up the consequential step to actively support law enforcement by offering a reward: "For the Sierra Club and other environmental groups, this is not a new position. In fact, when a Forest Service facility in the Willamette National Forest was torched in 1996, the Sierra Club offered a reward to anyone who could help identify the perpetrators."

Affiliation with or distance from activists involved in illegal activity is not an academic question as becomes clear in the dilemma that former prisoner P. Young poses for its audience: "There are people out there now, because of a slaughterhouse that was closed... Question: what would you do if some of these people would knock at your door

and ask for sanctuary? Would you be on the side of the butchers? Or on the side of the people that make the world a better place?" For activists, these questions are not just theoretical. In the U.S., various activists have been called to testify for a grand jury. Some activists have chosen not to cooperate with grand juries, and are serving jail times because of that.

In each of the country-studies it is possible to observe fluctuation or significant increases and decreases in the reach of prisoner support mobilization. For example in Chile, prisoner support mobilization in the nineties and early 2000s was a matter of a broad coalition of the Mapuche movement. More recently, prisoners do not receive much support outside their own specific ideological group. The already fragmented Mapuche movement seems to have fragmented even more, and the prisoners and their supporters have gone the same way. Still, the noise made by Mapuche prisoner support groups has led private landowners to hesitate about filing charges when faced with harassment, because they fear to be portrayed in the press as unjustly persecuting 'political' Mapuche prisoners (personal interview with lawyer for Chilean landowners in the region).

Divisions and losing the status of 'political' prisoner

In each of the country-studies it is possible to observe a host of internal disagreement among 'political' prisoners and their solidarity groups.⁹ As a consequence of these disagreements, prisoners can cut ties with the movement as a whole, or with their specific support group. Prisoners among each other can fight out differences. In Chile, some prisoner support groups explicitly choose to give support only to the most radical Mapuche activists (i.e. those belonging to the CAM). The strong collective of prisoners in the Basque Country forms a contrast to the bitter infighting that we can observe in the US among eco-prisoners. The eco-prisoner collective in the US is characterized by contention about plea bargains and a priding by those that maintain a hard-line stance. Various activists in the US criticize the lack of solidarity within the movement. But also the collective of Basque prisoners is showing dissent lately. Important old ETA-

members have left the collective over a dispute with the current ETA leaders. These prisoner-dynamics are an important part of the entire conflict dynamics.

Themes from the political struggle inevitably play a role in these dynamics of prisoner support mobilization. For example, the involvement of Chileans in the Mapuche movement is a very sensitive issue. Consequently, not all prisoner support groups include Chileans who were imprisoned as a consequence of their activities for the Mapuche struggle within their lists of “political prisoners.” Indeed, the question whether or not these Chileans are “Mapuche political prisoners” is answered differently by different Mapuche activists.

Aside from these particular themes, which are different in each country-study, in general disagreement related to prisoners concerns (1) the means of the struggle (violent or not); (2) the attitude towards law enforcement regarding the particular criminal case (such as negotiation with the government). Prisoners can break up with or be thrown out of the movement for example as they decide to condemn the use of radical means. This happened to two old and well known ETA-members. Similarly, environmentalist activist Tre Arrow was very careful as he reported about his renunciation of violent means. In other cases, prisoners can lose their status as ‘political’ prisoner when they use means that are considered to be too extreme. In this regard it is instructive to observe the process in which Ted Kaczynski (alias the Unabomber) was first included in listings of “eco-prisoners” and later lost that status and now is generally not regarded as one of the recognized eco-prisoners. An alternative reason for losing the status of political prisoner is the suspicion of cooperation with law enforcement authorities. In the US some prisoner support groups have explicitly taken distance from some prisoners that were labeled as traitors because of their cooperative plea bargains. Interesting, this selective prisoner support work (only supporting prisoners who refuse to “name names”) even became an issue during the sentencing of eco-activist McGowan, as an observer reported that the prosecutor and judge emphasized this as an indication of McGowan’s non-cooperating attitude.

3. Conclusion

In this paper I have described the process of prisoner support mobilization and the similarities and variation of its features as observed in the cases of Basque mobilization in Spain, Mapuche mobilization in Chile, and mobilization of eco-activists in the US. I have described how prisoner support mobilization challenges the state's definition of crimes by re-interpreting the facts that are the subject of the criminal charge and/or by challenging the legality and legitimacy of the criminal proceedings. In this description I have made distinctions between the kinds of support that people can give to prisoners and I have analyzed how the interpretive battle around criminal cases can engage different groups of the political spectrum by dividing or uniting them.

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¹ Organizations spread information that is useful in encounters with the police. For example in the Basque Country circulates the "Anti-repression Guide" elaborated by the Confederación General del Trabajo. It discusses search and seizure authorities, the rights of a detainee, anti-terrorist legislation, torture, among other things. It answers simple questions such as "who can ask for an ID?" It further discusses the ways in which anti-terrorist legislation changes the rights a detainee has, such as the right to make a phone call to tell about the detention and the place of custody. It also discusses what to do in the case of torture. It notes for example that if one thinks that one may receive maltreatment, it is convenient to have a forensic doctor check so that can be accredited that there were no previous injuries. It also advises that one has to remain calm, and keep in mind that at some point the torture will be over (CGT 2007:24).

² Starr et al observe a similar shift of attention: "As recognized by Boykoff (2006), Cunningham (2004), Davenport (2005), Marx (1970,1974,1979,1988) and Flam (1998), organizations under surveillance tend to shift their agenda from projects to self-defense. Interviewees described this repeatedly as 'a distraction'" (p.265): In the article "The Impacts of State Surveillance on Political Assembly and Association: A Socio-Legal Analysis, by Amory Starr, Luis A. Fernandez, Randall Amster, Lesley J. Wood and Manuel J. Caro in: Qualitative Sociology (2008) 31:251-270.

³ In each of the country studies, the treatment of convicted activists in prison is a theme of struggle. An example of a typical act of prisoner support is the following: on 15 July 2003, the Economic and Social Council of the UN receives a report written by the International Liga for the rights and liberation of the Peoples, a non-governmental organization recognized as an entity with special consultative status. The report addresses the "anti-terrorist discourse and human rights in the Basque Country"

(E/CN.4/Sub.2/2003/NGO/26). The report maintains that the “acts of destruction” in the United States (referring to 9/11) have created an atmosphere of fear and an anti-terrorist discourse that states use for their own interests. Lacking an accepted international definition of terrorism, the Liga argues that states have defined terrorism in ways that suit their political or geo-strategical interests (they continue discussing the incommunicado-provisions and the torture allegations). The Liga maintains that the “civil society” in the Basque Country is strong and enjoys a lot of popular support. The state is repressing this movement to control opposing political ideas. They claim that the human rights of freedom of association, opinion, and expression, have been violated.

⁴ The complaint dated 22 May 1992 relates among other things that José Angel Iniciarte was received in the Carabanchel Hospital after recommendation by the forensic doctor. Another of the detainees told that they had put electrodes and hit him on the head and testicles.

⁵ The charges came after the defendant had refused cooperation with a Grand Jury for which he was jailed for contempt of court.

⁶ In a different example Behatokia writes about the macro-cases of trial 18/98 and asserts that social and political activities are the subject of criminal investigation in all of the macro-trials (in: “Medidas antiterroristas”). They argue that until now these facts were “penally irrelevant” as they belong to “political criticism and the combat of ideas. Thus they are criminalizing goals. They are giving an extreme interpretation to the facts in order to include them in the offense of collaboration, when it doesn't belong there” (ibid.). They warn, that this practice to seek the justification not anymore in the methods of ETA but in its objectives, could convert any citizen immediately into a member of an armed organization.

⁷ At a more accepted and widespread level, in left nationalist café's in Basque villages often one can find a sheet on the wall where you can note the military controls that you encountered on the highway. Different interpretations exist as to the use to which this information is put. One interpretation claims that the numbers are counted at the end of the year to show the kind of militarization that exists in the Basque country. Alternatively it is a way to assist people who want to avoid these controls.

⁸ <http://www.sierraclub.org/pressroom/releases/pr2003-08-25a.asp>

⁹ See for disputes within ETA about violence: Article “From Revolutionary Dreams to Organizational Fragmentation: Disputes over Violence within ETA and Sendero Luminoso” by Cyrus Ernesto Zirakzadekh