



DEPARTMENT OF POLITICAL SCIENCE

LEGISLATION AS A MEAN TO STIFLE PROTEST?

A quantitative study of democracies

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Abstract

Some researchers and Human Rights advocates speak of democracies as shrinking the space for protests using legal measures. But do democracies really respond to threatening protest in this way? This study aims to test whether there is evidence for this, or not, using material based on media searches. The study spans over 19 democracies between the years 1990-2020 and seeks to expand on theories of repression to see if there is a possibility that legislation can be a state response to protest. The result of the study is that laws on public order are found to be weakly correlated to violent protests, something that can indicate the possibility that threatening protest is met with legislation in democratic countries. The findings also confirm what countless other research has established, that repressive acts that include deadly violence against protests such as shootings or killings are rare in democracies, more common is arrests or crowd dispersal.

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Introduction

There are those who say that legislation is passed in democracies to stifle protest. Both in academic papers and in media produced by human rights organizations. Researchers have studied how certain laws affect protest like Calvo and Portos (2018) who describe a Spanish law that came into power in 2015. The authors argue that the law makes protest more costly since it gives police increased authority to identify protesters and issue fines. According to the authors the law came to be after intense protest following the economic crisis of 2008 where many took to the streets to protest the government's restrictive financial policy (Calvo & Portos, 2018, p. 33). Another case is an amendment in Australian law, the Crimes Legislation Amendment (Police and Public Safety Act 1998). The change in law provided police with powers to "move-on" people who engage in either obstructing people or traffic, harassing people or are otherwise likely to cause fear with their behavior. The idea is to prevent criminal behavior, but the law has been criticized as a possible threat to people's freedom of movement (McNamara & Quilter, 2019, p. 24).

These laws are in line with the words of different human rights organizations that claim that there is a systematic response from democratic states in criminalizing protest. However, this is unfounded and yet to be studied using quantitative research (Amnesty, 2024-07-08; Canineu, 2024-04-29; UNECE, 2024-02-28)

What we know from previous research is that the response from states to protests can be to repress using different methods. The most studied way is by incarceration, beatings or killings. Newer research seeks to broaden the concept of repression to include legislation and administrative means.

In the previous research it is clear that the more democratic a country is the less likely it is that dissidents face repression. But whether democracies use alternative methods to dampen protest is something that is not studied on a larger scale. The contribution of my study will be to bring some empirics to the discussion of how democracies respond to dissent, and if legislation is indeed used to stifle protest.

Literature

A way that states can ensure control is to use political repression, broadly defined as an act with the purpose of controlling individuals or groups that engage in unwanted behavior (Earl, 2011, p. 262). The targets of repression are often those engaging in activism, collective action or those that in some other way express dissenting opinions (Boykoff, 2007, pp. 282-283).

What is seen as a repressive act can vary. The most studied way of repression is the violation of rights in the form of killings, torture, physical assault or mass incarceration (deMeritt, 2016, p. 11; Earl, 2003, p. 46). Despite repression being something that can make states lose face, it is still used, and several studies have been conducted to explain why some states use repression more than others, specifically in the form of bodily harm against protesters. When a state engages in repression, to control collective action, it is a risky ordeal since it is often frowned upon to limit inhabitants' right to participate in demonstrations. It can result in blowback like an increase in protest activity or questioned legitimacy, both within and outside the state. At the same time the ability for a state to control its inhabitants is a show of legitimacy in of itself (Davenport, 2004, p. 543). Minimizing political dissent can also benefit the government because status quo is maintained and the government power remains less threatened by demands regarding for instance policy reformation, power allocation and resource distribution (deMeritt, 2016, p. 3). It can be described as a cost analysis where the benefits of repression are weighed against the costs.

The most supported finding in the research on repression is the connection between elective democracy and lessened repressive behavior (Davenport, 2007; Davenport & Inman, 2012; Poe et al., 1999). The reason for this is that the presence of political elections makes repression too costly, political leaders risk being outvoted and losing power (Davenport, 2004; De Mesquita et al., 2005).

Another explanation as to why some countries repress more than others is a variation in dissident activity (Davenport & Inman, 2012, p. 622). This can be called the "threat" theory. If a movement poses a credible threat against a state, it is more likely to face repression (Conrad & DeMeritt, 2013, p. 114; Earl, 2011, p. 265). Movements that use non-institutional ways to express dissident (like demonstrations), use confrontational or violent tactics, have revolutionary goals or gather a large amount of people can be seen as threatening (Earl, 2003, pp. 52-53). This means that states use repressive action whenever there is a large enough degree of dissent within a state. Christian

Davenport (2007 in Davenport & Inman, 2012) even goes so far as to coin this *the law of coercive responsiveness*. Although there is empirical support for this, the relationship between protest and repression is by no means straight forward. Repression may just as well cause protests to erupt within states, the relationship can in this way be seen as a feedback loop (Carey, 2006, pp. 3,6).

Tolerance and accommodation

In addition to repression there is also the possibility that the state can accommodate the protesters and give in to demands, this is more likely in democracies compared to autocracies (Carey, 2006, p. 2). These concessions come with a cost since the preferred policy option of the government does not get implemented but on the other hand, accommodating demands makes it likelier that the protests stop, at least for the moment (Franklin, 2009, p. 702). According to Klein and Regan (2018), the cost of concessions can depend on the protest itself, for example if protesters are violent, it is more of a loss for the state to give in to demands since it shows that the state is unable to keep order (Klein & Regan, 2018, p. 492). Also, with increasing dissent such as mass protest, the opportunity increases for repression since repressive actions can be taken in the name of law and order, which can be seen as legitimate, making accommodation less likely (Davenport, 2007, p. 541; Franklin, 2009, pp. 701-702).

There is also the option to tolerate protest, in other words to ignore it. This has benefits as it is a less risky option compared to repression and less costly than concessions. There is also the possibility that protesters grow tired of trying if they are not met with any kind of reaction from the state. In this way it could be the least costly way for states to respond to protests according to Franklin (2009 p. 702). However, if the protests are too disruptive there is again legitimacy to be gained by the state in regaining control.

Expanding repression

Repression does not have to be viewed as just the infringement on the body, repression can also be seen as something related to rules such as curfews or banning certain organizations (Davenport 2005 in Earl, 2011, p. 265; Selmini & Di Ronco, 2023). Jennifer Earl describes that repressive acts may not be as coercive as the ones described above, rather they can be described as “channeling”, meant to influence the resources that flow to an organization and the timing and the form of protests that can take place. An example of this can be tax restrictions on social

organizations (Earl, 2003, p. 43). There is a subset of articles discussing particularly legislative and administrative control and how policy can be formulated to hinder the activities of non-government organizations (NGOs) within countries (Bromley et al., 2019; Christensen & Weinstein, 2013; Fransen et al., 2021).

Controlling dissent through channeling by legislating does not pose the same threat to legitimacy as violence. The constrictions on social movements by law are seen as more justified and could cause less of a backlash such as counter protests (Tertychnaya & Tiratsoo, 2024, p. 3). Chaudry (2022) puts forth empirical evidence that shows that with increasing levels of electoral competition, states will use less coercive means in the shape of violence and will increasingly use administrative means to hinder the activities of NGOs and aim increasingly to impact the economic resources of NGOs. However, the studies do not attempt to explain how gaining political control using laws and administration could take form in consolidated democracies outside NGO control (Chaudhry, 2022). What is mainly in focus is electoral democracies, hybrid regimes and autocracies that face the “threat” of transitioning into a more democratic regime (Bromley et al., 2019, p. 288). Examining how laws relating to public order in general would contribute knowledge to how channeling may be used in democratic states.

This is especially interesting since there are authors, stemming from sociological research and criminology, who claim that western democracies are experiencing an increase in criminalization of protest and dissident behavior (Gulliver et al., 2023; Selmini & Di Ronco, 2023). And because there are reports and statements from Amnesty International, Human Rights Watch and the UN observateur Michael Forst that claim that there is a similar trend (Amnesty, 2024-07-08; Canineu, 2024-04-29; UNECE, 2024-02-28). Since democracies are places where we do not expect to find repressive behavior, since it is too costly for the state, it makes sense to examine if an alternative method is employed. It could be, as the human rights organizations claim, possible that democracies use legislative means to control protests since the costs are lower than using repression such as arrests or beatings. The evidence for this is not systematically collected and tested with statistical methods, since research regarding how democracies control protests using laws is described in case studies.

I will contribute to the existing literature by examining whether or not democracies use legislation as a means to control dissent, adding to the existing literature of repressive responses a

state can take. I set out to do a quantitative study spanning over several different years and democracies, something that is missing currently in the field. There are three ways that states can respond to protests that is established already in the literature violence, tolerance, accommodation. The study will contribute to knowledge of whether democracies respond to protest using laws in addition to these pathways.

Theory

Definitions

Before continuing to describe the theoretical framework of how states rationally respond to the threat of protest I will define some central concepts. This study will examine if threatening dissent is met with action to stifle it or not. So, what is a threat and what is dissent?

Dissent is expressed when people are dissatisfied with the current situation within a state and act to impose costs on the state to change policy. Actions can include violent behavior such as riots destroying state property or being otherwise disruptive and non-violent behavior such as strikes, peaceful protests or boycotts (Ritter & Conrad, 2016, p. 86). Another word used for this in research is non-institutional collective action meaning actions that do not use the conventional channels for showing grievances but rather a number of people gather to express their opinion outside established pathways (Earl, 2011, p. 263). Threatening actions of dissent are those that have radical agendas that aim to drastically change the state, those that use violence against the state and those that gather a lot of participants (Earl, 2003).

Next, I will define the different responses that the state can take against dissidents. The first one is to repress. All states have the capacity to repress, it is in the very definition of a state that it possesses monopoly on coercive capacity (deMeritt, 2016, p. 2). When repression is studied it can be defined narrowly and broadly. A narrower way of thinking about repression is to list actions that the state can take to stifle dissent that infringes on the freedoms of a person both physically and in relation to the freedom of assembly and expression (Davenport, 2004; Poe et al., 1999). It can also be defined broader by the goal of the repressive action, that it can be any action that aims to demobilize or infer costs on dissidents (Tilly 1978 in Earl 2011, Boykoff 2007).

For the purpose of this study, I will use the definition based in physical restraint, such as beating killings and arrests, because I want to contrast repression in a physical sense with political control in the form of legislation. A repressive act will therefore be regarded as “harassment, surveillance/spying, bans, arrests, torture, and mass killing. . .[that] violate First Amendment type rights, due process in the enforcement and adjudication of law, and personal integrity or security” in accordance with the definition used by Davenport (Davenport 2007 in Earl 2011).

In addition to repression, a state can respond to protest with accommodation. This can be defined as “efforts to negotiate with the opposition: the release of political prisoners, the granting of mass pardons or amnesties or the reshuffling of administrative personnel” or even the direct cooperation with the opposition (deMeritt, 2016, p. 4). Tolerance can be another response from the government this is simply defined as inaction against the protesters, neither repressing nor accommodating them (Franklin, 2009, p. 701). Further a state can legislate against unwanted behavior, I define a law that controls protest as a law that imposes additional costs on protesters or makes it more difficult for protesters to meet or mobilize.

Theoretical framework

As can be concluded from the compiled literature above state response can be thought of as a rational analysis of cost (Carey, 2006, p. 3). Considering this, it is highly doubtful that democracies will respond to protest using extreme violence such as killings or torture. Repression overall, such as beating or arresting protesters, can be seen as risky to use against dissidents in democracies and, as previous research has concluded, a high level of democracy is correlated to less repressive behavior. In spite of this there are instances of non-lethal violence being used against protesters in democracies as well, with varying frequency over the years (della Porta & Zamponi, 2013, p. 67).

Non-institutional collective action, such as protests, can be threatening to the government. As stated above generally large protests, radical agendas or violent means can be seen as threatening (Earl, 2003, pp. 52-53). According to the, somewhat criticized, law of coercive responsiveness all threats to the state is met with some type of repression (Davenport & Inman, 2012). Not resisting the threat can be a cost in of itself where states or governments can lose power or legitimacy over certain policy matters. If democracies, as a rule, do not use repression/ violence to stifle protest does that mean that democracies use other methods like legislation?

Democracies cannot legislate in the same way as more autocratic states which can exploit the lack of independent courts, like for example Russia, in order to introduce laws that directly impacts protesters (Tertychnaya & Tiratsoo 2024 p. 8). However, it could be possible that democracies in the face of threats, in the form of large or violent protests, resort to some sort of legal measure. This because democracies have the same to gain from controlling the inhabitants as any other state, but more to lose when it comes to repression using violence. I therefore think that

in democracies, when threatening protests erupt, there will be a tendency towards legal action rather than physical repression.

H1: Facing large or violent protest, democracies will opt to legislate rather than use violence against protesters.

If the state accommodates protest and gives concessions to protesters demands it can be seen as a sign of weakness or giving in (Carey, 2006, p. 3). Giving in to violent protests is a greater cost for states since violence being met with concessions can be seen as inviting further violence in the future, legitimizing it as a tool for change (Klein & Regan, 2018, p. 502). However, accommodating protester demands can also be a way of stifling protests. It is likely that accommodation is used in response to protests with demands that are not too important for the government but where the protesters are too great in numbers to ignore. During non-violent protest it is advantageous to refrain from using repression since it can be seen as something disproportionate to the behaviour of the protesters (Franklin, 2009, p. 703).

H2: Large or non-violent protest are met with accommodation.

Tolerating protest, simply ignoring it, does not come with the risk of a back-lash against the state as does repression, nor with the costs of accommodation. Smaller protest and protest with demands that the government is unwilling to meet, will likely be tolerated by the state. This is because repression will be seen as an unproportionate response and can trigger a back lash reaction which can harm the perceived legitimacy of the state and because concessions are too costly to give.

H3: Small or non-violent protests will be met with tolerance.

Using factors that previous research has determined explains repressive behavior such as the threat of protest, and the assumption of rational action from states, I will investigate how the most democratic states respond to protest. I will put the “law of coercive responsiveness” to the test: do democracies actively try to control threatening protest or is accommodation or tolerance more common? More importantly I will examine if the law of coercive responsiveness can include legislation as a response to threatening protests in democracies in an attempt to develop the theory on repression.

The purpose of this study is to determine if there is some truth to the notion that democracies respond to protest with legal means. While at the same time contributing to research regarding how states respond to protests by investigating legislation as a response. It could shed some light as to why some people feel as though the space in civil society is “shrinking” or it could “debunk” this notion. That is why I aim to study how democracies respond to protests, specifically my research question is: *How do democracies respond to large or violent protests?*

Repression or political control?

One can discuss what should count as a repressive act and what should be seen as the state fulfilling its purpose of ensuring internal order. As DeMeritt (2016) puts it “ *Repression is a form of coercion, but not all coercion is repressive.* ”. She argues that states need to coerce people to not use violence against one another and when cohesion is needed in this way, repression is not a suitable term to describe state behavior. This sheds light on the fact that there is a potential trade-off between what a state must do to ensure the safety of the public and what a state must do to ensure that the basic rights to assemble and protest are still available to the public. In a similar fashion Earl (2011) differentiates between repression and political control. Political control, she describes, is a more diffuse way of obtaining order than repression which is often targeted against certain groups. Where the line between repression and political control should be drawn is hard to determine and can certainly depend on which side of the barricades you are standing. The same can be said regarding a repressive law and a law that facilitates public order. Whether a law is perceived as repressive or necessary can depend on how legitimate laws are perceived to be within the state (Tertychnaya & Tiratsoo, 2024, p. 6). The task to determine if democracies respond with laws against protesters to repress or to maintain order is a task I leave up to the reader. If democracies are found to respond to protests with legislation, it does not matter for the purpose of this study if it is called *insuring public order* or *repression of civil liberties*. The task in the study is simply to examine whether democracies legislate as a response to protest or not.

Method

The research question *How do democracies respond to large or violent protests?* will be answered using OLS method to determine the relationship between the independent variable, threat (violence and size of protest) and the different dependent variables of state response, accommodation, tolerance, repression and legislation. The underlying data for the regressions spans over 19 democracies between the years 1990 to 2020. The choice of a quantitative method is made since the nature of the question is causal and spans over several countries and years. Control factors can be held constant and the causal effect of the independent variable on the dependent variable can be isolated with this method (Esaiasson et al., 2024, pp. 176-177).

Only democracies that have been found to be correlated with a minimal use of repression/violence against dissidents will be included in the study. There are articles that express that the relationship between regime type and repression takes the form of an inverted U. Only the most democratic and autocratic countries experience significantly less repression and there is more “murder in the middle” (Fein, 1995). Davenport suggests a sort of cut off line, states that score above 8 in Polity IV are associated significantly with lesser instances of violations of physical integrity (Davenport & Armstrong, 2004, p. 551; Davenport & Inman, 2012, p. 6). I will therefore only use data from a country during the years that it has a polity score of 8 or more.

The presence of legislation was examined in 19 democracies out of 62 with a Polity score of above 8, namely Argentina, Australia, Canada, Chile, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Portugal, The Republic of Korea, Spain, Switzerland, Sweden, The United Kingdom and Northern Ireland and Uruguay. It is a representative sample in that it is a large portion of the total number of states, approximately a third. The average Polity score of all 62 countries is 9,2 and the average score of the 19 examined democracies is 9,7. I argue that the average democracy score is similar enough that general conclusions about democracies can be drawn from my sample of 19. Small island nations and microstates were excluded from this study.

Legislation

One regression will determine if threatening aspects of protest, violence and a large number of participants, on a yearly basis cause an increase in legislation affecting protest. The independent

variables will be the number of violent protests per year and the number of large protests (with a participation of over 2000 people) per year. The control variables will be the number of people killed or injured in terror attacks per year and the Gross National Income per year. This will be regressed with the dependent variable legislation. Since laws take some time to formulate and pass in parliament, I will lag all independent variables 1 and 2 years to account for this delay.

An additional regression will be made that investigates the same independent variables stated above but with the outcome variable being both approved legislation and bills that did not pass. What I hope to capture here is if bills are formulated to try and stifle protest as a reaction to the threat, but the bills are not passed because of them being deemed as a threat to the freedom of assembly.

The control variables in the regression are, again, terrorist attacks and economic development. Measures to counter terrorism, such as anti-terror legislation, can have undesired effects on civil society and the right to assemble (Davenport & Inman, 2012, p. 268). Countries with greater Gross National Income generally use less repression in the form of violence (Davenport & Inman, 2012; Poe et al., 1999, p. 309). Two explanations are put forth to explain this. The first is that richer countries have more resources to counter civil unrest using covert means such as surveillance. The second is that a rich country is less likely to have disgruntled inhabitants that seek to challenge the government politically (Davenport & Inman, 2012, p. 621).

A robustness test will be conducted using Varieties of Democracies, V-dem, index of freedom of association (v2x_frassoc_thick). It measures from 0 to 1 “To what extent are parties, including opposition parties, allowed to form and to participate in elections, and to what extent are civil society organizations able to form and to operate freely?”. The index is a broader measure of the restrictions on freedom of association compared to laws related to public order since it relates to the autonomy of opposition parties, if there are banned parties, the number of parties in elections and repression of civil society organizations (Coppedge et al., 2021, p. 47). However, I hope that my measure, using law, is somewhat reflected in the changes of repression to civil society that is measured within this index. In this way there could be some overlap between the measures, which is why I think the V-dem index could be used as a robustness test especially since I have chosen democracies with a similar level in electoral democracy.

Accommodation, tolerance and repression

Three separate regressions will be made to determine when protest is met by accommodation, tolerance or repression. The independent variables here are the number of protesters during a single protest event and the occurrence of violence during a single protest event. This will be regressed on the binary dependent variable for accommodation in one regression, tolerance in another regression and repression in a final regression.

The same control variables will be added here to all regressions, the number of yearly victims of terror and economic development with the addition of the level of electoral democracy since it can vary year by year and is something that affects the level of repression as stated in the theory section above.

If a state response is statistically significantly correlated with an independent variable it is determined to be caused by the protests. In addition, the coefficient must be large enough to have any practical implications to be thought of as a relevant explanatory factor.

A downside of using several separate regressions is that it is not possible to determine the relationship between accommodating, ignoring or repressing protest and legislation. The variables for violence and size differ between the regression involving accommodation, tolerance repression and the ones involving legislation. This is because legislation must be considered on a yearly basis, as it is not possible to examine which protest event during a year lead to legislation the following year. So, if the same protest events that correlate with repression also are the ones that correlate with legislation, it is impossible to tell. Or if the events associated with tolerance in fact have legislative consequences.

Material

Factiva

In order to determine if laws have been passed that affect the ability for assembly of protest during a given year, I conducted media search in the database Factiva. Factiva is a news aggregator database where one can search for archived newspaper articles from around 30 000 different sources and it is comparable to other similar databases (Gilbert et al., 2024, pp. 42-43). To find new legislation in different countries the search words “law” and “public order” were used. If the search resulted in too many articles (more than 10 000) the search was narrowed by

prompting Factiva to only include articles that contained one of the following words “critique”, “shrinking”, “criticized”, “threaten”, “civil society”, “legislation” or “protest”. The search terms law and public order were chosen in an attempt to capture legislation relating to the control of public order. The words to limit the number of hits were inspired by the way the Human Rights Watch reported about the British Public Order Law of 2023 where a shrinking of civil society was discussed (Ahmed, 2024). With the addition of the words critique and criticized since I wanted to capture reports of experts having issue with legislation.

Any bill, law or decree that was mentioned as possibly affecting civil freedoms was noted. A criterion was that the law was mentioned by name or that the consequences of the law were described specifically, this is to ensure that the same law mentioned in different articles was not counted as multiple laws. This approach could have led to some laws being missed but the upside is that the laws that did make the cut, I can say with certainty, have been mentioned as possibly affecting civil society and how people assemble in the streets. Any regulation only pertaining to football stadiums was excluded because when people assemble there it is to support their teams primarily and not to take action against the state, even though the violence and behavior in football stadiums can be a nuisance to governments.

Why media articles were used to find these laws was because I neither have the expertise nor the time to go through the legislation for the different democracies studied. The possibility of capturing legislation, bills or decrees from different parts of a country’s legislation, not only the public order laws but issues relating to public order, at the same time was a motivating factor. Along with the ability to find laws that have been criticized by people far more knowledgeable in law than myself. As a complementary source, laws mentioned on the website of the project for *Rights to Peaceful Assembly* were included. The project assesses the status of ability for peaceful assembly within different countries worldwide and analyses different parts of domestic legislation and how it may affect the right to assemble. The project also list country laws that have been criticized for affecting the right to assemble (Mwale, no date).

Possible downsides of using media articles are that search words that must be used to find laws that can affect protest also can exclude relevant results. Using search words like “public order” may skew the news article hits so that only laws clearly affecting public order are presented. It is

possible that legislation, not directly relating to public order or demonstrations, which affect how people assemble such as tax rules for example, can be missed.

Mass Mobilization Project

Data from the Mass Mobilization data project was used for the variables threat and state response in the form of accommodation, tolerance or repression. It is a database that collects protest events from 130 countries between the years 1990-2020 using media searches in four different newspapers. The database describes how the state responded to a protest event (Clark & Reagan, 2020).

The drawback of using the database is the possibility that smaller non-English speaking countries have less of a coverage. If some events do not gather enough media attention abroad, they are not included in the database since the newspapers that lay ground for the data are *New York Times*, *Washington Post*, *Christian Science Monitor* and *Times of London*. Protest events are only added if they are covered by at least 100 articles (Clark & Regan, 2016). This can have the consequence that countries where English is spoken are given more weight in the analysis.

Another potential disadvantage with the database is that some smaller actions that are violent are not captured since the limit of an event being included in the database is that at least 50 people participate. Considering that violent actions can be more costly to participate in, risking incarceration, fewer will want to participate. If small protests are excluded a portion of violent protests are probably excluded as well. It is therefore possible that the effect of violence is underestimated.

Operationalizations

The outcome variable legislation was measured by the number of laws, decrees or bills in a country between the years 1990-2020 that were mentioned in media articles, found with Factiva, as potentially damaging to inhabitants' ability to protest or generally increasing the cost of protest. One can question the validity of this measure since laws that are criticized as possibly affecting civil society are not proven to affect the opportunities or the cost for people to assemble. There is a possibility that the law's effect on civil society is overestimated, or perhaps underestimated, since the exact consequence of a law is sometimes not clear before implementation.

The variable of protester violence was measured in two different ways using the Mass Mobilization Project data. The projects data collects information, from newspapers, on if a protest event contained any violence against the state and the variable is a binary of yes or no. Violence can be rioting, destroying property or shooting at the police (MM-Project). This event-based binary variable was used in the regressions for the event-based outcomes accommodation, tolerance and repression. For the regression regarding legislation the variable for violent protest was compiled into the number of violent protests during a year.

For a protest event six different categories for protest size are assigned based on the number of participants: 50-99, 100-999, 1000-1999, 2000-4999, 5000-10 000 and >10 000. The interval variable of the six different protest sizes is an independent variable in the regressions for accommodation, tolerance and repression. For legislation, the number of protests with more than 2000 participants during a year was counted. Why a protest with over 2000 people is considered large in this study is because it is over the median size of protest in the sample, which is around 1000-1999 participants.

The variable for accommodation, tolerance and repression is also gathered from the MM project. Tolerance is the outcome of events where there is no reported state response for a protest. However, the outcome tolerance will have to be regarded with some caution as the lack of reaction from the state can be the result of missing data. The project leaders acknowledge that labelling an outcome as tolerance can be because the news articles fail to mention the response. In some cases, the response was delayed but ultimately visible in the media reports regarding the events. There is, nonetheless, a possibility that there is an overestimation of tolerance of protest from states because of this.

Accommodation is defined, in the database, as “indicated by agreeing, negotiating, etc. that the authorities met with protest leadership; that the demand was met or that the authorities agreed to take the protester demands up in a formal meeting.”. This corresponds well to the theoretical definition regarding the attempt to negotiate but is somewhat broader than the theoretical definition in that demands met can be more than the release of political prisoners, the granting of mass pardons or amnesty or the reshuffling of administrative personnel. The measure of accommodation can include policy changes in favor of the protests that are not included in the theoretical definition.

Repression is measured by aggregating the state responses that the Mass Mobilization data labels as beatings, arrests, crowd dispersal, killings and shootings. This is a narrower way of looking at repression than traditionally in literature which also includes other ways of intervening against the freedom of assembly or expression such as surveillance or harassment. But it still captures the physical aspect of repression that I am interested in contrasting with legislation.

The high resolution of the Mass Mobilization data makes it possible to examine the different aspects of an event in detail, the different aspects of the protest and the state response corresponds rather well to the theoretical definitions. Responses a state can take are directly linked to each event, the causal claim is therefore strengthened.

Regarding control variables, the first is the effect of terror. The number of persons killed or injured in terror attacks will be used as a variable. Attacks that have a larger societal impact are probably those that have a larger number of casualties and politicians are more likely to take action against these attacks. Economic development is the second control variable, previous research use, Gross National Product, GDP, as a proxy for this (Poe et al., 1999). I will use the same measure now going under the name GNI, Gross national income (QoG, 2023).

Results

Between the years 1990-2020 a total of 33 laws, decrees or bills, which were never passed as laws, were found in news articles that could potentially impact protesters. Some laws increased fines for protesting without a permit, regulated the clothes permitted to use during demonstrations or prohibited protest outside buildings such as parliament or universities. Others changed the labels of different crimes and granted police increased authority to perform identity checks. Some laws were clearly mentioned as impactful to protests such as the “gag law” in Spain from 2015 that increased fines for disruptive protesters, and protesters who demonstrate in front of parliament. Another law was the one passed in 2009 in Denmark increasing punishment for disruptive behavior during protests (Carus, 2009; Jones, 2021).

Some bills were found in the news articles that were never made into law or were partially stopped. In these cases, it was hard to determine whether it would be regarded as a controversial bill that was stopped or a law that was made that could affect protesters, or both. An example of this is the 2019 *anti-casseur* (anti-rioters) bill in France that was never ratified in full because of critique from France's Constitutional Council. The bill was said to be made in response to the yellow vest movement, and the council opposed the bill's content which stated that demonstrations could be banned if the person seeking permission to protest was determined to be a threat to public order. The council opposed this stating that the clause could infringe on the right of assembly. However, the council approved other parts of the legislation such as criminalizing face masks at demonstrations and permitting authorities to search bags and cars in and around demonstrations if supported by a prosecutor (Agence-France-Presse, 2019). Considering this, the changes were considered as both a bill and a law at the same time.

Another case that was hard to determine if it should be counted as a bill was a proposal for a law in Ireland 2019. A minister wanted to permit the use of body cameras during protest, the footage could later be used as evidence for crimes committed during protests. The bill regarding police wearing body cameras was not officially formulated until 2022, why the bill is excluded from this study, even though some voices were raised already during 2019 regarding the impact it could have on protesters willingness to participate in demonstrations (Lally, 2024; Law-Gazette, 2021).

Regressions: legislation

A set of regressions were made to determine if legislation was an outcome associated with threatening protests in the studied democracies. Firstly, the independent variables were altered to express yearly change in protest activity instead of being event based, as described under the operationalizations. From the protest data in the MM project new variables were created. Instead of the violence variable expressing whether a single protest event contained violence from protesters, the total number of protests with violence during a year was counted. The same goes for large protests, instead of categorizing how large the protests were between different demonstration events, a yearly number was counted containing the number of protests with 2000 participants or more.

The results from the regression show that the number of violent protests per year is significantly positively correlated with an increase in legislation that has been criticized for affecting protesters negatively. This is when the independent variable violent protest is lagged one year, the significance of the coefficient disappeared when the variables were lagged two years. The coefficient for the number of violent protests per year on the number of bills or laws being written the following year is 0.018 and the coefficient on laws alone is 0.02. In practice one could interpret this as when the number of violent protests during a year increases by one the number of passed laws increases by 0.02 (see table 1). In other words, these are very small coefficients and the practical implications can be questioned. But thinking about it as the number of violent protests increasing by say 10 in a year that is associated with increase in the number of laws by 0.2, there is at least some impact here that could be of value even though the number of violent protests during a year probably is not the most contributing factor to new legislation being passed. The R-squared coefficient is also very small, 0.038, meaning that the independent variables together only account for 3,8% of the variation for the variable legislation, something that also indicates that violence alone does not explain the occurrence of legislation effectively.

The violence coefficient for laws and bill proposals is almost the same as the one correlated with laws only. This result can be interpreted as going against my thought that bills can be proposed in response to protest but never passed because of the adherence to democratic rights. Including bills to the regression did not increase the coefficient.

Table 1: Three different regressions are presented, one with the outcome of either a bill or a law, one with only laws that passed and a third robustness test, the V-Dems index for civil society. The independent variables are the number of protests with 2000 participants or more, the number of violent protests per year, the Gross National Income/year and the number of killed or injured in terror attacks/year. All the independent variables are lagged for one year to account for a delay in legislation.

	(1) Bill or Law	(2) Law	(3) V-dem Index
GNI	1.13e-14 (0.93)	5.25e-16 (0.05)	-1.57e-15 (-1.83)
Big Protests/year	-0.00320 (-0.56)	-0.00776 (-1.46)	0.0000399 (0.09)
Violent Pro./year	0.0181* (2.38)	0.0201** (2.84)	-0.0000722 (-0.13)
Victims of Terror/year	-0.0000120 (-0.27)	-0.00000229 (-0.06)	3.90e-08 (0.01)
_cons	0.0503 (1.66)	0.0546* (2.05)	0.908*** (430.09)
<i>N</i>	262	228	228
<i>R</i> ²	0.033	0.038	0.015

t statistics in parentheses

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

The result of the robustness test is that the significance of the coefficient for violence disappears. This can be because of the index measuring something broader than legislation. Electoral aspects and other aspects of civil society are also measured in the index, and perhaps the index does not really capture the change that legislation can bring. The result of the robustness test can be interpreted as 1, the finding that violent protest brings legislation is a random result or 2, violent protest affects specifically laws relating to the freedom of assembly and not repression of civil organizations in. It is hard to say if the result of the robustness test completely discredits the main findings since the measure is somewhat different from legislation since it also includes the number of parties competing for power and so on. But it is again possible that the robustness test

shows that the result found that violent protest causes legislation could be a chance result due to the low number of laws.

Regressions: accommodation, tolerance, repression

For the democracies included in this study there were 2110 protest events with a recorded outcome for both the state response, accommodation, tolerance and repression and the control variables. The answer from the state is not mutually exclusive, a protest can be met with both being repressed and then later accommodated for example. In about 69% of the cases the state response was to tolerate the protest, the frequency of accommodation was circa 6% and repression was found in 28% of the responses from the state. If the response repression is broken down further, the majority is crowd dispersal, ~ 60%, and arrests ~ 30%. As can be expected from the literature there is a smaller portion of beatings, ~ 9% and shootings and killings occur at the same frequency, around 0,5% of the protests.

Regressing accommodation, tolerance and regression one by one to see what determined the state response resulted in a discovery that protesters using violence was significantly negatively correlated with the protests being tolerated and significantly positively related to the protests being repressed (see table 2). This could be because in many countries violent behavior is criminalized, and one can get apprehended or beaten on site to stop the violence. It is less likely that the protest will be tolerated since the cost of intervening is lessened for the state.

The coefficients show that if a protest includes violence from the protesters it is associated with a decrease of circa 0,7 in tolerance response and an increase of circa 0,74 with repression. These coefficients do not entirely make sense to interpret practically because tolerance and repression are binary outcomes. An alternative method called logistic regression would give a more practically useful interpretation of the coefficients, something I will return to in the discussion section. For now, I can simply state that violence is significantly associated with a decrease in tolerance and an increase in repression. Another significant coefficient is the effect democracy has on accommodation. When the level of democracy increases on the Polity IV scale it is associated negatively with accommodation.

The other independent variables such as protest size, economic development, GNI, democracy level and number of persons killed or injured in terror attacks have no significant impact either

accommodation, tolerance or repression as an outcome (see table 2). Even though the number of persons killed or injured in terror attacks and the level of GNI has a significant coefficient, the sizes of the coefficients are so close to zero that the effect cannot possibly be practically relevant. The same can be said for the effect of protest size on repression. There is a significant coefficient, but it is very small.

Table 2: Shows three regressions with the three different outcomes accommodation, tolerance and repression. The independent variables are a binary variable if protesters use violence, what size the protest is described in six different categories ranging from 50 - < 10 000, Number of persons killed or injured in terror/country/year, Gross National Income/country/year, and the level of electoral democracy as describe by V-dems index *v2x_polyarchy*.

	(1) accommodate	(2) tolerate	(3) repress
Protester violence	0.0228 (1.78)	-0.698*** (-36.01)	0.741*** (42.59)
Protest size	0.000832 (0.30)	-0.00209 (-0.49)	0.00805* (2.12)
Victims of terror/year	0.000115* (2.11)	-0.0000109 (-0.13)	-0.0000890 (-1.20)
GNI/year	-9.23e-15* (-2.10)	-2.51e-15 (-0.38)	6.08e-15 (1.02)
Electoral dem. Level/year	-0.525* (-2.55)	0.485 (1.56)	-0.408 (-1.46)
_cons	0.526** (2.88)	0.425 (1.55)	0.442 (1.79)
<i>N</i>	2110	2110	2110

t statistics in parentheses, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

Discussion

The first hypothesis, that *Facing large and violent protest, democracies will opt to legislate rather than use violence against protesters*, can be answered by stating that states seem to use both. How repression and legislation relate to each other specifically I cannot tell with my data since legislation is captured on a yearly level and repression on an event level.

When protests are violent states do tend to respond with repressive measures, mainly in the form of arresting protesters or crowd dispersal. This is in line with previous research that states that the cost for a state to intervene against protesters lessens if protesters use violence. The use of violence can legitimize the state using force and legislating against unwanted behavior. It is also in line with the findings that a state can show strength and capacity by dealing with disruptive behavior by arrest and crowd dispersal rather than killing or shooting at protesters.

Regarding the legislative response we can see that if there is violent protests in a country there is a weak positive correlation with legislation, that can affect protesters, being passed the following year. It is hard to determine if the coefficient is large enough for it to be practically significant since it is small, 0.02. But considering that a coefficient of 1 is a very strong effect, and would mean that for every violent protest a new law is made, it is possible that there is some practical effect, although not large. Also considering that smaller possibly violent protest are missed in the mass mobilization database the connection between violence and legislation can be greater than the regression model estimates.

The reliability of these results can be discussed. The number of laws found were 33. There is the possibility that the connection between violence and legislation is because of chance. The number of laws found in over 19 democracies between the years 1990-2020 are very few and there is the risk of mistaking a significant result with a random significance. The infrequency of laws can also tell us that there are perhaps other ways that administration can be used to stifle protest.

Regarding reverse causality, the possibility that legislation can be the cause of some of the protest, the problem is somewhat mitigated by the fact that the independent variables are lagged one year and they are put before the legislative response in time.

After having conducting the search for legislation it occurred to me that democracies may use other, just as obvious, means for administrative control aside from laws. One example is calling on a state of emergency like Trudeau did during the Covid-19 pandemic, to enable law enforcement with additional tools to control protests in order to minimize the spread of the virus (Austen, 2022). There is an additional issue with only investigating legislation. Most likely, a saturation of laws is met sooner or later, since laws don't have to be made again and again in response to protest, only implemented at a new protest event. It could therefore be more fruitful to examine other administrative means that states can use in response to protest, states of emergency and police directives in addition to laws.

If the finding that legislation is made in response to violent protest is considered somewhat accurate in spite of these reservations, what does it mean? It could mean that in relation to violent protest, laws are passed that are discussed as potentially harmful to the rights of protesters. This could explain the feeling that some human rights organizations have, that protest is under attack in democracies. This is surely a matter of perspective though, since some people will say this is only necessary to ensure public order. Additionally, the laws that have been found are only criticized as possibly affecting the rights of inhabitants. This is not evidence that the space for civil society is shrinking due to these laws.

The second hypothesis *Large or non-violent protest are met with accommodation*, there is no support for since violence is not significantly negatively correlated with accommodation and protest size is not significantly positively correlated. But a finding is that accommodation is less likely when a country is more democratic. This is at first glance a surprising result; shouldn't a more democratic state accommodate the demands of the inhabitants more? Perhaps this is because more democratic states have more institutionalized pathways where civil society can impact politics without taking to the streets, and the need to show dissent is therefore lower. It is perhaps more serious dissent in less democratic countries and therefore the amount of threatening protests are greater in less democratic countries. Another possible explanation for this result is that viewing threat as only something involving large and violent protest is a too much of a simplified picture. Accounting for the level of dissent in another way, like how radically different the dissidents ideas are from the governments policy could be a task for future studies.

The fact that more violent protest is correlated with less tolerance could indicate that peaceful protest get met with tolerance more. Giving some weight to the third hypothesis *Small or non-violent protests will be met with tolerance*. Again the size of the protest does not seem to matter. Maybe this is because in democracies it is in the nature of the regime for the masses to express opinions. Just because a large number of people participate does not necessarily mean that it threatens the regime.

The practical interpretation of the coefficients in the regressions regarding accommodation, tolerance and repression is hard to determine since I have used OLS method. Using logistic regression instead of regression based on OLS method would have been beneficial since the dependent variable is binary. The coefficients of a logit model can be used to predict the probability that a change in the independent variables is associated with a positive outcome of accommodation, tolerance and repression respectively. It would have been possible to say how the odds change for repressive response to protest if it is violent. The coefficients are more practically relevant compared to the interpretation of the coefficient in a multiple regression model (Stata, 2023; Wooldridge, 2012, pp. 584, 590). Another thing that would have been interesting to do, regarding the regressions, is to combine size and violence. Adding this as a variable could give insight into things like if violent and large protests are associated with repression, but small and violent protests are not, or to a lesser extent for example.

The results discussed above regarding accommodation, tolerance and repression, are drawn from a sample of around 1200 observations in 19 different countries. This is a large number of observations from a relatively representative selection of democracies and because of this there is reason to believe that the results are applicable to other democratic countries with a polity score of above 8. However there is a chance that the results are biased towards countries that receive a large media coverage by English speaking newspapers. This can affect the result by not being as applicable to smaller countries or countries where English is not as commonly spoken.

Conclusions

To conclude, findings of this study confirms the established theory in repression: democratic states do not use deadly force against protesters as a rule. If protesters are violent tolerance is less likely and the states more often takes action against protesters mostly in the form of crowd dispersals or arrests. The findings also indicate that there is a possibility that democracies respond

with another method of political control, legislation, when protesters are violent. A significant relationship was found that violent protest is associated with criticized laws being implemented the following year. The study has made this connection using novel data of laws and bills relating to public order. However future research should examine other administrative ways to stifle protest on a larger scale aswell.

The fact that violent protest could lead to more laws can explain why some human rights organizations feel as if the opportunities for protests are diminishing but this could also be the cause of other things such as actions of police which are beyond the reach of my limited study.

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