

# Spain: Socialist Party government betrays victims of Franco's dictatorship

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On November 16, the human rights group Amnesty International issued its report on the Law for the Recovery of Historical Memory drafted by Spain's Socialist Workers Party (PSOE) government.

The bill is the outcome of an Inter-Ministerial Commission established in September 2004 purporting to examine the moral and legal rehabilitation of the victims of Franco's fascist dictatorship (1939-1975). Deputy Prime Minister María Teresa Fernández de la Vega claimed it would finally provide justice for those executed.

According to Vicente Navarro, professor of political science at Pompeu Fabra University, in just five years after seizing power in 1939, Franco's forces executed 200,000 political opponents, many of whom remain in unmarked mass graves which are only now being uncovered by volunteers.

Amnesty's report makes clear that the draft bill is a betrayal of the PSOE's promises, serving to obscure the crimes of the Franco regime, shield the perpetrators and provide a gloss of legitimacy to the fascist courts that oversaw mass executions of political opponents of the regime. The group condemns the bill for ignoring "human rights and international law" and "creating obstacles" in the fight for justice for the victims of the dictatorship. Of special concern, it declares, is the "impunity mechanisms . . . aimed at covering up the identity of the perpetrators of human rights violations."

The bill protects the anonymity of fascist killers. Article 7.3 declares that if their names are unearthed, investigators "will omit any reference to the identities of those who took part in the events or legal proceedings that led to sanctions or condemnations."

The bill does not annul Franco's summary executions. Families of the victims will have to plead on an individual basis before an unelected council of

five social scientists appointed by the Spanish legislature, who will then decide whether or not the sentences passed by the fascist courts were justified.

Amnesty International's report was preceded by one published on September 1 by the Spanish human rights organization *Equipo Nizkor* and undersigned by dozens of other associations involved in the movement for the recovery of historical memory. The report, "Between Moral Cowardice and Illegality," states that the bill "demonstrates manifest bad faith." It expresses disillusionment with the PSOE, which ran in the last elections on the basis of support for annulling sentences passed by the fascist courts.

*Equipo Nizkor* states that the proposed law "is not only humiliating for the victims in that it denies them legal recognition, it is also profoundly immoral and, as a consequence, it violates the basic principles established in international human rights law concerning victims of serious crimes such as crimes against humanity." It adds that the bill also contravenes the international treaties and the human rights covenants written into the Spanish Constitution of 1978.

Pointing out that the bill argues for the equal treatment of the victims and their fascist killers, *Equipo Nizkor* draws attention to another significant attack on democratic rights. The bill "implies by omission the recognition of Francoist legality beyond the limits established by the Constitution itself, by internal law, and by numerous international treaties and conventions entered into by Spain."

In other words, Franco's fascist jurisprudence still stands. As a senior magistrate and member of Judges for Democracy recently warned, "Francoist sentences may still be studied today in Law faculties as part of valid jurisprudence."

The criticisms made by Amnesty International and *Equipo Nizkor* were given added weight by Dr. Tony Strubell of the University of Navarra in a speech at the London School of Economics on November 8, in which he explained how the apologists and defenders of the Franco regime are working with the PSOE to develop arguments to block justice for the victims of fascism.

According to Strubell, the president of the Military Section of the Supreme Court, Fernando Herrero-Tejedor, “is on record for having said, to a group of parliamentary spokesmen not so long ago, that justice today isn’t what it was in Franco’s day.” Strubell revealed that the court official, Herrero-Tejedor, is the son of a Francoite minister and ex-leader of the fascist Movimiento—the sole political party permitted under the dictatorship.

Strubell explained that Cándido Conde-Pumpido, the state prosecutor appointed by the PSOE, was responsible for deciding what the government’s policy would be with regard to the annulment of the sentences passed by Franco’s fascist courts. Strubell said that Conde-Pumpido had recently ruled against annulment.

“Again, we may wonder if he was the right man for this kind of decision . . . As grandson of Lucio Conde-Pumpido, a military prosecutor responsible for thousands of death penalties applied in Franco’s day, this would seem doubtful,” Strubell said.

The PSOE have so far not publicly replied to the criticisms expressed by Amnesty International or *Equipo Nizkor*. But it has reassured the right wing that the Law for the Recovery of Historical Memory does not breach the “pact of silence” surrounding the atrocities committed by the Franco dictatorship agreed in 1977 between the fascists, the PSOE and the Spanish Communist Party.

The pact of silence rescued the fascists from the wrath of the masses after the death of Franco in 1975 and enabled them to retain positions of power under the new parliamentary monarchical system.

Prior to the PSOE’s election in March 2004, when the right-wing Popular Party (PP) were driven from office as a result of mass opposition from the working class, the PSOE leader—now prime minister—José Luis Rodrigo Zapatero insisted that justice for the victims of Franco would be forthcoming. Instead, under the impact of political pressure and provocations from the PP, the Catholic Church and the military, the PSOE

government has abandoned any notion of annulling the decisions of Franco’s courts or prosecuting the guilty.



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