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INSTITUTIONAL POLITICS AND UNCONVENTIONAL POLITICAL ACTION
Governmental "gag rules" and opportunities for dissent

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Introduction¹

Governmental agenda-setting always requires the application of so called *gag rules* (Holmes, 1988) that exclude certain conflicts from institutional politics. Political exclusion conforms "the second and third face of power" (Lukes, 1974) based on the inactivity and veto (Bachrach and Baratz, 1962) or the mere indifference of policy insiders towards outsiders' demands. Unavoidable restrictions may also be imposed in order to preserve the efficiency and even the functioning of the political system, especially in emerging democracies. Nevertheless, caution is required since gag rules also bear important drawbacks that weaken the agenda control and offer opportunities for dissenters.

This paper examines the interplay between official agenda control² and its challenge by unconventional politics with reference to mobilization of the Spanish antimilitary movement between 1970 and 1996.³ I apply a neo-institutionalist agenda-building model, and present a typology of the movement's strategies and governmental controls. Finally, I argue that the opportunities for unconventional political action may derive from the costs of imposing gag rules that run against public opinion. Or put the other way around, social movements mainly underline and deepen the contradictions of elite control of policy agendas. Under certain conditions, institutional silence might result in political controversy fueled by unconventional politics.⁴

¹ I am grateful to Hank Johnston, Mario Diani, Rafael Ajangiz and José López Rey for helpful comments and suggestions. My thanks also to José Ramón Montero, José María Maravall, and other members of the seminar at the Juan March Institute.

² I use the terms agenda control, agenda exclusion, agenda narrowing and gag rules as synonyms.

³ I will refer to the social movement, broadly defined, as the antimilitary movement. The first phase will be labeled the CO [conscientious objection] movement, as a reflection of efforts to win legal recognition of CO to the military draft. The second phase is called the *insumisión* movement, the term used throughout Spain to refer to the campaign of total rejection of the military draft, including the CO option, based on the principle of antimilitarism. *Insumisión* might be translated as "insubordination" or "refusal to submit".

⁴ I use the term unconventional political action to refer to those activities usually associated with "political protest". Social movements primarily rely on these forms of activities ranging from demonstrations to political violence; although sometimes they also employ conventional actions such as litigation or lobbying. Similarly, political parties sometimes initiate or support unconventional actions.

Agenda-building and unconventional political action

Legitimate political agendas are selected through the interaction of several institutions that include social grievances into official debates and activities (see the model proposed by Hilgartner and Bosk, 1988). On the contrary, new social movements represent some of the main challengers to the limits of institutional politics (Offe, 1985). We will see now that agenda-building analysis integrates (quite inadvertently) the two main approaches for studying new social movements, while being sensitive to their specific features as political actors.

The literature on social movements can be divided into socio-cultural theory about the construction of alternative identities and ideologies, on the one hand, and the political school of resource mobilization, on the other.⁵ The sociology of social movements (Touraine, 1981; Offe, 1985; Melucci, 1989 and 1996) has tended to analyze the new forms of collective action that "challenge the codes" (Melucci, 1996) to debate public problems, trying to alter social consensus or public opinion (Gamson and Modigliani, 1998; Gamson, 1992) by attracting new members (Snow et al. 1986; Snow and Bendford, 1988). Although activists could also be studied as policy entrepreneurs, mobilizing their resources in a strategic pursuit of concrete reforms (Jenkins, 1973; Jenkins and Perrow, 1977; McCarthy and Zald, 1977 and 1987). In this last approach, the movement must take into account the external conditions that may facilitate success (Eisinger, 1973). A favorable "political opportunity structure" [POS] is offered by stable alignments, channels of access and a certain degree of conflict inside the institutions (Tarrow, 1988 and 1994).

Both perspectives have been criticized (Klandermans, 1991:5-6) because they artificially stress the dichotomy between cultural and political goals, although this distinction might help to characterize "countercultural and instrumental" movements (Koopmans, 1995: 24-37). In an increasing way, the integration of both schools is being advanced by studies that show how the changes of movements' discourse explain cycles of protest (Snow and Bendford, 1988) and can open the POS (Tarrow, 1994; Diani, 1996). These ideas were fundamental to the seminal agenda-building literature.

⁵ See the comparison of both perspectives in Meyer (1991: 139-142) and Neidhardt and Rucht (1991).

Cobb and Elder (1971; Elder and Cobb, 1984) had already pointed to three critical processes for introducing new issues into the governmental agendas. Policy entrepreneurs should, first, define their demands in collective terms. That is what new social movements scholars call the "framing process" (Snow and Bendford, 1992). Activists need to burden political authorities with the responsibility for certain problems, detaching the latter from non-human agencies (Stone, 1989: 299); that is, defining gender inequality as the result of gender policies instead of the "laws of nature". Then comes the proposal of feasible solutions and, lastly, the selection of the actors that should carry out the new policies. Kingdon (1984) suggests that both legitimate solutions and the actors to implement them are highly dependent on the existing "opportunity windows", reminiscent of the widely applied concept of POS.

This literature also overlaps with social movement research by stressing a constructionist approach to agenda-innovation. Social problem definition, proposals of solutions and the selection of policy actors interact with outcomes that are contingent upon the power, resources and strategies of each group (Sampedro, 1997a). Long-term socio-cultural activities must be linked to short-term political demands. And by questioning the official agendas, the movement put into practice their characteristic tension between socio-cultural change and the political recognition of concrete demands. This way, the institutional agendas turn into the "arena" in which are defined what is political, "what belongs to the polis", transforming the "inner dilemmas" of a society into politics (Melucci, 1996: 226), "building" the public concerns of the authorities and their constituencies.

Institutional agenda control

Silence and exclusion are intrinsic to any policy-making process. Agenda-building requires agenda control, that is, restricting the scope and range of issues, actors and initiatives considered as legitimate in the political sphere. This can be seen as a process of institutional restriction that arises from the limited capabilities of any political organization to attend to an ever growing list of demands. But systematic exclusions stem from the institutional bias in favor

of the exploitation of some kinds of conflict and the suppression of others. Policy institutions - defined as the formal and informal conventions and organizations which are central to policy-making processes - tend to reflect "the mobilization of bias" (Schattschneider, 1960) in favor of existing arrangements and conventional groups. In a sense, the institutional model emphasizes both the possibility of agenda innovation and the inevitability of agenda control. It considers both asymmetries of power and the unintended consequences of institutional politics (Hall and Taylor, 1996).

Official policy-making is characterized by long periods of stability and short periods of change. It reflects "constantly reshaped systems of limited participation" (Baumgartner and Jones, 1992). Agenda-building lurches from one extended phase of stability to another as short periods of change are followed by new equilibria that reestablish the position of the dominant groups. The public officials and main interest groups establish new routines or alter the existing ones to support their interests. Instead, the role of social movements highlight problems and promote initiatives that have yet to become routinized. In limited cases, policy monopolies can be broken by major mobilizations that take advantage of (or foster) institutional controversy.

This model also recognizes the institutional character of the outcomes of unconventional political action. Sooner or later, state structures shape the social movements in the form of co-optation or marginalization. Meyer (1991) observes the transitory life of unconventional activism that can be co-opted into existing institutions, for example, putting leaders on advisory boards or to work on new government programs. One might also speak of institutional marginalization in which conflict is managed by commissions of experts, detoured to the courts, or confined to bureaucratic proceedings (at a bureaucratic pace). Enmeshing movements in the legal system is a common tactic.

On the one hand, the net effects of co-optation are the replacement of demands for structural change for incrementalist innovation, and the decline of unconventional tactics. On the other hand, institutional marginalization resulting in shuttling movement demands out of the public eye entails the end of interaction with decision-making units. All this means that

institutional agendas are more accessible for elites than for social activists, while recognizing that official politics may also create room for the expression of (self)excluded social demands.

Agenda-building consists of a process of institutionalization with different phases. The opportunities for unconventional political action persist while the movement is neither completely co-opted nor marginalized. As in any sports game, institutional rules may allow, but do not favor, the victory of the less conventional players. In the pages that follow I will display a longitudinal study of incremental institutionalization of the agenda challenge posed by the antimilitary movement in Spain between 1970 and 1996. The implication of this analysis is that some of the processes observed in Spain will be generalizable to other issues and other political contexts, especially in regime transitions. Prior to 1976, the movement was effectively marginalized by Francoist authoritarianism. At the other end of the study's temporal frame, we encounter permanent confrontation with governments, that was finally integrated by the political elites at the cost of breaking the official consensus on maintaining the draft Army.

Antimilitarism and politics

Since the 18th century the Spanish state required a long compulsory military service for all healthy adult males. In more recent times serious consideration of conscientious objection as an alternative service was excluded from the political agenda during the Francoist dictatorship (1939-1970), during Spain's democratic transition (1976-1982), and during democratic consolidation (1982-1996).⁶ Institutional responses to draft resisters ranged from repression and imprisonment under Franco, to bureaucratic stonewalling, symbolic measures, and temporary deferments after Franco's death. Cases of conscientious objection [hereafter CO] were few and mostly religious inspired during the Francoist period. After Franco's death in 1975, the opening of political space in Spain meant that more politically motivated CO cases appeared, with their number growing during the democratic transition. The legal texts that supposedly regulated CO

⁶ In 1996 the period of socialist rule ended with the election of a Conservative government. This was the second wave of elite replacement since the end of Francoism. The first was the replacement of center-right UCD elites by the socialists (PSOE) in 1982.

at this time were an ambiguous executive decree which recognized religious CO (1976) and constitutional article 30.2 (1978).

The military was a major antagonist against Spain's democratic transition. Francoist Generals supported an authoritarian, traditionalist, and unitary conception of the state that saw pluralist party competition as a threat. Conscientious objection was a direct attack on the privileged position that the military had enjoyed for forty years under Francoism. For a decade after Franco's death, transition governments balanced the power of the military and threats of coups d'état against popular demands for change. Even though the 1978 constitution provided a right to secular CO, and a CO Law was passed in 1984, it took until 1988 for implementation to occur. This was the first time that an alternative civilian service in the place of the military conscription was attempted to be put into effect.

For the main CO movement organization, the *Movimiento de Objeción de Conciencia* (MOC), implementation of these laws was not enough. In 1988 they responded by launching a campaign of civil disobedience (*campaña de insumisión*, or campaign of "insubordination") against all compulsory military and civilian service. Their reasoning was that an acceptance of alternative service continued to legitimate not only the military draft but the military itself. The strength and numbers of the Spanish anti-draft movement grew at an unprecedented rate as a result of the *insumisión* campaign. Between 1988 and 1989, the number of official recognitions of CO almost doubled. Between 1989 and 1996 the percentage of CO grew about 5.1% to 73.7% of the total draft (Ajangiz, 1998:80). This is the highest percentage ever reached, compared to the Western European average of 5%-10%.

According to several polls, the *insumisión* campaign also enjoyed broad public support (see Ibarra, 1992; Sampedro, 1997a). By 1996 those choosing total rejection of the conscription system (called *insumisos*), that is, refusing both military or substitute civilian service - thereby risking imprisonment, disqualification from public jobs or stipends and monetary fees - reached 14,000 (Ajangiz, 1998:47). In other European countries total objectors remained at about a dozen cases per year (*El País*, January 30, 1994, p. 23). In response to popular pressure, the Conservative government announced in 1996 the end of military conscription by the year 2000

(*El País*, May 3, 1996, p. 22) and in 1998 began to apply amnesties to the imprisoned *insumisos* (*El País*, March 30, 1998, p. 15). As we will see now, Spain may be considered the first case where a social movement forced the transition to an all-professional Armed Forces *in peace time*.

Sources: Official data from the Ministries of Justice; Sampedro (1997a:78; 1997b) and Ajangiz (1998: 78).

Opening, expanding and blocking institutional politics

We now examine in detail the strategies to overcome agenda control. Then we interpret the success of unconventional politics by discussing the failed nature of the official gag rules.

The Spanish antimilitary movement [MOC hereafter]⁷ managed to open, expand and block the official agendas. These are three policy impacts that may be applied to other unconventional actors. Table 1 shows four periods, beginning with the attempts to legislate religious CO and ending with the unexpected announcement of the Spanish all-volunteer Armed Forces for the turn of the century.

The activists introduced the legislation of the CO as a concern of the last Francoist governments, and of the executives during the transition and the social-democratic period. When a CO law was passed in 1984, the MOC expanded the official agendas demanding, first, a liberal reform and, then, the abolition of compulsory draft. Finally, the implementation plans of the CO legislation clashed with the growing numbers of objectors and total refusers which blocked the official initiatives and forced the 1996 new Conservative government to design a professional model of the Armed Forces.

(1) *Opening the agenda* consists of introducing new issues that merit the serious consideration of policy makers. But social movements' immediate demands are connected to the pursuit of long-term structural changes. While the first objectives can be achieved after several decades (in our case, a secular CO law, a civilian service instead of the military service, or the end of the draft) the structural demands (the abolition of the Armed Forces) might never be accepted as viable policies.

⁷ The MOC (*Movimiento de Objeción de Conciencia*) is the main organization of the antimilitary movement that, first, led the recognition of a CO law and in the mid-1980s launched the *insumisión* campaign to force the end of the compulsory draft of males both for the civilian and military services.

Table 1.- CO Legislation, Measures and CO Movement's Demands: 1970-1998.			
YEAR	LEGISLATION	MEASURES	MOVEMENT'S DEMANDS
1970	First governmental proposal on religious CO. Rejected by the military.	Consecutive 6 year imprisonments up to age of 38.	Law of secular CO
1971	Second governmental proposal on religious CO. Rejected by the military	Idem	Idem
1973	Military Code	3 to 6 years imprisonment	Idem
1976	Decree on religious CO.	Idem	Idem
1977	Suspended military duties	Discretionary delays. Forbidden propaganda. 3-6 ys. Prison.	
1978	Constitutional right of CO	Idem	Idem
1980	Failed governmental project on secular CO	Idem	Idem
1984	Law on secular CO and Penal Code of Civilian Service	Idem. CO propaganda allowed. Official recognition of CO	Reform of CO law
1988	Decree of Civilian Service	Civilian Service, imprisonment of <i>insumisos</i> (2 - 6 years)	End of conscription
1991	Model of semi-professional Armed Forces	Semi-professional Armed Forces in year 2000	Abolition of Armed Forces
1995	Penal Code	Disqualification of <i>insumisos</i> from public jobs or stipends up to 14 years, plus fines of up to 36 million pesetas, and prison in some cases	Idem
1996	Governmental Announcement of professional Armed Forces	Professional Armed Forces in year 2000	Idem
1998	Governmental reform of penalties against <i>insumisos</i> and New Model of Armed Forces	Disqualification of <i>insumisos</i> from public jobs.	Idem
Legal Sources: <i>Boletín Oficial del Estado</i> , Ministry of Defense Internal Circular, and <i>Boletín Oficial de las Cortes Generales. Congreso de los Diputados</i> . I-V Legislative Periods. Sources of the Movement: Internal Documents of the MOC, and Records of the State Congresses (1979 and 1986) and State Assemblies of the MOC (1976-1996).			

In order to open the agenda, the activists strive to confer social visibility and political relevance to issues that have been previously ignored or vetoed. Resorting to countless non-violent actions, the MOC managed to maintain a constant presence in the media (Sampedro, 1997c). This public visibility helped to maintain close contacts with the dissenting political factions of Francoism and the opposition parties during the democratic period, especially when

new regulatory processes were about to be set in motion. As time passed, most political groups seized upon the movement's immediate demands to promote their own careers. In each period, the MOC gained the support of the whole political class, except for the party in power, to various degrees.

The Christian-democrat factions in the last governments of the dictatorship attempted to rule the religious motives for CO. Two initiatives clashed with the military hard-liners who, for the first time during the dictatorship, refused them and only approved a severe reform of prison sentences in 1973. The transitional period changed intransigence and repression into benign inactivity. In 1976 an executive decree recognized CO just on religious grounds; it nevertheless condemned the vast majority of secularly motivated objectors to prosecution and imprisonment. The limitation of CO to religious grounds was never implemented because of the MOC's refusal and the media coverage of their protest. In November 1977, the Defense Ministry provided an "unofficial exemption" for those who dared to apply for CO recognition while maintaining the menace of prison for protestors. The "unofficial" nature of this policy was revealed when the 1978 Constitution recognized secular CO. Therefore, the governments of the ruling party, UCD, implemented a *hidden agenda* that was kept secret by threat of military tribunals and did not correspond with the legal framework.

The last executive of the centrist UCD managed to present the final project of legislation during the regime transition. When the initiative was to be debated it confronted double resistance: entire parliamentary disagreement (except the right party) and the coup d'etat on February 23, 1981 when the Spanish parliament was seized by a Colonel in the Civil Guard. The UCD initiative was never discussed again and many objectors were exempted from military duties while waiting a definitive regulation. But governmental footdragging and *concealment by postponement* kept the numbers of objectors low, placated the military and avoided policy debate.

The Spanish socialist party (PSOE) was swept into office in 1982 and legislated secular CO two years later. Contrary to the hopes of movement activists, its policy was dogmatic about the military draft. The 1984 law was quite liberal in comparison to European standards but it

kept all possible restrictive criteria for claiming CO status and performing civilian service. These very same restrictions had been criticized by the socialists when the previous UCD project was presented. Thus, the MOC began an incremental mobilization that culminated in the *insumisión* campaign.

Introducing new policy initiatives that never get to the implementation stage might seem irrelevant. Nevertheless, the MOC transcended the Francoist definition of CO as a "religious" problem, it promoted the incorporation of the minimum legal profile of Western democracies during the transition, and gained an advanced legal framework with the socialists. The combination of protest activities and political contacts with the parliamentary elites proved to be extremely fruitful. Protest conferred public visibility to the demands and the acceptance of some viable proposals by most of the opposition forces provided the MOC with political legitimacy. For the political class, embracing the MOC's demands increasingly represented proof of sensitivity to public opinion, especially towards young and progressive constituencies.

Our case study also reminds us that the aims of unconventional politics require some time, on occasions much time, to be included in governmental agendas. Lower level agendas may be opened by the activists before. The MOC found early receptivity in the agendas of the youth organizations of the political parties, in the electoral agendas (even of the party in power) promising alternatives other than the official measures, and in the parliamentary agendas of the opposition (Sampedro, 1997a: 173-233). These institutions did not directly manage the conflict with the activists, not to speak of the European institutions that backed the Spanish MOC from very early periods (Sampedro, 1997a: 134-139). All this means that the collaboration between activists and politicians tends to be charged with rhetoric and it usually ends when the latter come to power. Some social movements are good companions of the political class while being in the opposition and become odd old friends while governing.

In order to open the agenda, unconventional politics find in the politicians better speakers than administrators. Still, the official agenda can be opened by introducing new demands, provoking policy u-turns or widening the arguments and the disputes of legitimate

politics. In the event that the government fixes an agenda contrary to the movement's goals, the activists can try to expand and/or block it.

(2) *Expanding the agenda* involves a redefinition of political goals beyond what public officials are ready to assume. It requires the substitution of one issue for another contesting the specific measures and the policy style with which the government included the activists' initial demands. Agenda expansion entails reopening a debate that was artificially or forcefully closed. This debate can take place in several agendas other than the executive one, that is, the parliamentary, electoral and judicial agendas.

After the 1984 CO law, the MOC organized an incremental mobilization against its implementation. Collective resistance was launched against the official recognition process, the prohibition to object after being drafted and, finally, by adopting total refusal both to the military and the civilian services. By criticizing the still unfinished CO legislation, the movement ended by questioning the compulsory military draft. The main rationale of the activists was that legalized CO would always be a "minority" option to preserve the required numbers of conscripts (Sáinz de Rozas, 1988).

The increased level of political controversy is clearly shown by the figures of the initiatives of the parliamentary opposition. Between 1986-1989, 43 initiatives were promoted concerning the CO legislation. These figures almost doubled to 90 between 1989 and 1993, and the contention between the PSOE and the opposition remained high with 83 initiatives presented during the last period of socialist rule, 1993-1996.⁸ Even the decision of the new conservative government to provide amnesty to the *insumisos* in 1998 coincided with three other initiatives coming from the opposition (*El País*, February 18, 1998, p.20). Increasing dissent spread over the civilian service, the penalties applied to the civil disobedients and, finally, the viability of the military service. Abolition of the draft had become the main demand of the movement, breaking previous consensus among the political class. After each of the last four general elections, the starting positions of the political class evolved towards their opposite.

⁸ Figures extracted from the parliamentary records of the Congress of Deputies.

Table 2. *Party position regarding compulsory military service.*

PARTY	1986	1989	1993	1996	1998
Socialist (PSOE)	Y	Y	Y	Y/N	N
Conservatives (PP)	Y	Y	Y	Y/N	N
Communists and other left forces (IU)	Y	Y/N	N	N	N
Catalonian Nationalists (CiU)	Y	Y/N	N	N	N
Basque Nationalists (PNV)	Y/N	N	N	N	N

Y: Yes; N: NO; Y/N: Uncertain.

Sources: Sampedro, 1997a:219; Ajangiz, 1998:60.

The agenda expansion achieved by the MOC successfully exploited the electoral controversy between the two main parties, PSOE and PP, on one side, and the Communists and the peripheral nationalists, on the other. In December 1991, all forces except the communists agreed on a partial reform of the military draft: a semi-professional model of the Armed Forces was designed to be achieved in the year 2000.⁹ This agreement contradicted the figures of public opinion polls demanding an all-volunteer model, even among the voters of the main parties (Ajangiz *et al.* 1991; Sampedro, 1997a:222). Therefore there were obvious electoral incentives for changing positions. The 1996 electoral contest between the PP and PSOE broke this consensus with promises of further reforms of the CO legislation and the military service, assuming the end of the latter in the near future.

In order to expand the official agendas, the MOC always applied a careful framing of its demands connecting both with the opposition and public opinion. During Francoism, CO legislation was demanded as a sign of recognition for religious pluralism. In the transition

⁹ Other measures of this reform was to reduce military service to three months, to assign conscripts close to home, and to post a "chart of rights inside the headquarters".

period, secular CO was defended as a basic human right in any democracy. And in the consolidation phase, CO was transformed into collective civil disobedience against unpopular military conscription. Despite their radicalism, the *insumisos* acted as a consensus movement, denouncing the crisis of legitimacy of the compulsory draft.

Unconventional politics relied also on the judicial processes where the activists had been diverted. High ranking courts, associations of attorneys and of the judiciary backed the MOC, avoiding inflicting prison sentences on the civil disobedients. A second tier of pressures coming from the judicial sphere affected the agenda of the governments which continuously changed the legal penalties when coming into power (see Table 1).

Expanding the official agenda requires promoting a new hierarchy of actors which are central to the public policy that is being challenged. The Armed Forces and the Ministry of Defense had been the key actors. Therefore, first, the MOC questioned the absolute military control over all Defense issues and many civilian activities during the dictatorship. In the transition it denounced the subtle and informal control of the military over the political class. And, finally, the *insumisión* campaign rested legitimacy to the conscripted Armed Forces. This incessant pressure resulted in significant changes on the part of the actors taking charge of executing the new policies. It is very significant that after the Ministry of Defense accepted the model of an all-volunteer Armed Forces, the CO legislation was reformed again in 1998, incorporating the last legal proposal of the MOC presented eighteen years before (Sampedro, 1997a: 169).

In sum, agendas are expanded by introducing new actors in the policy-making process or changing their preferences. This usually happens when governmental elites clash with the opposition, when they are pressured by other institutional actors or when the gag rules vanish in electoral competition for seizing upon the most popular demands of the movement. We have found clear examples of this strategy in the progressive elites of Francoism, in the socialists when opposing the centrist UCD, and in the entire political class during later electoral contests. Such a degree of controversy can also contribute to the blockage of official agendas.

(3) *Blocking governmental agendas* entails impeding or hindering the implementation of a contested public policy with the help of institutional allies and civil society. When, in addition, unconventional politics achieve a generalized mobilization among the population most affected by official plans, the latter might be abandoned in favor of a totally new agenda.

This is what happened during the last legislative period under socialist rule (1993-1996). The 1991 designs of semi-professional Armed Forces were complemented by an Urgency Plan to implement the civilian service alternative to military duties, plus a significant increase in the penalties for civil disobedience. Both measures aimed to control the numbers of conscientious objectors and *insumisos*. In 1993 the civilian service received an extraordinary budget injection. A Law of Civil Volunteering was passed later on, in order to recognize the participation of young males in non-governmental organizations as being equivalent to performing the civilian or military services.¹⁰ In this context, an increase in the prison sentences for *insumisos* seemed logical, who in addition faced disqualification from public jobs or stipends for up to 14 years, plus fines of up to 36 million pesetas (240,000\$). The 1995 Penal Code argued this level of repression as a response to the "social insolidarity" of civil disobedience.¹¹ Nevertheless, one year later, both the semi-professional design of Armed Forces and the Penal Code were blocked by the institutional controversy and the evolution of the CO figures.

Political disputes were accompanied and fueled by the judicial impact of the MOC. In the last three socialist legislative periods (which had to implement the 1984 CO laws) there were 213 parliamentary initiatives, most of them from the opposition: 20% referred to the *insumisión* campaign and 15% proposed to liberalize the CO laws, assuming the forceful full professionalization of the Armed Forces. Controversy entered into the executive between the socialist Ministries of Defense and Justice, and into the local governments that refused to implement the official policy. The regional institutions of Catalonia liberalized the CO framework on their own and the Basque institutions refused to cooperate with the civilian and the military draft (Sampedro, 1997b).

¹⁰ Royal Decree 266 of February 24, 1995.

¹¹ Organic Law 10, November 23, 1995.

Thus the government could neither present a coherent policy nor demand its implementation. Both the judicial elites who had to punish the activists and the organizations of civil society who had to provide new posts for the civilian service did not collaborate. The civil disobedients received acquittals, penal reductions and quite disparate sentences which diminished the legitimacy of repression. In addition, the activists had also questioned the legality of the CO regulation in the highest rank Courts. In 1991 the implementation of the 1989 decree of civilian service was paralyzed by the Supreme Court because the Administration had not consulted the position of the most moderate organizations of objectors. Another sentence of the Supreme Court in 1998 determined that the government should exempt from performing the civilian service more than 50,000 objectors who did not have a post available after waiting for several years.¹² These are very clear examples of institutional unpredicted consequences in the official strategy of diverting a political conflict to long judicial reviews.

The chaos and paralysis of governmental policy is evidenced in the problems of assigning and incorporating the massive numbers of objectors to the civilian service. Figure 2 shows that the sum of objectors who have been exempted and wait for an assignment always surpassed those assigned or incorporated into the structures of the civilian service. The opposition of the Ministry of Defense to increasing the budget for the CO service and the reluctance of the NGOs to offer new posts led to the stalemate of the governmental agenda. The legitimacy of this alternative service was also severely eroded by the periodical amnesties to drain the "waiting list".

¹² *El País*, February 28, 1998, p.18.

Source: Ajangiz, 1998:83.

When taking power in 1996, the conservative party was in a minority position and needed the support of the peripheral nationalists. A partial institutionalization of the MOC's immediate demands was attempted in order to close the CO agenda definitely. The promise of an all-professional Army for the year 2000 was the unique state level measure agreed with the nationalist allies of Catalonia.¹³ This announcement erased the issue from the agendas of the opposition and wiped out the main banner of the *insumisión* campaign (*Mili no*, "No to the draft"). The next step consisted in freeing the imprisoned civil disobedients, anticipating three other initiatives of the opposition (including one of the PSOE), and the liberalization of the conditions for performing civilian service. Demographic calculations showed that the numbers of objectors did not menace the transition period towards the professional Armed Forces.¹⁴ Then the reason of the previous legislation - the maintenance of the military service as policy priority - had disappeared.

The firm rhetoric (Aguilar and Bardají, 1992) and the strong consensus that backed the 1991 compromise of semi-professionalization had been undermined by institutional disputes and popular resistance blocking the agenda. If elite disensus can be considered the main variable in the political opportunity structure (Klandermans, 1989: 388), unconventional politics may consist mainly in spanning and accelerating that disensus until official plans collapse. Governmental agendas can be opened, expanded and blocked by strategically placing certain demands that run across the institutional map forging political competition. This eventually results in policy innovation, which still might not necessarily coincide with the core demands of the movement. That the professionalization of the Spanish Armed Forces was propelled by a social movement demanding the abolition of any war structure has been ignored by the increase in the Defense budget and the scant public accountability of the new plans.

¹³ See Point #19 of the Governance Pact assigned by the PP and CiU. *El País*, March 1998, p.16

¹⁴ See *El País*, March 9, 1998, pp. 1 and 15.

Gag rules: types, conditions and costs of their use

Demanding the abolition of the Armed Forces or proposing CO as an absolute civil right clearly questions the most basic state structures. Private and public issues appear blended in a peace movement where the conscientious objector joins unconventional political actions springing from its ideological, ethical or moral tenets. In addition, the activists consider peace, justice and freedom as menaced by the military structures that impose their definitions of the "national interest" or "state security" against "true social welfare" (Ibarra, 1992: 27-65).

The MOC represents a "fundamentalist pacifism" that does not aspire to share power, but to distribute it horizontally.¹⁵ Its political activities are based on communal ideologies and solidarities. And the activists mix rational and emotional arguments that may be incompatible with the political system, especially when it is emerging as in the case of Spanish democracy. Stephen Holmes (1988) has noted that the exclusion of these kinds of demands does not always presume an elite conspiracy. The *gag rules* might be a requirement for the maintenance and viability of the institutions if they avoid governmental paralysis, waste of efforts and cumbersome antagonisms. But clearly these were not the effects of the Spanish CO policy. Three theoretical questions arise concerning the types of gag rules, the conditions and the costs of their application, if any.

Types and evolution of gag rules in transition periods

Emerging democracies face an outburst of social demands and expectations that might hamper their future. We have mentioned a whole array of gag rules applied to the MOC and I will now place them in a double axis mentioned by Holmes¹⁶ (1988:25): their autonomous or heteronomous origin (that is, self-imposed by the political class or imposed by the most

¹⁵ See Finger (1990), for the distinction between "realistic" and "fundamentalist" pacifism in Western Europe.

¹⁶ Holmes presents this typology, but he does not develop it, nor does he relate the gag rules to different regimes or note some of their distinct functions.

powerful actors) and their formal or informal incorporation (that is, incorporated into the Constitution or other foundational texts, or based on a tacit agreement). Table 3 places the four agenda stages that we studied in this matrix.

Table 3. *Forms of control of the governmental agenda*

	HETERONOMOUS	AUTONOMOUS
FORMAL	1. Franquism	3. Socialist governments
INFORMAL	2. Transition	4. Conservative government

The details of Table 3 can be seen in Table 1. During the dictatorship the military elite explicitly vetoed the governmental plans to rule religious CO and imposed severe penalties. All this was made by invoking the Francoist foundational texts which defined military service as a "duty and a honor for every male citizen". The veto was applied by the Commission for National Defense, a corporatist organ composed of high ranking officers acting as an heteronomous power (Sampedro, 1997a: 115-143).

The governments of the transitional period (1976-1982) suffered the informal and heteronomous veto of the military hard-liners. The latter conceded in providing "illegal and temporary exemptions" to those who declared religious motives for CO. As explained above, the political class handled this "hidden agenda" in order to avoid military unrest. The highest ranking officers were not ready to accept a civilian service disconnected from what they called "National Defense". Finally, the UCD law project for secular CO was never discussed by parliament, due to the 1981 coup d'état, and many of its ambiguous articles revealed the informal pressures and vetoes coming from the military (Sampedro, 1997a: 144-172).

The socialist agenda, as a whole, was built upon the first autonomous civilian gag rules, that were firmly based on parliamentary majorities and the 1978 Constitution. Although led by

civilian politicians, the Ministry of Defense prevailed in maintaining the CO policy as form of securing the military draft. This policy showed an impositional style, refusing to accommodate the criticisms of both the MOC and the opposition. The institutional competence of the Ministry of Defense, directly charged with military service, prevailed over the efforts of the Ministry of Justice to implement and reform the CO policy in order to adjust it to the level of social conflict. Most socialist leaders also defended a compulsory military draft for ideological tenets and economic reasons. Therefore, formal and autonomous gag rules were applied, having their most evident example in the 1991 partial reform of the model of the Armed Forces and the 1995 Penal Code (Sampedro, 1997a: 173-231).

Finally, the policy u-turn taken by the 1996 conservative government also responded to an autonomous control but with informal origins. The unexpected compromise of an all-volunteer Army was achieved through informal and secret contacts with the Catalanian nationalists and high ranking military officers. It departed from the previous policy line and from the electoral program of the conservative party. And it even ignored the constitutional definition of CO as a secondary option after the military service.¹⁷ Later reforms of the CO laws and of the penalties for *insumisos* were, of course, approved by the parliament.

The evolution of gag rules confirms that regime transitions begin with a formal-judiciary institutionalization, that must be substantiated in policy and substantive institutionalization later on (Maravall and Santamaría, 1989: 186). But the inconsistencies of the process are also manifest, precisely in public policies dominated by hard-liners of the old regime. Actually, the CO legal recognition and the alternative civilian service have never been implemented in the terms stated by the 1978 Constitution and the 1984 laws.

A metamorphosis of agenda controls can be observed when considering the invariable exclusion of the MOC and its allies, although their demands enjoyed growing popular support. The Francoist period fits into pure elitist formalized gag rules, that in the transitional period were turned into informal control. The socialist and conservative governments imposed another

¹⁷ This was the interpretation given by the Constitutional Court in 1987, when stating the constitutional preeminence of the military service over the right to CO. See sentences 160 and 161 in Sampedro (1997a:183).

form of control based on the institutional preeminence of the military structures during the stage of democratic consolidation. In each period the gag rules performed a different function. Francoist rulers pursued the eradication of social demands. The politicians of the transitional period concealed a conflict that menaced the viability of the new institutions. And the governments of the consolidation period achieved the institutional marginalization of the activists. Although the MOC had been able to interact with the institutions for two decades, its positions regarding the Defense model are almost totally excluded from current political and media debates (Sampedro, 1997c). The civil disobedients do not suffer imprisonment, but disqualification from public jobs and stipends remain. Present mobilizations (tax objection, defense budgetary cuts or campaigns against the weapons industry and commerce) will hardly surpass the popularity achieved against the military draft or the imprisonment of the *insumisos*.

We have seen that the agenda controls applied during more than 25 years helped to ignore, conceal, veto or divert unconventional politics towards other spheres: the military legislation, the *hidden agenda* and the judiciary. But social conflict increased and the military draft entered into crisis. The official gag rules clearly did not satisfy the requirements for a positive use.

The positive use of the gag rules

The "politics of omission" argued by Holmes (1988) seem to require certain prerequisites. While we describe them we will also note their absence in our case study.¹⁸

First of all, a gag rule must reflect a rational self-limitation of the political class. It should not be an *ad hoc* rationalization of the position forced by the most powerful actor. Otherwise, when the latter loses the power to control the agenda, bitter controversy and policy inconsistency can arise.

¹⁸ Stephen Holmes scatters a few of these notions in many examples of his article (1988). I have ordered such ideas in order to apply, comment on and expand them.

The omissions applied to the Spanish CO policy were due mainly to the institutional resorts of the military elites. When the threat of a regressive military backlash faded with democratic consolidation, the electoral debate incorporated the issues of CO and military service. From the 1986 general elections onwards, all political forces engaged in so called "electoral sales", competing to amend the CO laws and the military draft. Electoral promises successively undermined the official policy, and the electoral "sales" ended up in policy "bargains" when the Ministry of Defense declined to maintain universal male conscription. The 1996 conservative government dismantled all previous agreements in favor of a half-volunteer Armed Forces without a previous design or estimations of the costs of a new model.

Secondly, all policy actors should agree on the terms to expel certain issues from the agenda. Limitations should be strict and bear clear benefits for all the groups involved. Instead, the official CO policy was always presented as disconnected from the military service in order to avoid criticisms. The interdependence of both policies was never stated, but by the MOC. When public opinion polls showed the popularity of the MOC's demands and the crisis of legitimacy of the draft, disputes over both issues fed each other in the electoral and parliamentary agendas. The result was the policy turmoil described above.

Thirdly, any gag rule must be considered a temporary solution. Sooner or later it must be removed through an open and rational debate when the motives for agenda control disappear. Nevertheless, Spanish public officials forgot this prerequisite. The Francoist punishment of imprisonment of the conscientious objectors dictated in 1973 was not reformed until 1985. And the temporary exemption from military duties for the objectors lasted from 1977 until 1988. That is, the most lasting gag rules were the threat of imprisonment of the dictatorship and an internal order of the Ministry of Defense that contradicted the Constitution.

And finally, policy omissions should assure to all parties respect for their "ultimate values - the things they care about most" (Holmes, 1988:37). This could be achieved by guaranteeing all groups enough autonomy to manage their own affairs. But this was only the case for the military elites who dictated or conditioned the CO policy with relative (although

decreasing) autonomy. As a consequence, the MOC understood that its basic demands would definitely be neglected. The legal and personal insecurity of the conscientious objectors was extended for very long periods, and this partially explains their permanent resilience and final resistance.

In sum, the gag rules can not be imposed upon the agenda for too long, with confronted elites and uncertain limitations that only satisfy the most powerful elites. The disfunctions of inefficient agenda control have been described above. Now we can interpret them in a theoretical perspective as opportunities for unconventional politics.

Negative use of gag rules and opportunities for dissent

Although efficient, agenda narrowing always brings some costs. Holmes (1988:49-52) points to a few in his article:

(1) Conflict avoidance exposes a society to manipulation and to false interpretations by those groups that want to take advantage of the suppressed conflict. Leaving aside the legitimacy of the MOC's demands, it seems paradoxical that the unique legal framework sanctioned by a democratic parliament and by the Constitutional Court was criticized as a regression. The MOC managed to introduce a false rhetoric in many institutional arenas, comparing the 1984 laws to the Francoist situation. For their part, military elites kept a tight control over official statistics, airing and manipulating the data in order to exaggerate or to diminish the conflict according to their interests. In many instances, CO and *insumisión* figures were interpreted as signs of fraud in the civilian service or as mere military draft-dodging. The media also presented many official plans as if they were substantive policies, although they never became implemented. Then the public was exposed to false announcements of "crisis" and "normalization" phases of the CO policy. In this context, social debate was pervaded by disinformation and manipulation (Sampedro, 1997c).

(2) A second shortcoming of agenda restrictions is that they never function as perfectly neutral, because they always favor some actors and disfavor others. Thus, the situation of winners and losers tends to remain. In this perspective, the MOC was forced to take a "long march through institutional indifference and coercion" instead of the "long march across institutions" that most social movements pursue.

And (3) far from dampening conflict, gag rules can exacerbate a diffuse and latent antagonism. This was especially true when the socialist government included in the 1984 laws the whole package of measures to control the number of conscientious objectors. "If they [the government] had accepted to withdraw only one control we would have had big problems in launching the *insumisión* campaign", declared one leader of the MOC.¹⁹ Instead, the official position conferred visibility to the activists' demands, fueled agitation and institutional debate.

"[G]ag rules, although often presented as impartial measures serving the cause of communal peace, can easily be turned into weapons in a partisan struggle", ends Holmes (1988:52). But he does not go any further. We can now extend and detail the costs of agenda control, considered as potential opportunities for unconventional politics.

(4) Delay and deferment of decision-making allows the dissident groups time to radicalize their strategies. Therefore, it might frustrate or hinder their co-optation which sooner or later must happen. In Spain the imperative policy style clearly provoked a spiral of contention spinning faster and faster. All the associations of the antimilitary movement gathered in a front to resist the CO legislation through different degrees of civil disobedience. The *insumisos* rejected both the military and the civilian service, but many legal objectors abandoned the latter and many more others publicly denounced its scant utility (Sampedro, 1997a: 183-191).

(5) A gag rule always requires exerting repression or coercion that might exacerbate conflict as well. Moreover, the legitimacy of politicians in power can be damaged, especially when the "victims" enjoy popular support. In this case, repression is not usually applied in strict

¹⁹ Interview with Rafael Sáinz de Rozas, lawyer and activist of the MOC in the Basque Country. Bilbao, February 17, 1993.

terms, to avoid harming the officials' public image. Then the activists can radicalize their strategy knowing that the penalties will be partially inflicted. And the judicial system responds in consequence. For example, the Spanish military tribunals sent all the cases for *insumisión* to the civil courts, just after two years of the civil disobedience campaign. Later on, most civil judges and attorneys searched for all kinds of exemptions to avoid the imprisonment of the *insumisos* (Sáinz de Rozas, 1998).

(6) But contention can also spread if the dissident sectors extend beyond the original group of marginalized actors. This was the case of the local and regional administrations and of the civil society associations which were not included in the plans for implementing the civilian service until 1998, when the military draft was about to disappear. Instead, these actors were critical assets of the *insumisión* campaign: they promoted many policy initiatives endorsing the movement's demands and they helped to block the official policy, by refusing to cooperate in implementing the military draft or the civilian service.

(7) The growth of opposing forces can also occur if the censored issue is linked to others with greater social incidence and conflict. This happened when the MOC abandoned its drive for liberalizing the CO laws and demanded the abolition of the military draft instead. From 1989 onwards, the *insumisión* campaign gained activists and supporters, political impact, public and media visibility more than ever expected by the governments or the movement.

(8) Conflict avoidance is also very vulnerable to unexpected events that produce a "spillover effect" (Kingdon, 1984) on the suppressed issue. "Surfing on the wave" dissenters can attract new resources or increase their visibility. Our best examples are the NATO referendum in 1986 and the Gulf War in 1990-1991. The final entry of Spain into NATO represented a crossroads for the pacifist movement. After this controversial referendum the pacifists found in the military draft a new banner and gathered the support of all left opposition and of the Basque and Catalan nationalists whose constituencies opposed the entry into NATO. Five years later, the Gulf War propelled the *insumisión* campaign to the forefront of the anti-war mobilizations, even suspending parliamentary debates about the partial reform of military service. By then, the

antimilitary movement had gained the core position of the Spanish pacifist movement (Prevost, 1993).

(9) A last unexpected consequence of the gag rules is that it might cause official ignorance about the censored issue. Suppressing a debate usually entails withdrawing resources, technical commissions and other policy instruments. Therefore public officials risk ignoring the roots of the conflict and being unable to anticipate its evolution. In our case, official statistics were quite deficient, besides being manipulated, and until 1993 the CO policy did not receive enough human or budgetary resources (Ajangiz, 1998). The amount of parliamentary questions addressed to the governments about these questions was surprisingly high, if the official duty to provide annual reports is considered. These facts should not be disregarded as additional causes for the lack of more appropriate policy measures, especially when confronting core activists who were experts in comparative CO legal frameworks (Sampedro, 1997a: 208).

In sum, gag rules allowed the MOC to interpret the situation in its interest, although validated by their permanent political exclusion and legal insecurity. Unconventional politics could be presented as the unique exit of "the victims". The activists radicalized their strategies while exploiting official repression for public visibility and governmental delegitimation. They also took advantage of decision-making deferment to attract institutional and social allies, linking their demands to a wider conflictive issue. And they seized upon the opportunities offered by "spill over events" and by the official unawareness of the evolution of the conflict.

All this can result in the consolidation of antagonistic interests and an aggravated social problem. At this point, it seems appropriate just to mention a last theoretical point. As Holmes notes (1988: 56) "intractable conflicts" are not merely independent variables *per se*. Even if we set aside the democratic deficit or the cynicism that they can hide, inefficient gag rules can generate unmanageable conflicts. The readiness of the political class to discuss a given issue affects the evolution of the social phenomenon itself, the perception of interests of the actors involved and their strategies.

Efficient agenda controls stem from cautionary self-bounding agreements of the political class. They should be rational and almost unanimous decisions based on clearly stated calculations of cost and benefits. Their application always might be temporary and not imposed on the public, the media or, even less, the academic debate, in order to guarantee respect to the dissenters and to avoid policy stagnation. Otherwise, the decline of the group that imposed the gag rule and the unavoidable drawbacks of any agenda-narrowing might exacerbate conflict and undermine institutional politics.

Conclusion

The real *political* effectiveness of unconventional politics consists in spreading and accelerating policy controversies. Rarely are activists able to determine the policy agenda. For short periods, they may react to and counteract elitist control of the agenda, but in the long run they are faced with institutional pressures to close the policy agendas they challenge. Structural demands can be incorporated into governmental agendas only in the form of incremental reforms and after a certain time. Besides, setting the agenda requires concrete and viable proposals, resources, compromise and bargaining resorts that are usually absent among unconventional actors.

Instead of agenda-setting, I have emphasized three other feasible outcomes of political protest. All them depend on the ability of activists to fuel institutional debates transforming unspoken grievances into political dissent. Unconventional political actors can aspire to *open* the official agendas by injecting new issues that merit the attention of the political class. They can also *expand* the governmental agenda, redefining governmental initiatives and the policy style beyond what public officials are ready to accept. And finally, activists might *block* an unpopular agenda, impeding or hindering its implementation together with their institutional and social allies.

Official agenda-building reflects successive "systems of limited participation" (Baumgartner and Jones, 1992) in a process of institutionalization that tends to co-opt or marginalize policy outsiders. While co-optation dampens unconventional strategies and structural demands, marginalization entails the end of institutional interaction. In between these two poles, unconventional politics try to alter the three "flows" (Kingdon, 1984) that build official agendas: the definition of social problems, of their solutions and of the actors charged with carrying them out. The final agenda does not usually coincide with the activists' core objectives, but the changes achieved might bring popular demands and official policy closer.

The main opportunities for unconventional politics may derive from the errors in trying to eradicate or avoid it. Gag rules applied to shield governmental agendas from external pressures tend to persist, especially in democratic transitions and with issues concerning powerful elites of the old regime. Agenda controls evolve in several stages depending on their autonomous origins and level of formalization. Seemingly, agenda exclusions based on self-impositions of the new political class and incorporated into formal agreements are more efficient. Otherwise, gag rules might provoke an outburst of dissent.

The risks of political controversy and social conflict increase if the gag rules are maintained for long periods and with unclear purposes that only satisfy the interests of dominant sectors. In this context, activists can take advantage of the inevitable drawbacks of any gag rule, especially if they gain the support of public opinion, institutional and civic allies. Then, unconventional politics might be presented as the unique resort to fight back against official exclusion with even more radical strategies. Dissent can spread into conventional actors, by bridging original demands with more conflictive and broader social issues, damaging the legitimacy of official repression or coercion, taking advantage of "spillover events" and of institutional indifference or ignorance. That is, gag rules may generate and enlarge the political opportunity structure of unconventional politics.

The democratic value of political protest then has to be evaluated by considering its achievements in injecting new social demands into the *conventional* game of politics: opening, expanding and blocking unpopular elite control of the political sphere. All this might correct the

always unprovable (and many times manipulated) definition of what issues count as political. It could also ease the slow pace of incremental reforms in favor of policy innovations more adjusted to social change. On the contrary, rational agenda-controls should adjust to a clear political rule, that the treatment can not be worse than the disease.

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