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Bans on Combinations: Nineteenth-Century France, Great Britain and Spain

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Abstract
Bans on combinations, and the subsequent criminal repression of worker's unionism, were justified as a basic budget for free market by mercantilist ideology, and as a prerequisite of the realization of the freedom of contract by individual liberalism. Liberal thinkers plainly expressed their rejection to any intermediate structures between the state and the individuals, and that was the spirit with which most of these laws were drafted in Europe at the end of the 18th century and the beginning of the 19th century, following the pioneer Turgot's Edict of 1776. This work aims to make a comparative study of the situation in France, Great Britain and Spain

Keywords
Bans on combinations, liberal state, France, Great Britain, Spain

1. Introduction

The rise of the ideology of freedom in liberal States, individual liberalism and individual autonomy, ended with ancient associations, leagues, combinations or guilds, which gradually were forbidden and disintegrated in the period of transition to mercantilism. In the mercantilist ideology, the existence of a free labour market and the recognition of a *"right to work"* (*"liberté du travail"*), were the main prerequisites of the realization of the freedom of contract. So, any form of guild, association or combination that could determine the will of the individuals was considered contrary to the principles of freedom.

This idea was widespread in England since the 16th century, promoted by protestant social philosophy. But it was physiocrat, first, and especially economic liberalism, represented by Adam Smith[1], that developed the idea of freedom of work against the ancient interventionist legislation which denied free movement of labour and the right to work, and defended instead the "duty to work" (for example, the English *Statute of Artificers* or the entire *Poor Laws* system).

[1] Smith, A., *An Inquiry into the Nature and Causes of the Wealth of Nations*, London, 1776.

The so-called Classical School of Economy, inspired in Adam Smith (Thomas R. Malthus, David Ricardo, John Stuart Mill, etc.), and individual contractualism of John Locke, who first published his work "Two Treatises of Government" in 1690[2], promoted these modern ideas of freedom in England. But the era of expansion of the liberal philosophy in Europe actually began in France, inspired by Turgot's economics principles (also inspired by Adam Smith, as Jean-Baptiste Say, Frédéric Bastiat, François Quesnay, Nassau William Senior, etc.), and by the individualism and contractualism spirit of the French revolutionaries as Montesquieu[3] or Voltaire[4].

In fact, the most significant legislative precursor of such ideas was the famous Turgot's Edict of 1776, which abolished the guilds in France, and proclaimed the right to work (*"liberté du travail"*) as being independent of all corporative or associative ties. The Turgot's Edict of 1776 was continued with Allarde's Decree and Le Chapelier's Act, both introduced in 1791[5], and the basic right to work was also defined for the very first time in the French Constitution of 1793, which article 16 stated that "*le droit de propriété est celui qui appartient à tout citoyen de jouir et de disposer à son gré de ses biens, de ses revenus, du fruit de son travail et de son industrie"*.

The idea that related property to work, and rejected any system of collective self-regulation, spread throughout Europe under Napoleonic Empire. The Chapelier's Act of 14-17 June 1791, was followed in France by even more repressive measures in the Penal Code of 1810; and the rules against combinations of workers, and also employer's associations, banning their methods (collective bargaining, strikes, picketing, lockouts, job restriction…), were extended to the southern Netherlands (Belgium), the northern Netherlands, Italy and parts of Germany (Rhineland). Repressive acts were taken against combinations in other parts of Germany: Saxony (1791 renewed in 1810), Prussia (1794) and Bavaria (1809); the Combination Acts of 1799 and 1800 in Britain and Ireland; and the Order of March 1800 which regulated the guild system and forbade coalitions in Copenhagen, Denmark[6].

Spain, for its part, also enacted an early Act against work corporatism, issued by Conde de Toreno on 8th June 1813, in line with the French liberal model. This Act was repealed two years later by King Fernando VII by a Decree of 29th June 1815, only to be laid down again briefly during the period of liberal government known as the "Trienio

[2] Locke, J., *Second treatise of civil gobernment* (1690), edic. en castellano *Segundo tratado sobre el gobierno civil*, traducción de Carlos Mellizo, Madrid, Tecnos, 2006, capítulo 5º, p. 34.

[3] Montesquieu, B. du, *L'Esprit des lois*, Genève, 1748, XXIII, p.29*: "Un homme n'est pas pauvre parce qu'il n'a rien, mais parce qu'il ne travaille pas"*

[4] Voltaire, "Questions sur l'Encyclopçedie. Article Propriété" (1771), *Oeuvres de Voltaire*, t.32, Paris, 1829, p.21. *"tous les paysans ne seront pas riches ; et il ne faut pas qu'ils le soient. On a besoin d'hommes qui n'aient que leurs bras et de la bonne volonté. Mais ces hommes (…) seront libres de vendre leur travail à qui voudra le mieux payer. Cette liberté leur tiendra lieu de propriété. L'espérance certaine d'un juste salaire les soutiendra. Ils élèveront avec gaieté leurs familles dans leurs métiers laborieux et utiles*

[5] Soreau, E., "La loi Le Chapelier", *Annales historiques de la révolution*¸t.VIII, 1931, pp.287-314, Sobiran-Paillet, F., "Nouvelle règles du jeu? Le decret d'Allarde et la loi Chapelier", *Deux siécles de droit du travail*, Paris, 1998, pp.17-24, or Kaplan, S.L., *La fin des corporations*, Paris, 2001.

[6] Jacobs, A., "Collective Self-Regulation", *The making of Labour Law in Europe*, London and New York, 2010, pp.197-198.

Liberal" (1820-1823), and definitively after the death of the King through the Decrees of 20th January 1834, and of 2nd and 6th December 1836[7].

This work aims to analyze, in terms of comparative law, the first bans on combinations around the end of the 18th century and the beginning of the 20th century, and the repression and punishment of unlawful combinations or associations involving Criminal laws at this period, particularly in Great Britain (pioneer in the Industrialization and the subsequent trade unionism), France (origin of the repression of combinations), and Spain (excluded till now from comparative law studies), although without forgetting absolutely the particularities of other European countries.

2. The crime of combination in France

As we have previously said, French liberal thinkers supported the need to abolish any corporate or guild structure with Acts such as the aforementioned Turgot's Edict (*Édit du roi portant suppression des jurandes et communautés de commerce, arts et métiers, donné a Versailles au mois de février 1776*). This requirement, which was absolutely essential for boosting the free market, was eventually and explicitly set down in writing in the Preamble to the Constitution of 1791, according to which *"henceforth there are no guilds or corporations of professions, arts or crafts"*, and was subsequently developed by acts such as Allarde's Decree of 1791, or the *Loi Le Chapelier* passed on 14 June 1791, the first Act in which there was a specific reference to the crime of combination in France[8].

In the wake of this Act, various other policing acts were passed that referred to the crime of combination or of unlawful association for economic or market purposes. These included the *Loi du 28 septembre du 1791, sur la police rurale*, aimed at farm workers [9] and the *Loi du 12 du avril du 1803, sur la police des manufactures*, aimed at industrial workers or proletarians [10], which referred back to the Penal Code if the deeds committed

[7] Bayón Chacón, G., *La autonomía de la voluntad en el Derecho del Trabajo. Límites a la libertad contractual en el Derecho histórico español*, Madrid, 1955, pp.270-308, or Álvarez Montero, A., "La libertad de trabajo en el entorno normativo de las Cortes de Cádiz", *Sobre un hito jurídico: La Constitución de1812*, Jaén, 2012, pp.325-341.

[8] Loi Le Chapelier du 14 juin 1791, art. 1: *"L'anéantissement de toutes espèces de corporations des citoyens du même état ou profession étant une des bases fondamentales de la constitution française, il est défendu de les rétablir de fait, sous quelque prétexte et quelque forme que ce soit"*

[9] Loi sur la police rurale du 28 septembre du 1791, art.20, in Miroir, E.M.M., et Brissot de Warville, E., *Traité de police municipale et rurale. Première Partie*, Paris, 1846, p.79: *"Les moissonneurs, les domestiques et ouvriers de la campagne ne pourront se liguer entre eux pour faire hausser et déterminer le prix des gages ou salaries, sour peine d'une amende, qui ne pourra excéder la valeur de douze journées de travail, et en outre, de la détention de police municipale"*.

[10] Loi relative aux manufactures, fabriques et ateliers du 12 avril du 1803¸arts. 6 y 7 Miroir, E.M.M., et Brissot de Warville, E., *Traité de police municipale et rurale. Première Partie*, Paris, 1846, p.115: *"Art.6. Toute coalition entre ceux qui font travailler des ouvriers, tendant á forcer injustement et abusivement l'abaissement des salaires, et suivie d'une tentative ou d'un commencement d'exécution, sera punie d'une amende de cent francs au moins, de trois mille francs au plus; et, s'il y a lieu, d'un emprisonnement qui ne pourra excéder un mois. Art.7: Toute coalition de la part des ouvriers pour cesse en même temps de travailler, interdire le travail dans certains ateliers, empêcher de s'y rendre et d'y rester avant ou après de certaines heures, et en général pour suspendre, empêcher, enchérir les travaux, sera punie, s'il y a eu tentative o commencement d'exécution, d'un emprisonnement qui ne pourra excéder trois mois"*.

by the combinations of workers were performed with violence, assault or the aggravating circumstance of multitude[11].

However, while the crime of combination for economic purposes gradually became laid down through these acts, there was greater resistance to treating political associationism as an offence. In fact, the recognition of the work done by the popular societies during the Revolution led to an early *Décret des 19 et 20 septembre 1790* which included positive references to the right of association[12], and the first Constitution of 1791 guaranteed this right amongst the fundamental provisions set out in Title 1, solely subjecting it to the controls laid down in acts on policing.

The first of these acts on policing was the *Loi relative á l'organisation d'une police municipale et correctionnelle du 19-22 juillet 1791,* which laid down a number of municipal controls on the formation of societies and clubs with political ends[13]. The *Décret sur les sociétés populaires du 29 et 30 septembre 1791* extended restrictions by prohibiting the existence or political activity of any society, club or association of citizens[14], providing financial penalties and disqualification from public office[15].

In response to this progressive trend towards the limitation of political associations, the government of the Convention briefly laid down again the absolute right of citizens to associate with *Décret du 13 juin 1793*[16]. However, very shortly afterwards,

[11] Loi relative aux manufactures, fabriques et ateliers du 12 avril du 1803¸art.8 in Miroir, E.M.M., et Brissot de Warville, E., *Traité de police municipale et rurale. Première Partie*, Paris, 1846, p.115: *"Si les actes prévus dans l'article précédent ont été accompagnés de violences, voies de fait, attroupement, les auteurs et complices seront punis des peines portées au Code de police correctionnelle ou au Code pénal, suivant la nature des délits".*

[12] Décret qui defend à toute association ou corporation, et aux corps de l'armée, d'entretenir ensemble des correspondences, in Duvergier, J.B., *Collection compléte des Lois, Décrets, Ordonnances, Réglemens, avis du Conseil-D'État (de 1788 à 1830 inclusivement, par ordre chronologique),* Tome Premier, Deuxiéme Edition, Paris, 1834, p.375

[13] Loi relative á l'organisation d'une police municipale et correctionnnelle du 19-22 juillet 1791, art. 14, in Miroir, E.M.M., et Brissot de Warville, E., *Traité de police municipale et rurale. Première Partie*, Paris, 1846, pp.66-67: *"Art.14: Ceux qui voudront former des sociétés ou clubs seront tenus, á peine de 200 livres d'amende, de faire préalablement, au greffe de la municipalité, la déclaration des lieus et jours de leur réunion; et, en cas de récidire, ils seront condemnés à 500 livres d'amende. L'amende sera pour suivie contre les présidents, secretaires ou commissaires de ces clubs ou sociétés".*

[14] Décret sur les sociétés populaires, in Duvergier, J.B., *Collection compléte des Lois, Décrets, Ordonnances, Réglemens, avis du Conseil-D'État (de 1788 à 1830 inclusivement, par ordre chronologique),* Tome Troisième, Deuxiéme Edition, Paris, 1834, pp.457-458: *"L'Assamblée nationale, considérant que nulle société, club, association de citoyens, ne peuvent avoir, sous aucune forme, une existence politique, ni exercer aucune action sur les actes des pouvoirs constitués et des autorités légales; que, sous aucun prétexte, ils ne peuvent paraître sous un nom collectif, soit pour assister à des cérémonies publiques, soit pour tout autre objet, décrété ce que suit: (...)".*

[15] Rapport sur les sociétés populaires, fait au nom du comité de constitution, in Duvergier, J.B., *Collection compléte des Lois, Décrets, Ordonnances, Réglemens, avis du Conseil-D'État (de 1788 à 1830 inclusivement, par ordre chronologique),* Tome Troisième, Deuxiéme Edition, Paris, 1834, pp.458-461.

[16] Décret relatif aux comités de salut publique et aux sociétés populaires, du 13 juin 1793, in Duvergier, J.B., *Collection compléte des Lois, Décrets, Ordonnances, Réglemens, avis du Conseil-D'État (de 1788 à 1830 inclusivement, par ordre chronologique),* Tome Cinquième, Deuxiéme Edition, Paris, 1834, p.342: *"Art.2.: Il est fait défense aux autorités constituées de troubler les citoyens dans la droit qu'ils ont de se réunir en société populaire".*

the Thermidorian reaction once again restricted this right in the *Décret du 16 septembre 1794*[17], which began to definitively map out the crime of unlawful political association.

The desire to control associations was very clearly expressed in the Constitution of 1795, which devoted at least five provisions to either limit them or subordinate their existence to the maintenance of social order (art.355, arts.360-362 and art.364). In spite of this, it is important to make clear that neither the first French Penal Code of 1791, which appeared during the full fervour of the revolution, or the subsequent *Code des délits et des peines* promulgated in 1795 in order to complete the Penal Code, expressly set out the crime of combination.

Both these acts were very philosophical texts which contained the basic principles of the new juridical penal science based on humanism, individualism, legality and proportionality of punishment. But leaving aside the General Part, the authors failed to make a proper, precise description of the different crimes in the Special Part, which still appears quite incomplete[18]. It was not until the promulgation of the Napoleonic Penal Code in 1810 that we find a clear description of this peculiar crime of combination.

The Penal Code of 1810 was technically far superior to its previous counterparts[19], and represented the expression of the authoritarian state and the repressive justice of the Napoleonic era[20]. Related to associationism, this Code distinguished two main types in separate sections according to the ends being pursued. The unlawful associations or assemblies with political purposes were described in Section VII (*"Section VII. Des associations ou réunions illicites")*, of Chapter 3 of Title 1 of Book III. This whole title was devoted to crimes or offences against the *res publica* (*"Crimes et délits contre la chose publique"*), while Chapter 3 in particular dealt with crimes or offences against public peace (*"Crimes et délits contre la paix publique"*).

However, when the associations or combinations were specifically of employers or workers and sought private ends such as the alteration of market prices or working conditions, they were classified under Chapter 2 (*"Crimes et délits contre les propriétés"*), of Title 2 of Book III, which was devoted to crimes or offences against private individuals (*"Crimes et délits contre les particuliers"*).

As regards this second type of crime of association, which is the object of study, the Penal Code of 1810 devoted three specific articles (414-416). The classification of the

[17] Décret du 16 septembre 1794, in Duvergier, J.B., *Collection compléte des Lois, Décrets, Ordonnances, Réglemens, avis du Conseil-D'État (de 1788 à 1830 inclusivement, par ordre chronologique)*, Tome Septième, Deuxiéme Edition, Paris, 1834, p.279.

[18] Jiménez de Asúa, L., *Tratado de Derecho penal*, 7 vols., Buenos Aires, 2ª ed., t. I, 1956, pp. 309-310, Lascoumes, P., Poncela, P. et Leonël, P., *Au nom de l'ordre.Une histoire politique du Code pénal*, Paris, 1989, o Poncela, P., "Le premier Code: la Codification pénale révolutionnaire", *Diritto e stato nella filosofia della rivoluzione francese. Atti del Colloquio internazionale (Milano, 1-3 ottobre 1990), a cura di Mario A. Cattaneo*, Milano, 1992, pp. 57-92.

[19] Lascoumes, P., Poncela, P. et Leonël, P., *Au nom de l'ordre. Une histoire politique du Code pénal*, Paris, 1989, pp.17-19, Damien, A., "Code pénal", en *Dictionnaire Napoléon*, Paris, 1999, t. I, pp.454-455, Carbasse, J.M., "Code pénal", *Dictionnaire de culture juridique*, Paris, 2003, pp.210-216, o *Bicentenaire du Code Pénal. 1810-2010*¸ Paris, 2010, pp.8-9.

[20] Carbasse, J.M., "État autoritaire et justice répressive. L'évolution de la législation pénale de 1789 au Code pénal de 1810", *All'ombra dell'aquila imperiale. Trasformazioni e continuità istituzionali nei territori sabaudi in età napoleonica*, Rome, 1994, pp.313-333.

crime in the Chapter devoted to *Crimes against property* was due to the intellectual effort of the liberal economists and jurists since Turgot's Edict of 1776[21].

In the same way as that pioneer Turgot's Edict, the first article of the Code devoted to this question (article 414) laid down that if "those who put the workers to work", employers or masters, were to combine or associate in order to unfairly and abusively force a reduction in salaries, they would be committing a crime punishable with a sentence of six days to one month in prison and a fine of 200 – 3000 francs[22]. According to Chauveau and Faustin, this crime had three fundamental aspects: that there must have been a combination of various people, even if they belonged to different professions or sectors; that their objective or purpose was to manipulate the price of the salaries; and that the deed had at least been attempted or that "execution had commenced"[23].

Chauveau and Faustin wondered if the legislator had perhaps made a mistake in the drafting of this point, in the sense that the expressions "attempted" or "commencement of execution" could almost be considered synonyms. However, they came to the conclusion that their intention was probably to capture the spirit of Article 2 of the Penal Code of 1810, and that they wanted to make clear that any external action tending towards execution should be considered a crime, even if execution thereof had not actually begun.

Article 415 laid down that if the combination was made up specifically of workers and was carried out with the specific purpose of bringing work to a halt, stopping the work in a workshop, obstructing the entrance thereto before or after certain times of day, or in general suspend, prevent or interfere in some way with the free supply of labour, the crime would be punished with a prison sentence of between one and three months. The leaders of the combination would be more severely punished with higher sentences of two to five years in prison[24].

For its part, Article 416 laid down the same sentences as in the previous article for workers who imposed fines, prohibitions, boycotts or any other similar action that resulted in the condemnation or proscription of the managers of factories or public works contractors. In this case it was sufficient just to have announced the offence even if the crime had not actually been committed or had only been attempted[25].

In the situations described in both these articles, in the case of offences committed in combination specifically by workers, they could additionally be subject to police

[21] Tangue, F., *Le droit au travail entre histoire et utopie. 1789-1848-1989: de la répression de la mendicité à l'allocation universelle*, Bruxelles, 1989, p.11.

[22] C.P. 1810, art.414: *"Toute coalition entre ceux qui font travailler des ouvriers, tendant à forcer injustement et abusivement l'abaissement des salaires, suivie d'une tentative ou d'un commencement d'exécution, sera punie d'un emprisonnement de six jours à un mois, et d'une amende de deux cents francs à trois mille francs".*

[23] Chauveau, A., et Faustin, H., *Théorie du Code Pénal*, tomo II, Bruxelles, 1845, pp.516-517.

[24] C.P. 1810, art.415: *"Toute coalition de la part des ouvriers pour faire cesser en même temps de travailler, interdire le travail dans un atelier, empêcher de s'y rendre et d'y rester avant ou après de certaines heures, et en général pour suspendre, empêcher, enchérir les travaux, s'il y a eu tentative ou commencement d'exécution, sera punie d'un emprisonnement d'un mois au moins et de trois mois au plus. Les chefs ou moteurs seront punis d'un emprisonnement de deux ans à cinq ans".*

[25] Carnot, M., *Commentaire sur le Code Pénal*, Tome Second, Paris, 1824, pp.363-364.

supervision, even after they had served their sentence, for between two and five years, so as to prevent them from recidivism[26].

As can be seen, not only were the punishments more severe in the case of workers than those imposed on employers, especially for the leaders or ringleaders of the association, but they were also accompanied by additional policing measures. In this case, what did the word "worker" (*"ouvrier"*) actually mean? Initially and once again according to the comments by Chaveau and Faustin, it referred only to those individuals who worked in factories, workshops, manufacturing and the commercial sphere in general. Men who worked in the fields were therefore excluded, although a different special act existed for them which contained a similar prohibition, to which we referred earlier: the *Loi du 28 septembre 1791 sur la police rurale*[27].

After the promulgation of the Penal Code, workers' associations were only authorized by authorities for charity reasons, and they were setting up through professional mutual societies named Mutual Aid Societies. These societies used the fees paid by their members to help out those in need as a result of illness or death of their members. The first associations of this kind appeared in Paris during the Bourbonic restoration period (1814-1830) after which many more were created in the provinces[28].

However, membership continued to be very low and they were easy to control by the government who adopted a fairly tolerant approach to them, until their protest actions began to multiply, above all after the Revolution of 1830. Then, in addition to propaganda and some temporary downing of tools, the workers associations began to organize much more serious resistance actions, such as the violent destruction of machines or factories, riots like the revolts in Lyon in 1831 and strikes like those organized across the whole country in 1833[29].

This escalation in violence was mainly due to the economic crisis and the sudden depreciation in salaries as a result of the change in the political regime. The government responded by greatly increasing police action and by reminding the mutual societies that they had to operate within their specific confines and if not would be dissolved and punished as unlawful associations.

The government persecution and the reaction by the workers with increasingly more frequent actions led to a lively debate about the right of association in the French

[26] C.P. 1810, art.416: *"Seront aussi punis de la peine portée par l'article précédent et d'après les mêmes distinctions, les ouvriers qui auront prononcé des amendes, des défenses, des interdictions ou toutes proscriptions sous le nom de damnations et sous quelque qualification que ce puisse être, soit contre les directeurs d'ateliers et entrepreneurs d'ouvrages, soit les uns contre les autres.*
Dans le cas du présent article et dans celui du précédent, les chefs ou moteurs du délit pourront, après l'expiration de leur peine, être mis sous la surveillance de la haute police pendant deux ans au moins et cinq ans au plus".

[27] Chauveau, A., et Faustin, H., *Théorie du Code Pénal*, tomo II, Bruxelles, 1845, pp.517-520.

[28] Charle, C., *Histoire sociale de la France au XIX siècle*, Paris, 1991, Duprat, C., *Usage et pratiques de la philanthropie. Pauvreté, action sociale et lien social à Paris au cours du premier XIX^e siècle*, Paris, 1997, vol. 1, p. 327-403, Gibaud, B., *Mutualité, assurances (1850-1914): les enjeux*, Paris, 1998, or Dreyfus, M., *Liberté, Égalité, Mutualité*, Paris, 2001, pp.63-65.

[29] Bron, J., *Histoire du mouvement ouvrier français*, Paris, 1970, pp.47-49, Fridenson, P., "Le conflit in social", *Histoire de la France : l'Etat et les conflits, tome III : les conflits*, Paris, 1990, p. 402, o Charle, C., *Histoire sociale de la France au XIX siècle*, Paris, 1991, pp.65-79.

Parliament in March 1834. Two deputies, Pierre Antoine Berryer and Félicité Robert de Lamennais, spoke out in favour arguing that the functioning of democracy was essentially dependent on this right, which permitted the different social classes to join together to defend their interests[30]. Above all they looked to the American model as a reference[31].

These deputies however were in a minority and in the end the moderate majority in Parliament prevailed. The result was the *Loi sur les associations 10 avril 1834*¸ which far from recognizing the right to association increased the penalties for those involved[32]. After this Act was enacted, the persecution and punishment of all associations became significantly tougher[33]. This did not however bring an end to the climate of violence, and political clubs, secret societies and workers associations continued to proliferate outside the Act, feeding on the socialist and anarchist doctrines that began to be disseminated above all in the last years of the July Monarchy.

The popular Revolution of 1848 provided an enormous boost and increased legitimacy for associations of this kind. An early *Décret du 29 février 1848* proclaimed for the first time in the liberal era the freedom of association for workers[34]; and a second decree, the *Décret du 28 juillet 1848*, regulated somewhat more extensively in 19 articles, the right of assembly for associations of all kinds, with the prerequisite that the founders of the association had to make a declaration of intentions before the authorities and that their meetings must always be held in public (secret societies continued to be illegal)[35].

Article 8 of the French Constitution of 4th November 1848 recognized *"le droit de s'associer et s'assembler paisiblement et sans armes"*, but the need to keep order and guarantee the public peace meant that shortly afterwards this right was once again severely restricted by the *loi du 15 mars 1849, contre les coalitions ouvriers et patronales*, which prohibited these kinds of associations from carrying out any unauthorized action; and the *loi des 19-22 juin 1849, sur le clubs*, which empowered the government to prohibit for a year any clubs or associations that might disrupt public security (promising the development of the Act regulating the right of association which ultimately never materialized)[36]. Another significant Act was the *loi 27 novembre 1849, rappelant l'interdiction des grèves*, which reminded that strikes as a means of political or economic coercion were illegal.

The powers granted to the government for the overseeing or control of all kinds of association for one year were renewed in 1850 (*décrets des 6-12 juin 1850*), and again in 1851 (*décrets des 21-24 juin 1851*). In addition to political or workers associations, these powers also affected simple electoral meetings or gatherings (there was no reference to religious associations).

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[30] Lamennais, F.R. de, *Questions politiques et philosophiques. Recuil des articles publiés dans L'Avenir (du 16 octobre 1830 au 15 novembre 1831)*, tome I, Paris, 1840, pp.91-99 y 123-136.

[31] Tocqueville, A. de, *De la démocratie en Amérique*, Paris, 1848, tome 3, pp.213-243.

[32] Loi sur les associations 10 avril 1834, art.1, in Miroir, E.M.M., et Brissot de Warville, E., *Traité de police municipale et rurale. Première Partie*, Paris, 1846, pp.151-152.

[33] Gibaud, B., *Mutualité, assurances (1850-1914): les enjeux*, Paris, 1998, p.20.

[34] Duvergier, J.B., *Collection complète des Lois, Décrets, Ordonnances, Règlements et Avis du Conseil d'État*, tome quarante-huitième, Paris, 1848, p.59.

[35] Duvergier, J.B., *Collection complète des Lois, Décrets, Ordonnances, Règlements et Avis du Conseil d'État*, tome quarante-huitième, Paris, 1848, pp.397-402.

[36] Duvergier, J.B., *Collection complète des Lois, Décrets, Ordonnances, Règlements et Avis du Conseil d'État*, tome quarante neuvième, 1849, pp. 233-234.

Finally, during the Second Empire there was a return to the situation prior to the Revolution of 1848 via the *Décret du 25 mars et 2 avril 1852*, that repealed all the provisions of the Act of 1848 except for that prohibiting secret societies and returned to the regime set out in the Penal Code and the Act of Associations of 1834[37].

In this way the suppression of all kinds of political or workers associations, with the exception of those of a mutualist nature, remained in force in France for a further period of over 10 years, until the well-known *Loi Ollivier, du 25 mai 1864*, which repealed the crime of combination from de Code, removing articles 414-416, and implicitly recognized the right to strike[38]. This law began in France the long way towards the recognition of the right of association.

3. Bans on combinations in Great Britain

Great Britain had a long and continuous history of associationism since medieval guilds (combinations of both masters and workers), and much modern trade-unions to serve only workers' interest at least since the late 17th century. Combinations became widespread in 18th century as a result of the development of manufacturing and commerce, and during the latter part of this century, particularly at beginning of the French revolutionary wars; they increased radical actions and conflicts with employers, pressing for higher wages and better working conditions[39].

Under the conservative leadership of Prime Minister William Pitt the Younger, the British government, wary of domestic revolutionaries and answering employers' demands for help, finally began an important movement of repression against political agitation, suspending habeas corpus right, broadened the law of treason, established tight control over the press…, and enacting Combination Acts of 1799 and 1800, that made trade unionism illegal, the same way Turgot's Edict had made it in France in 1776[40].

The first Combination Act of 1799 was initiated with a petition to the House of Commons from master millwrights. They complained about damages caused to manufacture by a combination of workers in London and the surrounding area. The committee in charge of this petition, recommended punishments for the workers, the control of the association, and that the wages were fixed by local magistrates, as it was usual in case of conflict between masters and workers. But William Wilberforce argued then that these measures were clearly insufficient to face the current climate of social

[37] Duvergier, J.B., *Collection complète des Lois, Décrets, Ordonnances, Règlements et Avis du Conseil d'État*, tome cinquante deuxième, 1852, p.263.

[38] Duvergier, J.B., *Collection complète des Lois, Décrets, Ordonnances, Règlements et Avis du Conseil d'État*, tome soixante quatriéme, 1864, pp.162-195.

[39] Brentano, L., *On the history and development of guilds, and the origin of trade unions*, London, 1870, Thompson, E. P. *The Making of the English Working Class*, London, 1963, Bagwell, P.S., *Industrial relations in19th century Britain*, Dublin, 1974, Hunt, E.H., *British labour history 1815-1914*, London, 1981, Rule, John. *The Labouring Classes in Early Industrial England, 1750-1850*, New York, 1986, or Rice, John, ed. *British Trade Unionism, 1750-1850: The Formative Years*. London: Longman, 1988.

[40] George, M.D., "The Combination Laws reconsidered", *Economic History. Supplement to Economic Journal*, vol.1, 1927, pp.214-228, and "The Combination Laws", *Economic History Review*,vol.VI, 1935-1936, pp.172-178, Citrine, N.A., *Trade union law*, 3º edic. London, 1967, or Brown, K.D., "Trade unions and the law", *An history of British industrial relations, 1875-1914*, Brighton, 1982.

agitation, and, according to the mercantilist ideology and the liberal thinking of the time, suggested that Parliament approved a law of general applicability against workers' combinations.

That law passed quickly and with little opposition in House of Commons and in House of Lords on June 1799, and it received the royal assent on 12 July. It specifically annulled all agreements settled between workers and employers in favor of freedom of contract, and forbade workers' combinations with the purpose to press for improvement in wages and working conditions (mutual associations of workers, which had no economic aims but only social, cultural, religious or educational functions, continued explicitly recognized in Britain under the Friendly Societies Act of 1793[41]). The penalty provided by law to offenders was only two months of hard labour, that it was not too much the standards of the time and simply sought a deterrent effect.

The Combination Act of 1799 also forbade encouraging other workers to leave or to object to working with anyone else, and confronted worker solidarity by a fine of ten pounds for anyone caught contributing to the expenses of a person condemned under the acts subject. The individual receiving support was liable to a fine of five pounds.

Finally, the Act tried to streamline the judicial process against the workers, by allowing employers to bring charges before one or more magistrates at the time, and forcing defendants to testify against one another. Appeal could be made only to quarter sessions, which met four times in a year.

The working class demanded the repeal of this Act, by sending a good number of petitions from London, Manchester, Liverpool, Leeds, Nottingham, and other industrialized cities. They all were presented to Parliament in June 1800, and a new Act to repeal the Combination Act of 1799 passed in the last Session of Parliament, intituled *"An Act to prevent Unlawful Combinations of Workmen, and to substitute other provisions in lieu thereof"*. That Act aimed to modify only the more obnoxious features of the Combination Act of 1799.

Therefore, it maintained the nullity of *"all contracts, covenants and agreements"* between any master and his journeyman or manufacturer[42], and the general prohibition of trade unionism, forbidding workers from organizing to increase wages or decrease hours. But, as an improvement, the new Act established that the penalties had to be imposed by

[41] Gosden, P.H., *The Friendly Societies in England*, Manchester, 1961.

[42] The Combination Act of 1800, I-II, in Aspinall, A. and Smith, E. A. (eds.), *English Historical Documents, XI, 1783-1832*, New York: Oxford University Press, 1959,.pp. 749-52. *"II. (...) No journeyman, workman or other person shall at any time after the passing of this Act make or enter into, or be concerned in the making of or entering into any such contract, covenant or agreement, in writing or not in writing ... and every ... workman ... who, after the passing of this Act, shall be guilty of any of the said offences, being thereof lawfully convicted, upon his own confession, or the oath or oaths of one or more credible witness or witnesses, before any two justices of the Peace (...) within three calendar months next after the offence shall have been committed, shall, by order of such justices, be committed to and confined in the common gaol, within his or their jurisdiction, for any time not exceeding 3 calendar months, or at the discretion of such justices shall be committed to some House of Correction within the same jurisdiction, there to remain and to be kept to hard labour for any time not exceeding 2 calendar months".*

at least two justices in agreement[43], and it required that they not belonged to the trade in question[44].

Penalties remained relatively mild (three months imprisonment or two months of hard labor), while the behaviours that could be punished were increased by a very descriptive regulation. It included entering into a combination or supporting it to change the conditions of the labour market, or trying to interfere in it in any way (giving money, by persuasion, solicitation or intimidation, leaving the work, attending meetings, personally or through other person, employed or unemployed, etc.)

The Act of 1800 also innovated by incorporating the employers as active subjects of the offence. So, it forbade as well the *"combinations of manufacturers"*, giving powers to justices to prevent them[45], and it condemned the masters who made contracts for reducing the wages of workmen, altering the usual hours of working, or increasing the quantity of work. This kind of contracts shall be void, and the masters convicted thereof shall forfeit a fine of £20[46]. But nevertheless these provisions apparently were never enforced. Workers denounced it, and in 1811 one of his leaders, Gravener Henson, carried on a long and unsuccessfully campaign trying to prosecute four hosiery employers under the Combination Acts. As a result of his campaign, only he was arrested and imprisoned for being convicted of combination into the luddites movement.

The last important improvement in the Act of 1800 was the settlement of an arbitration system between workers and employers. Both parties could appoint an arbitrator to determine the matter in dispute respecting wages or work. One party's arbitrator should deliver his solution to the other party, and require the answer of its own arbitrator in two days place. Such arbitrators were authorised to examine upon oath the

[43] The Combination Act of 1800, III-IV, in Aspinall, A. and Smith, E. A. (eds.), *English Historical Documents, XI, 1783-1832*, New York: Oxford University Press, 1959,.pp. 749-52: *"III. (...) Every (...) workman (...) who shall at any time after the passing of this Act enter into any combination to obtain an advance of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or for any other purpose contrary to this Act, or who shall, by giving money, or by persuasion, solicitation or intimidation, or any other means, wilfully and maliciously endeavour to prevent any unhired or unemployed journeyman or workman, or other person, in any manufacture, trade or business, or any other person wanting employment in such manufacture, trade or business, from hiring himself to any manufacturer or tradesman, or person conducting any manufacture, trade or business, or who shall, for the purpose of obtaining an advance of wages, or for any other purpose contrary to the provisions of this Act, wilfully and maliciously decoy, persuade, solicit, intimidate, influence or prevail, or attempt or endeavour to prevail, on any journeyman or workman, or other person hired or employed, or to be hired or employed in any such manufacture, trade or business, to quit or leave his work, service or employment, or who shall wilfully and maliciously hinder or prevent any manufacturer or tradesman, or other person, from employing in his or her manufacture, trade or business, such journeymen, workmen and other persons as he or she shall think proper, or who, being hired or employed, shall, without any just or reasonable cause, refuse to work with any other journeyman or workman employed or hired to work therein, and who shall be lawfully convicted of any of the said offences, upon his own confession, or the oath or oaths of one or more credible witness or witnesses, before any two justices of the Peace for the county (...) or place where such offence shall be committed, within 3 calendar months (...) shall, by order of such justices, be committed to (...) gaol for any time not exceeding 3 calendar months; or otherwise be committed to some House of Correction (...) for any time not exceeding 2 calendar months"*

[44] The Combination Act of 1800, XVI, in Aspinall, A. and Smith, E. A. (eds.), *English Historical Documents, XI, 1783-1832*, New York: Oxford University Press, 1959,.pp. 749-52.

[45] The Combination Act of 1800, XIV, in Aspinall, A. and Smith, E. A. (eds.), *English Historical Documents, XI, 1783-1832*, New York: Oxford University Press, 1959,.pp. 749-52.

[46] The Combination Act of 1800, XVII, in Aspinall, A. and Smith, E. A. (eds.), *English Historical Documents, XI, 1783-1832*, New York: Oxford University Press, 1959,.pp. 749-52.

parties and their witnesses, and to hear and determine theirs complaints. Their award should be final and conclusive between the parties. But in case they didn't agree, or their award wasn't signed by both parties within the space of three days, either of them could go before of his Majesty's justices of the Peace[47].

This arbitration procedure was seldom used, and justices went on having a role in setting wages and prices in England and Ireland (this Acts didn't apply to Scotland, which had a different, even more repressive, legal system). In fact, things didn't change much with the enactment of the Combinations Acts. Trade union activity went on through clandestine associations, or under the cloak of mutual or charitable associations for economic and social assistance, which were allowed in Britain like in other European countries. Moreover, in some stable, small-scale artisan industries, masters accepted the existence of trade clubs among their workers. Even in large-scale industries or factories, were repression was far greater, masters preferred to use other legal concepts, like "conspiracy", rather than "combination", due to the relatively mild penalties under the Combinations Acts.

Penal restrictions only caused more social insecurity because old and new trade unions had to work underground, and they were often closely allied with radical political groups. Far from stopping the labor movement, they encouraged workers to organize more broadly and were counter-productive[48]. This point of view soon was hold by reformers like Francis Place, Joseph Hume, Sir Francis Burdett or J.R. McCulloch, who got the repeal of the Combination Acts in Britain earlier than in other countries.

The campaign for the repeal of the Combination Acts began in 1814 with Francis Place[49]. He believed that unions of trade were able to promote relations between workers and employers, seeking harmony between their interest within the framework of the supply and demand law (*"these being repealed, combinations will lose the matter which cements them into masses and they will fall to pieces"*[50]). In his opinion, combinations could do little to improve the condition of the worker because of the natural law emerged from free labour market, but they could be useful to guarantee social peace. In the other hand, combination bans had provoked disturbance and unrest in all Europe, and they had encouraged increasingly violent actions.

This doctrine, clearly inspired in the utilitarian philosopher Jeremy Bentham who saw the principle of utility as the decisive criterion for legislation (combinations were useful and must be recognised), and who was in fact one's of Place friends, was adding allies among some London artisans and journalists, who helped spread it in London public opinion. The campaign against the Combination Acts, also joined the support of the influential economist John McCulloch in 1824; and, in Parliament, the philanthropist

[47] The Combination Act of 1800, XVIII-XXII, in Aspinall, A. and Smith, E. A. (eds.), *English Historical Documents, XI, 1783-1832*, New York: Oxford University Press, 1959,.pp. 749-52.

[48] Hedges, R.Y., and Winterbottom, A., *The legal history of trade unionism*, London, 1930, Aspinall, Arthur. *The Early English Trade Unions: Documents from the Home Office Papers in the Public Record Office*. London, 1949, Pelling, Henry, *A History of British Trade Unionism*, Harmondsworth, 1963, Phelps Brown, E.H., *The origins of trade unions power*, Oxford, 1983, or Rice, John, ed. *British Trade Unionism, 1750-1850: The Formative Years*. London: Longman, 1988.

[49] Thompson, W. S. "Francis Place and Working-Class History", *Historical Journal* 5 (1962), pp. 61-70.

[50] Cfr. Jacobs, A., "Collective Self-Regulation", in Hepple, B. (edit.), *The making of labour law in Europe. A comparative study of nine countries up to 1945*, London and New York, 2010, p.201.

Joseph Hume, also friend of Bentham and Place, presented a large numbers of petitions calling for reform of the Combination Acts, in addition to other petitions to improve the condition of the working classes, establishing schools for children or forming savings banks.

The debate was complicated when Gravener Henson, one of the leader of framework-knitters, with the aid of a Whig member of Parliament, Peter Moore of Coventry, introduced a new bill in 1823 that not only claimed to abolish the Combination Acts, but many other laws that forbade unions as conspiracies in restraint of trade, and tried to control labor relations, regulate wages, and settle disputes. He advocated for interventionist measures, while Place and his allies believed in the classical economy of freedom with minimal regulation of labor.

At the opening of Parliament in 1824, Hume promoted the creation of a parliamentary select committee with the task of investigating the Combination Acts, according to his own ideas. He himself chaired the committee, excluding both radical trade unionists and the most reactionary employers. The committee achieved a significant popular support, and the Combinations Acts of 1799 and 1800 were finally repealed on 21 June 1824.

After the repeal, worker's demands increased, and they were supported by a good number of strikes. Some manufactures lobbied Parliament for the reinstatement of the Combination Acts, and Sir Robert Peel set up a new committee on 28 March 1825. This time, one of the government's economic experts, Thomas Wallace, chaired it. The committee refused to hear trade union representatives, but they were heard on the streets through an organized and massive movement led by Place and one of the country's leading trade unionists, John Gast, together with others delegates from many London trades or from provincial workers' organizations that send their representatives to London[51]. They presented 97 petitions containing over 100,000 signatures against the reestablishment of the combination laws.

These actions were essential to recover the influence of workers representatives in Parliament, and Place, Hume and others allies finally could intervene in the drafting of the bill. The debates on June, particularly between Peel and Hume, were intense and tough, but at last the bill met some of the demands of the trade unions, including providing more safeguards for workers accused of intimidation. This way, the amending Act of 1825 wasn't so bad to workers, and it was generally accepted, although it imposed serious limitations on the right to strike. The combinations concerned with wages, prices and hours of work were allowed under statute and common law, but any kind of violence, intimidation or obstruction, including strike, were forbidden and punished.

In the following years, trade unions multiplied, and during the 1830s a movement toward general unionism was developed, establishing organization nationally and organizing trades into alliance with one another. The Friendly Societies Act of 1855 gave legal protection to trade unions by considering them societies with benefit functions. This doctrine was denied by Courts in 1867, and this same year of 1867 the government set up a new commission on trade unions under the chairmanship of Sir William Erle. The

[51] Carpenter, K.E., *Repeal of the Combination Acts: Five Pamphlets and One Broadside 1825*. New York, Arno Press, 1972.

majority report of this commission recommended the legislation and supervision of trade unions, until then under private control. But Frederic Harrison, Thomas Hughes and Thomas Anson, refused the majority report and instead produced a minority report urging legislation without control, and arguing for a privileged legal status.

According to the minority report, the liberal government headed by William Gladstone enacted the Trade Union Act of 1871. It secured the legal status of trade unions by removing the legal consequences of their purposes being in restraint of trade, established a system of voluntary registration of unions, and the only supervision from the state was limited requirements for the auditing of union funds[52].

4. The crime of combination in Spain

In the Penal Code of 1822 there was no mention of the crime of combination because, at that time, the "social question" was still not an issue in Spain. This first Spanish Penal Code only regulated unauthorized associations that sought political or religious ends in its Part One (*"Crimes against Society"*), Title III (*"Crimes against internal State security and against public peace and order"*), Chapter IV, under the heading *"Factions and sections of prohibited confederations and meetings"* (arts.315-320).

However, the next Spanish Penal Code, the Penal Code of 1848, that could be classified within the second generation of codes[53], and it was much more influenced by other classical Penal Codes (in particular the French, but also by those of Austria and Naples, and even by Brazilian Penal Code[54]), did include this second type of crime of association, specifically intended to repress all those combinations of employers or workers ("*coligaciones"*) aimed at altering the conditions of the labour market, in addition to the unlawful associations for political or religious ends.

The political associations continued within the *"Crimes against internal State security and public order",* in the Part Three of Book Two; and this new kind of unlawful association for private or economic purposes was described in Chapter V (*"Scheming to alter the price of things"*) of Title XIV of Book II (*"Crimes against property"*). Although the workers movement was still not particularly strong in Spain the news arriving from the *"manufacturing countries",* and the aforementioned influence of the other European codes when it came to drafting the Spanish Penal Code, caused legislators to decide to include this particular crime within the crimes against property.

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[52] Jacobs, A., "Collective Self-Regulation", in Hepple, B. (edit.), *The making of labour law in Europe. A comparative study of nine countries up to 1945*, London and New York, 2010, p. 208.

[53] Martinage, R., *Histoire du droit pénal en Europe*, Paris, 1998, pp.75-85, Sánchez González, M.D., *La Codificación penal en España: los códigos de 1848 y 1850*, Madrid, 2004, and Iñesta Pastor, E., *El Código penal español de 1848*, Valencia, 2011.

[54] Masferrer, A. and Sánchez-González, M.D., "Tradición e influencias extranjeras en el Código penal de 1848", *La Codificación española. Una aproximación doctrinal e historiográfica a sus influencias extranjeras, y a la francesa en particular* (A. Masferrer, ed.), Cizur Menor: Aranzadi Thomson Reuters, 2014, pp.271-349, and Alvarado Planas, J., "La codificación penal en la España isabelina: la influencia del Código Penal de Brasil en el Código penal español de 1848", *V Seminario Duque de Ahumada. España en la época de la fundación de la guardia civil*, Madrid, 1990, pp.43-82.

The influence in this new type of crime was particularly by the French Code[55]. But the fact that such offences were still rarely committed in Spain at that time meant that the three articles on this question in the French Penal Code were summarized in one in the Spanish Penal Code, Article 461:

"Those who associate to increase or reduce the price of labour abusively, or to regulate their working conditions, will be punished, providing that the combination has begun to be executed, with penalties of arresto mayor and a fine of 20 to 100 duros. If the combination were to be formed in a town with less than 10,000 souls, the punishments will be arresto menor and a fine of 15 to 50 duros. In both cases, punishments of the highest degree will be given to the leaders and promoters of the combination and to those who use violence or threats to ensure its success, unless they deserve more severe sentences".

This article considered the unlawful action of both employers and workers who consciously formed an association with the intention of altering the conditions of the labour market (salaries, working hours, rest days etc.). The punishments did not depend on the social group at which they were directed (they were the same for employers or workers), and instead varied according to the population of the town in which the crime had taken place, on the basis of the different level of alteration of public order and the degree of participation, with more severe punishments for the promoters of the association than for mere participants.

Since the aforementioned Decrees of 20th January 1834, and of 2nd and 6th December 1836, which definitely abolished the guilds and all kind of corporative unions in Spain, following the French model of Turgot's Edict, the only form of association open to workers by an important Royal Order of 1839 (*Real Orden de 28 de febrero de 1839*) was the Mutual Aid Society (*Sociedades de Socorros Mutuos*)[56], that shared the same spirit as the French ones, and like them were grouped according to trades and workplaces[57].

The reaction of the bosses to the growing workers movement that was gradually carving itself out under the auspices of this kind of association, soon became evident in a series of proclamations, decrees and orders between 1840 and 1842 that tried to limit these actions, reminding the Mutual Aid Societies that they should be exclusively devoted to charity work or mutual aid. Some of the most radical, such as the Society of Weavers of Barcelona, were wound up[58].

The mistrust towards the increasingly numerous mutual aid societies, which under the guise of charitable work were suspected of covering up other actions of a political nature, led Queen Isabel II to issue a Royal Order (*Real Orden de 25 de agosto de 1853*)

[55] Pacheco, J.F., *El Código penal concordado y comentado*, 5ª ed. Madrid, 1881, t. III, pp.383-385.

[56] Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, p.15.

[57] Castillo, S., "Las Sociedades de Socorros Mutuos en la España Contemporánea", *Solidaridad desde abajo*, Madrid 1994, pp.1-29, or ILLADES, C., *De los gremios a las sociedades de socorros mutuos*, Instituto de Investigaciones históricas, vol.13, 1990.

[58] Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, pp.16-18, and pp.40-42.

which suspended the provisions of the previous order of 1839 allowing these societies to be set up[59]. Although the progressive period of government known as the *Bienio Progresista* (1854-1855) seemed to provide a new boost to worker associationism[60], after the violent events during the first general strike in Spain in 1855 (declared illegal), another period of strong reaction against it began[61].

In spite of the repression, the workers movement continued to develop underground, often via cultural associations in which members began to be instructed in a specific political ideology. The Spanish workers also heard news of the holding in London of the First Workers International in 1864 and of the creation at that event of the International Workingmen's Association (IWA). More contacts were made and the Spanish issue began to be discussed abroad. At the second Congress of the IWA in Lausanne in Switzerland in 1867 messages were received from the still clandestine Spanish workers associations[62].

In this context the debate about the right of association, became increasingly important in Spain and abroad, leading to the preparation of the first Bill on Public Societies of 29th January 1866[63]. The text of this Act was drafted by Posada Herrera just two years after the promulgation in France of the *Loi Ollivier, du 25 mai 1864*, opening up a period of tolerance and decriminalization of the actions taken by workers associations[64]. Unfortunately, this draft Act was never debated in Parliament.

In Spain we would have to wait for the triumph of the Democratic and Republican parties after the Glorious Revolution of 1868 for the winds of change to blow through the country. In an early Decree of 1st November 1868, the Provisional Government permitted the right to peaceful meeting[65]; and shortly afterwards another very interesting Decree of 20th November 1868 recognized general freedom of association for the first time in Spain (*"one of the clearest, fairest and most strenuously defended demands of our glorious revolution"*). The various articles of the decree provided for a certain degree of administrative control such as the requirement that associations should inform the local authorities of their purpose, regulations and decisions. It also had the enormous merit of expressly abolishing Articles 211 and 212 of the Penal Code referring to political associations[66].

Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, pp.18-19.

[60] Fabián Caparrós, E., "Aproximación histórica al tratamiento jurídico de la huelga en España. Siglo y medio de represión penal de la huelga de trabajadores (1822-1975)", *Revista del Trabajo y la Seguridad Social*, nº5, 1992, pp.21-42.

[61] Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, pp.31-35.

[62] Termés Ardevol, J., *El movimiento obrero en España. La I Internacional (1864-1881)*, Barcelona, 1965, or *Anarquismo y sindicalismo en España (1864-1881)*, Barcelona, 1972.

[63] Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, pp.38-39.

[64] Duvergier, J.B., *Collection complète des Lois, Décrets, Ordonnances, Règlements et Avis du Conseil d'État*, tome soixante quatriéme, 1864, pp.162-195: "*Art. 1. Les art. 414, 415 et 416 c. pén.* [Code pénal] *sont abrogés. Ils sont remplacés par les articles suivants (...)"*.

[65] Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, pp.62-65, and Gaceta de Madrid, nº 307, 02-11-1868, p.2.

[66] Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, pp.65-70, an Gaceta de Madrid, nº 326, 21-11-1868, pp.2-3.

After a fascinating debate in the Congress[67], the Constitution of 1869 soon gave the green light to the right of association together with the right of assembly in an extensive Article 17, which permitted the exercise of these rights *"for all purposes of human life which are not contrary to public morals"*[68]. Article 19 however made clear that when the members of an association committed a crime, this association could be dissolved or suspended by the administrative authority, while the case was being heard by a judge. Any association whose ends or means undermined State security could also be wound up.

The suspicious attitude towards associations which could still be seen in this article of the Constitution and in the debates that preceded it in Parliament was also transferred to the Penal Code of 1870, which was drafted above all to adapt the previous Penal Code to the new individual rights enshrined in the Constitution[69]. In this way the treatment of "unlawful associations" in general was separated from the group of crimes against the "internal security of the state" or "crimes against public order" and was instead included in a new Chapter II of Title II (*"Crimes against the Constitution"*), under the heading "*Crimes committed during the exercise of the individual rights guaranteed by the Constitution*".

However, the crime of combination continued to be described in the second part of the Penal Code of 1870, amongst the Crimes against Property. In fact, the literal text of the article on this question, in Title XIII (*"Crimes against property"*), Chapter V (*"Scheming to alter the price of things"*), reproduced almost unchanged Article 461 of the Penal Code of 1848[70].

One of the most important commentators on this Code, Alejandro Groizard, argued that this article, which had been inherited from earlier eras and had hardly been debated in Parliament, was wrongly positioned amongst "Crimes against Property", as in his opinion it should have been classified amongst "Social Crimes"[71]. The term "social

[67] DSC, nº 56 , de 22-04-1869, pp.1276 onwards, and DSC, nº 57, 23-04-1869, pp.1308 onwards, and DSC, nº 68, 07-05-1869, pp.1684 onwards.

[68] Olías de Lima, B., *La libertad de asociación en España (1868-1974)*, Madrid, 1977, Peces Barba, G., *Sobre las libertades políticas en el Estado español (expresión, reunión y asociación)*, Valencia, 1977, Yborra, J.A., *Los orígenes del derecho de asociación laboral en España (1800-1869)*, Valencia, 1978, Rojas Sánchez, G., *Los derechos políticos de asociación y reunión en la España contemporánea (1811-1936)*, Pamplona, 1981, Velloso, M.L., "Los orígenes constitucionales del derecho de asociación en España (1868-1923)", *Revista de Derecho Público*, núm.88-89, Madrid, 1982, or Pelayo Olmedo, J.D., "El derecho de asociación en la historia constitucional española, con particular referencia a las leyes de 1887 y 1964", *Historia Constitucional (revista electrónica)*, nº8, 2007.

[69] This was stated by the architects of the project, Montero Ríos y Groziard, and its main supporters on Cortes, as Francisco Silvela, in DSS, nº307, 15-06-1870, p.8883, or Madrazo in DSC, nº308, 17-06-1870, p.8900. See also Antón Oneca, J., "El Código penal de 1870", *Anuario de Derecho Penal y Ciencias Penales*, nº 23, fasc.2, (1970), p.250, or Núñez Barbero, R., *La reforma penal de 1870*, Salamanca, 1969, p.58.

[70] C.P. 1870, art.556: *" Los que se coligaren con el fin de encarecer ó abaratar abusivamente el precio del trabajo ó regular sus condiciones, serán castigados, siempre que la coligación hubiere comenzado á ejecutarse, con la pena de arresto mayor. Esta pena se impondrá en su grado máximo á los jefes y promovedores de la coligación y a los que para asegurar su éxito emplearen violencias ó amenazas, á no ser que por ellas merecieren mayor pena"*.

[71] Groizard, A., *El Código penal de 1870, concordado y comentado*, t. VII, Salamanca, 1897, pp.312-313: *"Ninguno de los actos castigados en el presente capítulo constituye un atentado contra la propiedad. Todo hombre es libre para contratar, pero tiene que respetar esa misma libertad en los demás*

crime" had been coined in international doctrine and in political and journalistic language in the late 19th and early 20th centuries, although it was never included in any act to refer specifically to criminal behaviour resulting from labour conflicts and the union movement[72].

The radicalization taking place at that time in the workers movement fundamentally from the perspective of anarchist thought which viewed the general strike as a revolutionary instrument, as well as subscribing to other more violent actions such as terrorism, meant that a whole set of crimes from the most serious of terrorism or murder to the most minor such as assembly, unlawful association or striking began to be considered within this ambiguous concept of "social crime" whenever they were aimed at altering social conditions or the labour market.

This is why when Groizard commented on this crime, he instantly related it with striking, the main form of demonstration at that time[73]. According to this author, although employers' combinations (also unlawful according to Article 556) were less frequent than those of workers and did not produce so much alarm within society, they should also be punished as they were crueller and easier to form and because *"they reveal the incapacity of the public authorities to provide a peaceful and fair solution to industrial strife"*[74].

Many other authors from this period also declared themselves in favour of this doctrine relating "combination and striking" with "social crime". This was a question of hot debate because these views were opposed by the international workers movement and the new ideologies, not only of a socialist nature such as communism and anarchism, but also within the Liberals, Progressives and Democrats' own ranks. This coincided above all with the development of Krausism to demand greater state intervention in labour relations, via urgent measures of "social reform" so as to correct the errors of the liberal system against the working class[75].

The intellectual tension that surrounded the right of association and the right to strike and their legitimacy became evident the moment the Code was promulgated. The main question focused on discovering whether any association entered into in support of a strike was unlawful pursuant to Article 556 or only those that were carried out with the specific purpose of "abusively" increasing or reducing the price of labour[76]. This was the interpretation that ultimately became laid down by the First Circular of the Prosecution

(…) Despréndese de estas consideraciones que los hechos de que vamos á ocuparnos no son delitos naturales, sino verdaderos delitos sociales".

[72] Marinello Bonnefoy, J.C., "Los delitos sociales en la España de la Restauración (1874-1931)", *Anuario de Historia del Derecho Español*, t. LXXXVI (2016), pp.521-545.

[73] Groizard, A., *El Código penal de 1870, concordado y comentado*, t. VII, Salamanca, 1897, pp.328-329.

[74] Groizard, A., *El Código penal de 1870, concordado y comentado*, t. VII, Salamanca, 1897, p.330.

[75] Montero García, F., "La polémica sobre el intervencionismo y la primera legislación obrera en España (1890-1900). Primera parte: el debate académico", *Revista del Trabajo*, nums.59-60 (1980/1981) pp.121-165, Clavero, B., "Institución de la reforma social y constitución del Derecho del Trabajo", *Anuario de Historia del Derecho Español,* 49 (1989), pp.859-884, Palomeque López, M.C., *Derecho del Trabajo e ideología. Medio siglo de formación ideológica del Derecho Español del Trabajo (1873-1923)*, Madrid, 5ª ed., 1995, Monereo Pérez, J.L., *Fundamentos doctrinales del derecho social en España*, Madrid, 1996, or Cabrera, M.A., *El reformismo social en España (1870-1900)*, Madrid, 2014.

[76] Francisco Silvela in DSC nº 307, 15-06-1870, p.8887, or Salmerón in DSC, nº129, 27-10-1871, pp.3238-3244.

Service of the Supreme Court of 27 November 1871, which argued that for the combination to be considered unlawful, it had to act in an "abusive" manner, that is using violence, threats, damage or any other means that in themselves constituted a crime or offence[77].

The well-known policy of social harmonization on which the Restoration of the Bourbon Dynasty in the person of King Alfonso XII was based was expressed in Article 13 of the constitution of 1876, which once again recognized the right of association without any subsequent article limiting this right, except for Article 14 which referred the regulation of the rights of citizens to subsequent legislation.

In the case of the right of association, this came in the General Act on Associations of 30th June 87, which although it stipulated that government control was required for the constitution and development of associations (they were obliged to present their statutes, regulations and decisions to the Governor of the province and inform him of the days, time and place of their ordinary meetings)[78], it achieved a wide consensus and remained in force for a long period. The main trades unions were created under its protection, the first of which was the General Workers Union (Unión General de Trabajadores) in 1888, at a time in which in Spain and in France, the unions began to relinquish their divisions into "trades" to form a genuine "class" or transversal union movement[79].

For its part a new Circular from the Prosecution Service of the Supreme Court, dated 4th March 1893 continued interpreting Article 556, emphasizing the need for abusive or non-peaceful behaviour[80]. This was the doctrine applied by the courts to try those arrested in the numerous strikes or demonstrations that were considered unlawful. But this crime was increasingly viewed as outdated and incompatible with the right of workers to associate.

The Commission on Social Reform[81] was commissioned to analyse this question in 1901 after an intense debate in Parliament after a consultation by various members

[77] Alarcón Caracuel, M.R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973, Annexes, pp.79-80.

[78] Gaceta de Madrid, nº 193, 12-07-1887, pp.105-106.

[79] García Venero, M., *Historia de los movimientos sindicalistas españoles (1840-1933)*, Madrid, 1961, Ron Latas, R., *Los sindicatos horizontales*, Granada, 2003, Perfecto García, M.A., "El corporativismo en España: desde los orígenes a la década de 1930", *Pasado y memoria: Revista de historia contemporánea*¸nº5 (2006), pp. 185-218, or Palomeque López, M.C., "El sindicato en la historia de España", *Sindicalismo y democracia: el "Derecho sindical español" del profesor Manuel Carlos Palomeque treinta años después (1986-2016)*, Madrid, 2017, pp.123-137.

[80] Memoria del Fiscal del Tribunal Supremo de 15 de septiembre de 1893, pp.85-91: *"No cometerán abuso punible los trabajadores que voluntariamente nieguen su concurso al patrono o empresario que no les remunere con el jornal y las condiciones de servicio que estimen proporcionadas; pero excederán su derecho, cayendo en responsabilidades criminales exigibles, los que intenten lograrlo por la violencia o la intimidación o cohibiendo de otro modo la libertad de aquel o de sus propios compañeros".*

[81] Palacio Morena, J.I., *La institucionalización de la reforma social en España, 1883-1924: La Comisión y el Instituto de Reformas Sociales*, Madrid, 1988, De la Calle, M.D., *La Comisión de Reformas Sociales (1883-1903). Políticas social y conflictos de intereses en la España de la Restauración*¸Madrid, 1989, or González Sánchez, J.J., "La Comisión de Reformas Sociales (1883-1903)" *Segismundo Moret Presidente del Consejo de Ministros de España: cuestión social y liberalismo*, Madrid, 2016, pp.71-132.

regarding the charges by the Army and the people that had been killed in the latest strikes in La Coruña and Seville that year[82].

On the basis of this preparatory work the first Bill on Combinations and Strikes of 29th October 1901 was presented to the Congress. This Bill expressly derogated Article 556 of the Penal Code[83], but it never came into force. This was the first project in an enormously lengthy process which culminated several years later during the reign of King Alfonso XIII after the discussion of several different projects and corrections in both the Senate and the Congress in an endless to and fro between the two houses. The end result was three important Acts promoted by the then President of the Council of Ministers, Antonio Maura y Montaner, who always proudly claimed to have finally secured their passage: the Acts on Conciliation and Arbitration and on Industrial Tribunals of 19th May 1908, and the Act on Strikes of 27th April 1909[84].

5. Conclusions

The rise of the ideology of freedom in liberal States, individual liberalism and individual autonomy, ended with ancient associations, leagues, collectivities or guilds, which gradually were forbidden and disintegrated in favor of free market. But beyond this public justification, there was mainly political fear. Bans on combinations were definitely a political answer to the climate of social unrest that brought along the Bourgeois Revolution at the origins of liberal state. Institutions that try to stay in the new political order emerged from the liberal regime, could not allow the existence of combinations of workers able to overthrow them through massive actions. That was the real reason for their persecution and repression, although certainly it is doubtful whether the bans were successful in suppression these associations. They continued clandestinely, or thought the structure of mutual societies, which were allowed for charity or social assistance purposes in all countries, making it very difficult to eradicate worker's unionism.

Britain was the first to recognize the failure of the bans of combinations, and began a campaign to repeal them at the beginning of the 19th century, clearly inspired by utilitarian thinking. The campaign ended in 1824 with the repeal of the Combinations Acts, and, in the following years, trade unions multiplied there, beginning a new era for unionism thirty years earlier than in France and Spain.

Bibliographical references

Alarcón Caracuel, Manuel R., *La asociación obrera en el derecho histórico español: 1839-1900*, Sevilla, 1973.

[82] DSC n° 25, 10-07-1901, pp. 456-461, y p. 482.

[83] DSC, nº65, 20-11-1901, Apéndice 12°.

[84] González Sánchez, J.J., "Maura, reforma y legislación: la Ley de Conciliación y Arbitraje de 1908 y la Ley de Huelgas y Coligaciones de 1909", *Antonio Maura, Presidente del Consejo de Ministros de España: la legislación social*, Madrid, 2015, pp.25-74, and López Ahumada, J.E., "El tratamiento de la huelga y las coligaciones obreras durante los gobiernos de Sagasta: el tortuoso camino hacia la Ley de huelgas de 1909", *Práxedes Mateo Sagasta, Presidente del Consejo de Ministros de España: política y cuestión social, 1874-1902*, Madrid, pp.123-189.

Alvarado Planas, Javier, "La codificación penal en la España isabelina: la influencia del Código Penal de Brasil en el Código penal español de 1848", *V Seminario Duque de Ahumada. España en la época de la fundación de la guardia civil*, Madrid, 1990.

Antón Oneca, José, "El Código penal de 1870", *Anuario de Derecho Penal y Ciencias Penales*, nº 23,fasc.2, 1970.

Aspinall, Arthur, *The Early English Trade Unions: Documents from the Home Office Papers in the Public Record Office*, London, 1949.

Aspinall, arthur and Smith, e. Anthony (eds.), *English Historical Documents, XI, 1783-1832*, New York: Oxford University Press, 1959.

Bagwell, Philip S., *Industrial relations in19th century Britain*, Dublin, 1974.

Bayón Chacón, Gaspar, *La autonomía de la voluntad en el Derecho del Trabajo. Límites a la libertad contractual en el Derecho histórico español*, Madrid, 1955.

Brentano, Lujo, *On the history and development of guilds, and the origin of trade unions*, London, 1870.

Bron, Jean, *Histoire du mouvement ouvrier français*, Paris, 1970.

Brown, Henry D., "Trade unions and the law", *An history of British industrial relations, 1875-1914*, Brighton, 1982.

Cabrera, Miguel Ángel, *El reformismo social en España (1870-1900)*, Madrid, 2014.

Carbasse, Jean-Marie, "État autoritaire et justice répressive. L'évolution de la législation pénale de 1789 au Code pénal de 1810", *All'ombra dell'aquila imperiale. Trasformazioni e continuità istituzionali nei territori sabaudi in età napoleonica*, Rome, 1994.

Carbasse, Jean-Marie, "Code pénal", *Dictionnaire de culture juridique*, Paris, 2003.

Carbasse, Jean-Marie, *Bicentenaire du Code Pénal. 1810-2010*¸ Paris, 2010.

Carnot, Jean François Claude, *Commentaire sur le Code Pénal*, Tome Second, Paris, 1824.

Carpenter, Kenneth E., *Repeal of the Combination Acts: Five Pamphlets and One Broadside 1825*, New York, 1972.

Castillo, Santiago, "Las Sociedades de Socorros Mutuos en la España Contemporánea", *Solidaridad desde abajo*, Madrid, 1994.

Charle, Christophe, *Histoire sociale de la France au XIX siècle*, Paris, 1991.

Chauveau, Adolphe, and Faustin, Hélie, *Théorie du Code Pénal*, tomo II, Bruxelles, 1845.

Citrine, Norman A., *Trade union law*, 3º edic. London, 1967.

Clavero Salvador, Bartolomé, "Institución de la reforma social y constitución del Derecho del Trabajo", *Anuario de Historia del Derecho Español*, 49 (1989).

Damien, André, "Code pénal », *Dictionnaire Napoléon*, Paris, t. I., 1999.

De La Calle, Mª Dolores, *La Comisión de Reformas Sociales (1883-1903). Políticas social y conflictos de intereses en la España de la Restauración*¸ Madrid, 1989.

Dreyfus, Michel, *Liberté, Égalité, Mutualité*, Paris, 2001.

Duprat, Catherine, *Usage et pratiques de la philanthropie. Pauvreté, action sociale et lien social à Paris au cours du premier XIX^e^ siècle*, Paris, 1997.

Duvergier, Jean-Baptiste, *Collection compléte des Lois, Décrets, Ordonnances, Réglemens, avis du Conseil-D'État*, Deuxiéme Edition, Paris, 1834-1864.

Fabián Caparrós, Eduardo, "Aproximación histórica al tratamiento jurídico de la huelga en España. Siglo y medio de represión penal de la huelga de trabajadores (1822-1975)", *Revista del Trabajo y la Seguridad Social*, nº5, 1992.

Frideson, Patrick, "Le conflit social", *Histoire de la France: l'Etat et les conflits, tome III : les conflits*, Paris, 1990.

García Venero, Maximiliano, *Historia de los movimientos sindicalistas españoles (1840-1933)*, Madrid, 1961.

George, M. Dorothy, "The Combination Laws reconsidered", *Economic History. Supplement to Economic Journal*, vol.1, 1927, pp.214-228.

George, M. Dorothy, "The Combination Laws", *Economic History Review*¸vol.VI, 1935-36, pp.172-178.

Gibaud, Bernard, *Mutualité, assurances (1850-1914): les enjeux*, Paris, 1998.

González Sánchez, José Juan, "Maura, reforma y legislación: la Ley de Conciliación y Arbitraje de 1908 y la Ley de Huelgas y Coligaciones de 1909", *Antonio Maura, Presidente del Consejo de Ministros de España: la legislación social*, Madrid, 2015.

González Sánchez, José Juan, "La Comisión de Reformas Sociales (1883-1903)", *Segismundo Moret Presidente del Consejo de Ministros de España: cuestión social y liberalismo*, Madrid, 2016.

Gosden, Peter H., *The Friendly Societies in England*, Manchester, 1961.

Groizard, Alejandro, *El Código penal de 1870, concordado y comentado*, t.VII, Salamanca, 1897.

Hedges, Robert Y., and Winterbottom, Alan, *The legal history of trade unionism*, London, 1930.

Hunt, Edward H., *British labour history 1815-1914*, London, 1981.

Illades, Carlos, *De los gremios a las sociedades de socorros mutuos*, Instituto de Investigaciones históricas, vol.13, 1990.

Iñesta Pastor, Emilia, *El Código penal español de 1848*, Valencia, 2011.

Jacobs, Antoine, "Collective Self-Regulation", *The making of Labour Law in Europe*, London and New York, 2010

Jiménez de Asúa, Luis, *Tratado de Derecho penal*, 7 vols., Buenos Aires, 2ª ed., t. I., 1956.

Kaplan, Steven L., *La fin des corporations*, Paris, 2001.

Lamennais, Hugues-Félicité R. de, *Questions politiques et philosophiques. Recuil des articles publiés dans L'Avenir (du 16 octobre 1830 au 15 novembre 1831)*, tome I, Paris, 1840.

Lascoumes, Pierre, Poncela, Pierrette, and Leonël, Pierre, *Au nom de l'ordre. Une histoire politique du Code pénal*, Paris, 1989.

Locke, John (1690), *Second treatise of civil gobernment*, edic. *Segundo tratado sobre el gobierno civil*, traducc. Carlos Mellizo, Tecnos, Madrid, 2006.

López Ahumada, José Eduardo, "El tratamiento de la huelga y las coligaciones obreras durante los gobiernos de Sagasta: el tortuoso camino hacia la Ley de huelgas de 1909", *Práxedes Mateo Sagasta, Presidente del Consejo de Ministros de España: política y cuestión social, 1874-1902*, Madrid, 2017.

Marinello Bonnefoy, Juan Cristobal, "Los delitos sociales en la España de la Restauración (1874-1931)", *Anuario de Historia del Derecho Español*, t. LXXXVI, 2016.

Martinage, Renée, *Histoire du droit pénal en Europe*, Paris, 1998.

Masferrer, Aniceto and Sánchez González, Maria Dolores, "Tradición e influencias extranjeras en el Código penal de 1848", *La Codificación española. Una aproximación doctrinal e historiográfica a sus influencias extranjeras, y a la francesa en particular* (A. Masferrer, ed.), Cizur Menor, 2014.

Miroir, Éloi m.m., and Brissot de Warville, *Traité de police municipale et rurale. Première Partie*, Paris, 1846.

Monereo Pérez, José Luis, *Fundamentos doctrinales del derecho social en España*, Madrid, 1996.

Montero García, Feliciano, "La polémica sobre el intervencionismo y la primera legislación obrera en España (1890-1900). Primera parte: el debate académico", *Revista del Trabajo*, nums.59-60, 1980-81.

Montesquieu, Baron du, *L'Esprit des lois*, Genève, 1748.

Nuñez Barbero, Ruperto, *La reforma penal de 1870*, Salamanca, 1969

Olías de Lima, Blanca, *La libertad de asociación en España (1868-1974)*, Madrid, 1977.

Pacheco, Joaquín F., *El Código penal concordado y comentado*, 5ª ed. Madrid, 1881.

Palacio Morena, Juan Ignacio, *La institucionalización de la reforma social en España, 1883-1924: La Comisión y el Instituto de Reformas Sociales*, Madrid, 1988.

Palomeque López, Manuel Carlos, *Derecho del Trabajo e ideología. Medio siglo de formación ideológica del Derecho Español del Trabajo (1873-1923)*, Madrid, 5ª ed., 1995.

Palomeque López, Manuel Carlos, "El sindicato en la historia de España", *Sindicalismo y democracia: el "Derecho sindical español" del profesor Manuel Carlos Palomeque treinta años después (1986-2016)*, Madrid, 2017.

Peces Barba, Gregorio, *Sobre las libertades políticas en el Estado español (expresión, reunión y asociación)*, Valencia, 1977.

Pelayo Olmedo, José Daniel, "El derecho de asociación en la historia constitucional española, con particular referencia a las leyes de 1887 y 1964", *Historia Constitucional (revista electrónica)*, nº8, 2007.
Pelling, Henry, *A History of British Trade Unionism*, Harmondsworth, 1963.
Perfecto García, Miguel Ángel, "El corporativismo en España: desde los orígenes a la década de 1930", *Pasado y memoria: Revista de historia contemporánea*¸ nº5, 2006.
Phelps Brown, Henry, *The origins of trade unions power*, Oxford, 1983.
Poncela, Pierrette, "Le premier Code: la Codification pénale révolutionnaire", *Diritto e stato nella filosofia della rivoluzione francese. Atti del Colloquio internazionale (Milano, 1-3 ottobre 1990), a cura di Mario A. Cattaneo*, Milano, 1992.
Rice, John (ed.), *British Trade Unionism, 1750-1850: The Formative Years*, London, 1988.
Rojas Sánchez, Gonzalo, *Los derechos políticos de asociación y reunión en la España contemporánea (1811-1936)*, Pamplona, 1981.
Ron Latas, Ricardo, *Los sindicatos horizontales*, Granada, 2003.
Rule, John, *The Labouring Classes in Early Industrial England, 1750-1850*, New York, 1986.
Sánchez González, Maria Dolores, *La Codificación penal en España: los códigos de 1848 y 1850*, Madrid, 2004.
Smith, Adam, *An Inquiry into the Nature and Causes of the Wealth of Nations*, London, 1776.
Sobiran-Paillet, Francine, "Nouvelle règles du jeu? Le decret d'Allarde et la loi Chapelier", *Deux siécles de droit du travail*, Paris, 1998.
Tangue, Fernand, *Le droit au travail entre histoire et utopie. 1789-1848-1989: de la répression de la mendicité à l'allocation universelle*, Bruxelles, 1989.
Termés Ardevol, José, *Anarquismo y sindicalismo en España (1864-1881)*, Barcelona, 1972.
Thompson, Edward, *The Making of the English Working Class*, London, 1963.
Thompson, W.S., "Francis Place and Working-Class History", *Historical Journal* 5, 1962, pp. 61-70.
Tocqueville, Alexis de, *De la démocratie en Amérique*, Paris, 1848.
Velloso, Mª Luisa, "Los orígenes constitucionales del derecho de asociación en España (1868-1923)", *Revista de Derecho Público*, núm.88-89, Madrid, 1982.
Voltaire, "Questions sur l'Encyclopçedie. Article Propriété", *Oeuvres de Voltaire*, t.32, Paris, 1771.