

Basque separatist leader faces jail for “insulting” the king

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In a major attack on the right to free speech the Spanish Supreme Court has sentenced Arnaldo Otegi, spokesman for the outlawed Basque party Batasuna and a former deputy, to 12 months in jail for allegedly slandering King Juan Carlos. This overturned a decision last March of the Basque High Court that Otegi’s remarks were not slanderous, but protected by the constitutional right to free speech.

Consecutive Spanish governments have deployed repressive police-state methods in the Basque region. To oppose the sentencing of Otegi and demand all charges are dropped does not imply, as the Popular Party and the right-wing media insinuate, support for either the bourgeois separatist programme of Batasuna or the terrorism of the armed separatist group ETA (Euskadi ta Askatasuna—Basque Homeland and Freedom).

The Spanish Supreme Court ruling that, during a Batasuna press conference in February 2003, Otegi breached a law that “prohibits” insulting the king is an attack on the democratic right of every Spanish citizen to criticize state officials, elected or unelected. “We sentence Arnaldo Otegi, as criminally responsible for a crime of serious insults against the king ... to the penalty of one year in prison,” the ruling stated.

During the February 26, 2003 press conference in San Sebastian, Otegi attacked Basque Nationalist Party (PNV) Premier Juan Jose Ibarretxe, who was escorting the king on a tour of the region. He asked rhetorically, “How can they (Basque officials) be photographed today in Bilbao with the Spanish king, when the Spanish king is the head of the Spanish army, that is to say, the leader of the torturers who gives shelter to torture and imposes his monarchic regime on our people through torture and violence?”

Batasuna issued a statement reiterating Otegi’s point:

“In the Spanish state, torture is used systematically. Torture was practiced under Franco, during the so-called transition and, nowadays, with total impunity. The highest and final authority for this occurrence is the Spanish king.”

Accusations of state torture and abuse are not restricted to Batasuna. Human rights organisations have for some time accused the state of using torture and abuse and refusing to investigate detailed accusations.

The press conference was held to protest the Civil Guard’s closure of the Basque newspaper *Egunkaria* on February 20, 2003 and the arrest of its staff for allegedly having links with the banned armed separatist group ETA. It took place within hours of allegations by the newspaper’s chief editor, Marcelo Otamendi, that he had been beaten and tortured by the Civil Guard while in captivity.

This formed part of an offensive to ban and destroy Batasuna by the then Popular Party government of Jose Maria Aznar. Riot police wielding batons broke up demonstrations opposing the government’s ban. With the proscription imposed on Batasuna some 10 percent of the regional electorate were effectively disenfranchised at the local elections. Mayors of more than 60 towns and villages were unable to stand.

After being released on bail on February 25, Otamendi described what happened to him while under arrest, “They twice forced a plastic bag over my head ... made me crouch naked, and pointed an unloaded pistol against my temple, whilst constantly hurling insults about Basque culture and Basque politicians.”

According to a report by International Freedom of Expression (IFEX) dated February 19, 2003, PP Interior Minister Angel Acebes denounced the accusations as “totally false” and, in order to silence Otamendi, threatened legal action if the allegations

were repeated. This is the second Basque newspaper to be shut down after being accused of links with ETA. Police closed down *Egin* in 1998, but no charges have been brought against its staff.

Otegi's lawyer Jone Goirizelaia is filing an appeal with Spain's highest judicial authority, the Constitutional Court. He described Otegi's remarks as "an exercise of the freedom of expression.... They were political criticism, and were not directed at the king as a person but at the institution he represents. What he said was not slanderous."

The Basque High Court ruled last March, "Otegi's statements cannot be punished with a prison sentence, because that would violate the freedoms guaranteed in the Constitution; in the consideration of the fundamental rights in question, personal honour and freedom of expression, the latter must prevail since it is guaranteed in the Constitution." Throughout, the state prosecutor demanded Otegi serve a 15-month prison sentence.

According to *Spain Herald* the Basque court's decision refers to precedent set by the Constitutional Court and the European Court of Human Rights, according to which "protection of the right of personal honour becomes weaker, proportionally, as it approaches the extreme limit of the rights of expression and information, when public persons are involved, as in this case."

One of the Spanish Supreme Court judges, Perfecto Andres Ibanez, agreed, describing Otegi's statement as "exclusively political" and arguing that the court should give priority to freedom of expression. He added that the right to freedom of speech protected Otegi against what he had said "because his only intention was a political one."

Supreme Court judges overruled any objections, stating that Otegi's comments expressed a "blatant contempt for his majesty the king and the institution he represents, affecting the very core of his dignity by attributing to him one of the gravest crimes in a state of law."

The Supreme Court's decision is a blatant punishment for public criticism of the Spanish state's use of torture and antidemocratic methods. Further, they dismissed the political context in which Otegi made his remarks by claiming "such serious remarks which were out of all proportion cannot be

underestimated on the grounds of context."



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