Chapter 64
Digital Humour, Gag Laws, and the Liberal Security State

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ABSTRACT

This chapter presents a case study of Facu Diaz, a Spanish satirist whose on-line ridicule of the Spanish government created a political furor that brought him before the courts. The chapter engages the problem of the criminalization of political dissent by liberal states in the digital age. The case highlights how digital media is now being used to create content for satire, as well as to replicate and infiltrate more traditional political and media forums, changing many traditional forms of political practice. The case [points to some of the central problems inherent in liberalism which may give reason to curb the enthusiasm of those who think that new digital media creates fresh opportunities for augmenting the 'public sphere'. It is argued that liberalism as a political theory and ethos, tends to be blind to non-traditional political expressions like satire and other artistic work. In addition, the expansion of security laws in many countries suggests, liberalism's ostensible commitment to freedom needs to be reframed by recalling its historical preoccupation with security.

INTRODUCTION

On 29th October 2014, Facu Diaz a 23 year-old Catalonian comedian broadcast a three-minute satire called 'The Popular Party is Dissolved' on the Spanish 'Tuerka' television news program. It was then uploaded onto the internet. The comedy routine generated significant national and international controversy and provoked a swift legal reaction in Spain. The Spanish group *Dignity and Justice*, claiming to represent victims of terrorism, an organization closely associated with absolutist and extreme members of the ruling Popular Party, initiated criminal proceeding claiming Diaz had contravened Spain's anti-terrorist legislation by 'glorifying terrorism'.

Diaz was not alone. Other activists like the Spanish rapper 'Cesar Strawberry' was one of many arrested in mid-2016 in a police operation against those using digital media and specifically Facebook and Twitter, who it was alleged committed the crime of glorifying terrorism. Police claimed the singer used

digital media to praise 'the Anti-Fascist Resistance Group left (Gapo) and the Basque separatist group ETA. Guillermo Zapata (Madrid City Councilor) and member of a grassroots political movement (Ahora Madrid) faced similar charges for tweeting comments which police alleged 'discredited and 'humiliated victims of terrorism. Alfonso Lazaro de la Fuente and Raul Garcia Perez two puppeteers from the theatre group 'Puppets From Below' (Títeres Desde Abajo) were arrested and charged with the same offence in 2016 for allegedly making comments supportive of ETA.

It is often said the genius of good comedy depends on the timing. In cases like Facu Diaz and his co-accused, timing was everything.

While Diaz's primary object of critique was the ruling Popular Party Spanish government, which led him to raise the sensitive issue of political corruption, Diaz also used new media to pushed a number of historically sensitive buttons. Diaz used the digital media to produce and broadcast a powerful remix satire targeting the powerful while at the same time reminding Spaniards of their recent experience of financial crisis and the longer history of terrorism as he drew an analogy between the Basque separatist group ETA (*Euskadi Ta Askatasuna*)[1] and the ruling Popular Party.

The bid to call Diaz to account provides an example of a more general attempt to criminalize political dissent, and in this case those using new forms of media to engage in political debate. It is argued that there should no surprise when an ostensibly liberal democratic polity move to criminalize dissent. The chapter situates art, and in particular satire at the centre of politics, arguing that such practices work to broaden the public sphere and secure liberal principles like the right to free speech. This case study also demonstrates how digital media is being used to create and communicate satirical political humour in ways that are integrating that technology into participatory political practice. It is a popular form of political communication which spreads easily on-line in the context where the technology and interest to do so is now at the fingertips of many citizens.

By the time Diaz aired his satire in 2014, the Spanish government, along with many other governments had increased their regulation of political activity and dissent. Such moves to criminalize dissent involving those who engaged in on-line political activity poses questions about democracy and the socio-ethical base of the contemporary political order. It also raises questions about the extent to which digital media can be employed for the purpose of extending participation in democratic practices. It also raises questions about the ways new media can itself be used by the state to monitor and regulate that participation.

It is now generally acknowledged that many jurisdictions have seen significant increases in criminalization of political activities. This includes the creation of new laws and the reform of old legislation treating certain behavior as criminal. As studies show, we have seen a punitive turn and increases in criminalization on the part of governments of all political orientation Ashworth 2009, Lacey 2012, Zedner 2009, Garland 2001). Legislatively this involves declaring more activity illegal by increasing the number of criminal laws or by mandating longer prison sentences. In the courts it evident when judges issue harsher sentences and a higher likelihood of prison sentences, increased emphasis on the rights of victims and a corresponding reduction in regard for the rights of defendants and reduced use of parole. On the streets it is evident in the ways increased police powers enable the use of stop and search practiced. It can also mean that governments and police increasingly rely on preventive justice measures like the use of anti-social behaviour orders, control orders or dispersal orders (Ashworth and Zedner 2014).

While most liberal states have a long history of criminalizing political dissent, this disposition seems to have intensified after the terrorist attacks in New York and Washington on 11 September 2001. For Aoude it marks a time when we began living with 'a permanent fear of terrorism' as governments introduced measures privileging security at the expense of civil liberties ostensibly designed to protect

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