

# Spain: Baltasar Garzón—the people’s judge as defender of the capitalist state

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*This is the first article in a two-part series examining the role of leading Spanish judge Baltasar Garzón.*

Hardly a human rights prosecution case occurs these days without the name of Spanish judge Baltasar Garzón cropping up. Garzón has achieved celebrity status as the “people’s judge”.

In her book, *Garzón, The Man Who Saw the Sunrise*, journalist Pilar Urbano calls him “a government employee who actually works well ... He is not afraid, he is cunning. He has gone further than others did.”

Human rights organisations see Garzón as the champion of “universal justice”—the principle that those who have committed human rights abuses in one country regardless of when they occurred can be prosecuted in another.

Garzón complains, “We have good, strong laws both domestic and international. Yet nobody seems to apply them” (from a profile in *Speak Truth to Power: Human Rights Defenders Who are Changing Our World*). But his own experience of using these laws shows that time after time the rich and powerful, quite literally, get away with murder.

And time after time it is only the persistence of the working masses and political activists that enables injustices to see the light of day in the first place. As Garzón himself admits, “it seems it’s always the crazy mothers of the Plaza de Mayo, or the crazy students of Tiananmen, or women in Morocco or in Jordan who ask for equal rights with men, or women in Iran who don’t want their faces covered, who are responsible for advancing human rights” (ibid).

Garzón forgot to add that this is also the case in his own country and the West. Indeed if there is one lesson that is to be learned from Garzón’s life it is that social justice cannot be achieved through the institutions of the capitalist state wherever they exist.

Baltasar Garzón was born in 1955 in southern Spain to a family of middle class farmers. Originally intended for the priesthood, he attended a seminary until he was 17 but left to study law at university instead. At the age of 23 he became a provincial judge and nine years later one of six investigating judges at Spain’s National Court (Audiencia Nacional). The judges investigate cases that are brought before the court often initiated by “people’s prosecutions”. This right, granted in the aftermath of the collapse of the Franco regime after his death in 1975, allows individuals and private organisations to initiate criminal proceedings without the approval of the public prosecutor’s office or being the victims of the crime under consideration. The National Court judges decide whether there is sufficient evidence for the cases to go to trial, but do not try the cases themselves. They have the power to detain suspects if they believe they may flee or intimidate witnesses.

Garzón’s rise to prominence came with the investigations into the rightist terror group Grupos Antiterroristas de Liberación (GAL). The GAL bombed and terrorised southwest France in the 1980s in an attempt to eradicate the nationalist organisation Basque Homeland and Liberty (Euskadi Ta Askatasuna, ETA). ETA has attempted to establish independence for the Basque country through armed struggle since its

formation in 1959, killing over 800 people during its campaign. GAL was responsible for killing 27 people, nine of whom were innocent bystanders, and wounding a further 30 people.

The Spanish state was forced to start investigations into GAL because trials in France revealed that the GAL terrorists were mainly mercenaries recruited by Spanish police officers and functioned as an extension of the state.

In December 1983, French police arrested Pedro Sánchez, a Spanish born French national and former member of the Foreign Legion, for the kidnapping of Segundo Marey, a middle-aged man with tenuous links to ETA. Sánchez had the phone number of the police headquarters in the Spanish city of Bilbao on him.

In February 1986, a Portuguese mercenary Paulo Fontes Figueiredo was convicted in France for a shooting in a bar. During the trial, evidence emerged linking Fontes Figueiredo with José Amedo, a police superintendent in Bilbao. The French authorities issued an international warrant for Amedo’s arrest.

As the story of Amedo and his deputy Michel Domínguez hit the headlines, Spain’s *El País* complained that the Spanish judicial system was being subject to the “most ghastly ridicule” by the trials in France. Several “people’s prosecutions” were lodged against Amedo. As a result, the National Court appointed investigative judge Francisco Castro Meije to look into GAL activities followed a few months later by Garzón.

Garzón completed his investigation in September 1989. He indicted Amedo and Domínguez for contracting mercenaries to carry out assassinations using “reserved funds” from the Spanish Ministry of the Interior. Garzón suggested that top Socialist Party (PSOE) government officials had sanctioned the GAL operation with the full support of a Senor X—whom he hinted was the PSOE Prime Minister Felipe González.

After much delay, the National Court gave permission for the trial of Amedo and Domínguez. However, the court delayed Garzón’s request to try the police officers’ superiors or investigate Interior Minister José Barrionuevo and denied Garzón access to government records about the reserved funds. The state prosecutor José Aranda backed the court’s decision saying an investigation of the funds “would disarm society and swamp our citizens in chaos” (reported in several papers, July 16, 1991).

González said Garzón had no right to “interfere in a sovereign decision of parliament on secret use of funds for the discretionary use of the government” (*El País*, July 30, 1988).

Amedo and Domínguez were tried in 1991, but their superiors denied any knowledge of the GAL when called to testify. The trial judge said González was under no obligation to answer several questions such as “Did you organise the creation of the terrorist organisation the GAL?” or explain his statement that Amedo was “defended and supported by the government”.

Amedo and Domínguez were sentenced to 108 years in prison for organising the bar attack carried out by Fontes Figueiredo but were acquitted of murder and membership of GAL. They were also cleared of

terrorism charges because the judge decided that although they used “judicially reprehensible methods” they were defending democracy. In this way the government and the state were exonerated.

González meanwhile was facing parliamentary elections. The PSOE had come to power in 1982 under the slogan “For Change” and had enjoyed two terms of office with an absolute majority. In 1989 they returned to power with one seat short of a majority.

González’s government was mired in corruption scandals in addition to the GAL allegations, an economic downturn and working class resistance to the austerity programmes demanded by the European Union’s Maastricht treaty. All the polls suggested González would fail to get a fourth term in the 1993 elections.

González needed a new image and courted high profile “dissenters” in an election campaign, promising to root out corruption. Garzón duly obliged and González gave him one of the safest PSOE seats in the country—second on the Madrid ballot list. The conservative paper *El Mundo* wrote on April 28, 1993, “The most sceptical observers of the human condition say that everyone has a price. As of yesterday we know, with regret and shame, that Judge Garzón certainly has one.”

The PSOE won the election (with a much reduced majority) but González only gave Garzón a relatively minor position—the head of an anti-drugs agency.

However, the PSOE government was soon hit by more scandals. In May 1994, the Minister of the Interior Antoni Asunción resigned and Director General of the Civil Guard Luis Roldán fled the country on corruption charges claiming he would not be “fooled the way they fooled Amedo.”

Many commentators suggest Garzón saw himself as the natural choice for the post of Minister of the Interior but González made Justice Minister Juan Alberto Belloch (a former human rights lawyer and another of González’s “dissenters”) Minister for Justice and the Interior.

Garzón resigned from the government complaining that “González has used me like a puppet” and returned to his job at the National Court.

Whilst all this was happening, the prison authorities granted Amedo and Domínguez “third grade” privileges that allowed them to go in and out of prison virtually at will. However, the money put in Swiss bank accounts for them soon ran out and by now realising they had been set up by their superiors they contacted Garzón. Amedo and Domínguez told Garzón that “the GAL were set up by the government and we did not take a single step without following orders.” They implicated former Interior Minister José Barrionuevo. Garzón granted Amedo and Domínguez an extension of their “third grade” treatment which allowed them to live at home.

Garzón proceeded to reopen his investigation into the kidnapping of Segundo Marey and by February 1995 had taken into custody Rafael Vera (former deputy minister of the interior), Ricardo Gracia Damborenea (former head of the Basque PSOE), Julián Sancristóbal (director of state security 1984-86) and Francisco Álvarez (former head of special operations in the ministry of interior and police chief in Bilbao). Damborenea also implicated Barrionuevo in the kidnapping and claimed González “knew about it [the GAL operation] because I spoke to him about it not once but on several occasions” (*El País* July 21, 1995).

The PSOE leadership accused Garzón of “political and personal vengeance” and of helping the opposition Peoples Party of José Maria Aznar in a dirty tricks campaign. However, the PP leaders always restrained their attacks on the PSOE for its role in GAL activities—realising that more than the fate of an individual party was at stake. General José Antonio Sáenz de Santamaría who held top anti-terrorist positions in governments of both the Union of the Democratic Centre (the PP’s predecessor) and PSOE said both governments had used similar methods. He told *El País* (February 24, 1995), “In the anti-terrorist struggle, there are things which should not be done. If they are done, they should not be spoken about. If they are spoken about, they must be denied.”

The same newspaper also carried an editorial stating, “In no democratic country, except Spain, has the justice system had to confront such an inordinate and perilous challenge; nothing less than the criminal investigation of the entire state apparatus.” It warned, “the judge must make use of extraordinary professional skills to find the judicial truth in such an extraordinarily confused situation” (February 17, 1995).

In July 1995, the National Court finally allowed Garzón permission to investigate the reserved funds. However, the PSOE government and the new PP government that came to power in March 1996 refused to release military intelligence documents—some showing widespread illegal phone tapping of politicians and members of the royal family had occurred—on the grounds of state secrecy until they were leaked to newspapers in December 1996.

In July 1998, the Supreme Court sentenced Vera, Sancristóbal, Barrionuevo, Damborenea, Álvarez, Amedo and Domínguez and five others to between two and ten years in prison for the kidnapping of Marey. (The Court had already decided not to bring charges against González).

But in December 1998 the PP government accepted a recommendation of the Supreme Court to cut the sentences by two thirds, suspend the remaining third pending an appeal and release the prisoners. Although the Constitutional Court rejected the appeal, the prisoners remained free.

In 2002, Vera, Sancristóbal and Álvarez were found guilty of embezzling the reserved funds (in all, some 500 million pesetas was involved) and sentenced to seven years, four years and eleven months in prison respectively. According to *Valencia Life* magazine, “It has been widely reported that a huge estate in Alpera in Albacete province belongs to Vera, but he claims it was bought by one of his in-laws who runs a small hardware store in one of Madrid’s poorer districts.”

Apart from some minor police officers who have been convicted of the murder of two young ETA members, Joxean Lasa and Joxi Zabala whose graves were discovered by accident in southern Spain, no political figure has been convicted for any of the murders or bombings associated with GAL.

*To be continued*

Additional information from:

*Dirty War Clean Hands: ETA, the GAL and Spanish Democracy* by Paddy Woodworth, Cork University Press, 2001

*Speak Truth to Power: Human Rights Defenders Who are Changing Our World* by Kerry Kennedy Cuomo, Crown Publishers, New York 2000



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