Spain: “Law of historical memory” continues cover-up of Franco’s crimes

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Spain’s Socialist Workers Party (PSOE) government has declared 2006 the Year of Historical Memory and has submitted a “law of historical memory” to the country’s Congress for ratification. For the first time the mass killings committed by General Francisco Franco’s fascist regime (1939-1975) are described as “unjust.”

The families of those murdered have been seeking justice for decades but have been obstructed by the PSOE, the Spanish Communist Party (PCE) and the heirs of Franco’s fascist party that now make up the Popular Party (PP) who agreed in 1978 that the civil war (1936-1939) and the dictatorship would be subject to a “pact of forgetting.” Not one fascist in Spain has ever faced trial and the summary executions of Franco’s opponents have never been overturned in Spanish law.

The Historical Memory Bill is a response to the persistent campaign by the families of the Republicans and leftists that were executed by Franco’s death squads and a growing popular interest in the civil war. This thirst for truth and justice is a manifestation of the leftward radicalisation of the working class, which brought down the PP government in March 2004.

Significant progress has been made in cataloguing the scale of Franco’s crimes. According to a survey published by Instituto Opina last month, two-thirds of Spaniards favour a fresh investigation into the war—the same overwhelming majority that opposed the war against Iraq.

The bill aims to divert this striving for the truth into safe channels for the Spanish ruling class. Not only does it continue the decades-long cover-up of the crimes of fascism, but it enshrines in law the claim that all sides in the civil war were equally guilty. This view was articulated by Prime Minister José Luis Zapatero, who declared, “Spain had a civil war in which everyone was a victim.” It is the Spanish equivalent of declaring that the Nazis were just as much the victims as those they murdered in the concentration camps.

Such claims must be set in the context of former Interior Minister Jose Bono’s invitation to Franco’s fascist Blue Division to participate in the 2004 National Day parade. The Blue Division fought with the Waffen SS during the Nazi invasion of the Soviet Union in 1941. Bono defended his decision by stating, “On National Day one should be generous. And think about it—if you left out all Spaniards you may not agree with—the Conquistadors, the Carlists and the fascists—you wouldn’t have many people left. It’s all Spain.”

Article two of the bill recognises and declares as unjust the sentences, punishment and any other form of personal violence generated by political and ideological causes during the Civil War and the dictatorship (until 1975), “regardless of the side or zone where the citizens suffered them.”

And, despite declaring the fascist sentences and executions unjust, the bill makes no firm commitment to overturn them in Spanish law or bring those responsible to justice. Point three, article seven declares that the new law “will omit any reference to the identities of those who took part in the events or legal proceedings that led to sanctions or condemnations.” Those who ordered the executions, those who carried them out and those who defended them will remain free from prosecution as they have done under successive administrations.

The PSOE are opposed to prosecuting the fascists—many of whom have been senior members of the PP and its forerunner the Popular Alliance—because it would further discredit the institutions established after the fall of Franco. Manuel Fraga, a senior minister under Franco and a close personal friend of the dictator, was instrumental in forming the Popular Alliance (AP) into the PP in 1989. The Popular Alliance was stuffed with former Franco ministers, including Laureano López Rodo, Federico Silva Muñoz, Licinio De La Fuente y De La Fuente, Cruz Martínez Esteruelas, Gonzalo Fernandez De La Mora. Fraga groomed José María Aznar for the job of president of the PP. Aznar became prime minister in 1996.

The parliamentary monarchy and constitution were erected on the suppression of the experiences of the civil war. Indeed, in a recent case before the military tribunal of the Supreme Court the constitution was used to prevent a judicial overturning of the conviction and execution of anarchist leader José Pellicer by a fascist court in 1942, which found him guilty of armed rebellion. Pellicer’s daughter Coral had sought to quash the case against her father and his two brothers, Pedro and Vincente, on the grounds that Franco’s policies of mass extermination contradicted the statutes of the Spanish constitution. According to *El Pais*, the Constitutional Court ruled that the constitution “cannot have retroactive effects ... on acts of power committed before it entered into effect.”

The bill contains no measures to remove such legal obstacles.In fact, article seven reaffirms the decision arrived at by the Constitutional Court: “In no case will the declarations imply a recognition of hereditary responsibility by the state or any other

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public administration or will lead to reparation or indemnification of an economic or professional type."

Deputy Prime Minister Maria Teresa Fernandez de la Vega has made clear that Franco's victims and their families will only be allowed to "solicit individual reparation" before a council of "five wise men" (senior social scientists appointed by Congress) who will examine the merits of each case and decide whether or not the sentences can be annulled and compensation paid. This system is designed to keep the victims, the families and the working class as a whole from having any control over the investigative process.

Ramón Jáuregui Atondo Álava, PSOE spokesman for the Constitutional Commission of the Chamber of Deputies, wrote in *El Periódico*, "Here we cannot, and we should not—I add—in one fell swoop, do away with all the judicial certainty developed over 40 years, annulling thousands of judgments, even if we do all acknowledge the lack of justice or judicial guarantees thereof."

Victims associations had expected that the grotesque monument at the Valle de los Caídos (Valley of the Fallen) to Franco and the fascists who died during the civil war, built by Republican and leftist prisoners, would be transformed into an institution for the study of the civil war and the crimes of Franco.

Instead, article 18 of the bill states that "El Valle de los Caídos" will be ruled strictly by the norms generally applicable to places of worship and public cemeteries. The article also states that the authorities running the monument should commemorate all those who lost their lives—further bolstering the idea that Republicans and leftists were on a par with their fascist aggressors. The monarchist ABC described the proposal as a further example of the PSOE's "rapid backtracking" and noted that the government are considering handing over the monument to the Catholic Church as a place of worship.

Also missing from the bill is any significant or systematic government strategy concerning the uncovering of the mass graves of Franco's victims. Historians estimate that as many as 100,000 were executed between 1939 and 1943, with more dying from torture, suicide and illnesses that went untreated. To date, only a small number of bodies have been discovered and identified. On July 18 scientists from the Barcelona Autonomous University announced they had dug up a communal grave near Burgos and identified through DNA four of five individuals who they believe were executed in August 1936 by Franco's forces.

Emilio Silva of the Association for the Recovery of Historic Memory said of the bill, "It calls on government bodies to help relatives look but it doesn't take on exhumation or identification.... It is very sad....We will have to keep doing the exhumations ourselves, when it is the government that should do it."

All the bill provides is a promise of some extra financing and calls on government bodies to help organisations identify mass graves and acquire temporary control of land. The associations are already overstretched by the limited excavations in which they have been involved.

Volunteers are also facing resistance from the PP, which recently opposed a European parliament resolution condemning the Franco dictatorship.

Historian Anthony Beevor reported in the *Washington Post* June 18 on the lengths some PP officials are prepared to go to suppress this history. In Valencia, he explained, "The city's conservative mayor wants to create a new cemetery over the spot where 5,039 bodies are already buried—the remains of leftists killed after the Spanish Civil War. More than 26,000 died in Valencia alone. In the eyes of the left, this is an affront to the memory of their fallen comrades, an attempt to pour cement over a political plague pit. A huge row erupted, one that has now reached even the commission of the European Union."

The campaign for the opening of the graves started soon after Franco's death, but when the PSOE first came to power in 1982 it used the attempted military coup of the previous year and its fear of reviving "the brutal passions of the civil war" to justify its suppression of these critical issues throughout its 14 years in office. Amongst the people it was still regarded as dangerous to approach the site of mass graves—the "pact of forgetting" had left many fascists still wielding considerable power in state institutions, particularly the Civil Guard and the military.

The PSOE is once again bowing to the right wing. ABC spoke on behalf of surviving fascists: "Many people renounced their own memories as winners and do not now deserve to have the losers impose theirs." According to a report in *El Pais*, before the PSOE cabinet released the final draft of the bill to congress the instruction to local municipalities to remove fascist statues and street names from their buildings was dropped.

PP leader Mariano Rajoy has declared the bill "an enormous mistake," insisting, "Spain has to look at the future and resolve the problems that people are really interested in.... The vast majority of Spaniards don't want to talk about the civil war or Franco."

Jorge Moragas, the PP's international secretary, demanded an end to any further measures that breached the "pact of forgetting," stating, "That's a necrophilic way of doing politics. We think it's better not to go into whose family did what. It's not good for our country."

"We don't want this debate. It's pushing us to defend one of the two sides," he added.

Deputy Prime Minister Maria Teresa Fernandez de la Vega has reassured the PP that the bill will help "to heal wounds without reopening them."

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