

New law condemning Franco's crimes further polarises Spain

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Spain's Congress recently passed the Law of Historical Memory, which for the first time officially condemns the mass executions and other crimes carried out during the Spanish Civil War (1936-1939) and the military dictatorship of General Francisco Franco (1939-1975) that followed.

About 500,000 people were killed in the civil war, and an estimated 200,000 died during the dictatorship, the majority of whom still lie buried in unmarked mass graves.

The new law describes the crimes as unjust and the sentences of the courts and military tribunals as illegitimate. It offers redress to those "who suffered persecution or violence, for political or ideological reasons, during the Civil War or the Dictatorship" and facilitates the exhumation of the mass graves. It also calls for the removal of Francoist symbols from public buildings and prohibits political events at Franco's mausoleum in the Valley of the Fallen. Spanish citizenship is offered to the grandchildren of those exiled during the dictatorship and to members of the International Brigades who went to fight against it.

After nearly three years delay, and with few commentators thinking it would go through before next March's general elections, Congress passed the law by 184 votes to 137. The ruling Socialist Workers Party (PSOE), the majority of nationalist parties including the Catalan Convergence and Union (CiU) and Basque Nationalist Party (PNV) and the Stalinist-dominated United Left-Catalan Green Initiative (IU-ICV) supported it. The right-wing Popular Party (PP) and the Catalan Republican Left (ERC) opposed it.

The PSOE Deputy Prime Minister María Teresa Fernández de la Vega claimed that justice for the victims of Franco would finally be achieved. "This is a very important moment for Spain," said Emilio Silva, who heads the Association for the Recovery of Historical Memory, "But this law is the beginning, not the end, and it is long overdue," he added.

The PP's parliamentary spokesman Eduardo Zaplana denounced the law, stating that "Parliament has never before been used to look back at that tragic and dramatic moment of history, the civil war." PP deputy Juan Costa accused the PSOE of being "willing to shatter the consensus that has given us democratic stability for 30 years."

The new law has been watered down in significant ways and makes major concessions to the right wing. Nevertheless, it does indeed shatter the so-called "consensus," threatening to bring to the surface all the unresolved political problems of the civil war,

the victory of the fascists and the ensuing decades of repression.

The foundations of today's parliamentary monarchy and constitution were erected on the suppression of the experiences of the civil war in a "pact of forgetting" agreed by the PSOE, the Spanish Communist Party (PCE) and the leaders of Franco's regime whose main concern was to prevent a revolutionary reckoning with the old order as it collapsed. In the 30 years since the transition, not one fascist has faced trial, and the summary executions of Franco's opponents have never been overturned in Spanish law. Many of those involved retained their power, privileges and ill-gotten fortunes—including Franco's family, which remains one of the wealthiest in Spain.

The right wing has denounced the Historical Memory Law and its introduction by a government it already condemns as illegitimate and which it has tried to destabilise.

The PSOE was elected to office in March 2004, as a result of a leftward movement of the working class that brought down the PP government of José María Aznar. The PSOE's victory followed the Madrid train bombings, carried out by Islamic extremists, but which Aznar had attempted to blame on the Basque separatist movement, ETA. The government's lies became the focus for the overwhelming hostility to Aznar's alliance with the Bush administration and Spain's participation in the war against Iraq and opposition to the PP's neo-liberal economic policies.

During the 2004 elections, the PSOE made a feint to the left. It ran on the basis of support for annulling death sentences passed by the fascist courts, which Franco often countersigned, hundreds at a time, without even reading the charges.

However, the PSOE quickly abandoned its promises. Ramón Jáuregui Atondo Álava, PSOE spokesman for the Constitutional Commission of the Chamber of Deputies, justified the decision, declaring, "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."

As a result, those who were responsible for the executions will remain free from prosecution as they have under successive administrations—a situation the human rights organisation Amnesty International has condemned as a contravention of international law.

The PSOE is opposed to prosecuting the fascists—many of whom have been senior members of the PP and its forerunner, the Popular Alliance (AP)—because it would further discredit the

institutions created during the transition. Manuel Fraga, a senior minister under Franco, was instrumental in transforming the AP into the PP in 1989 and grooming Aznar, who became PP president and then prime minister in 1996.

Instead of a comprehensive annulment of the court sentences, Franco's victims and their families will only be allowed to "solicit individual reparation" before a council of five appointed senior social scientists who will examine the merits of each case and decide whether or not to annul the sentences and pay compensation—a process that could take decades.

It was because of the "cavalry of legal proceedings" facing victims and their families and the fact the new law let "old Francoists off the hook" that the ERC voted against it. The ERC congressional spokesman, Joan Tardá, added that Zapatero had "condemned the victims of the Franco era to a second death." The ERC is using its campaign against the law to divert the leftward movement of the working class into the dead end of Catalan separatism, arguing that justice is impossible under the centralised Spanish state.

Originally, the United Left (IU) also opposed the law, saying it did not meet the "final objective" of nullifying the sentences. However, it swung behind the PSOE at the last moment after settling for the amendment that described Franco's crimes as "illegitimate." An IU spokesperson justified the party's about-face, saying, "We agreed to the legislation because we see the term 'illegitimate' as the door that opens the way to annulment."

The IU's support for the law has caused simmering tensions to erupt in the organisation. The IU representative in the Andalusian parliament, Antonio Romero, attacked the national leader Gaspar Llamazares, declaring, "The law's content is weak, decaffeinated. It laughs in the face of the many victims of Franco." Romero also questioned why the IU's MPs voted in favour of the law, even though it would have passed comfortably without their votes.

Victims associations had also campaigned for the grotesque monument at the Valle de los Caídos (Valley of the Fallen) containing the tombs of Franco and the founder of Spanish fascism José Antonio de Rivera, which was built by Republican slave labour, to be transformed into an institution for the study of the civil war and the crimes of Franco. Instead, the monument has been handed over to the Catholic Church, in an act of "depoliticisation," to manage as a religious monument to all those who lost their lives. In so doing, it further encourages the idea that Republicans and leftists were on a par with their fascist aggressors—a claim upheld by Zapatero when he declared, "Spain had a civil war in which everyone was a victim."

The Church has also been exempted from the ban on Francoist symbols in an amendment proposed by the CiU and supported by the PP provided there are "legal," "artistic" or "religious" reasons for doing so. As the majority of the symbols are in churches or related buildings, this makes the clause a near universal get-out.

Also missing from the law is any systematic government strategy nationally concerning the uncovering of the mass graves of Franco's victims, leaving it to local councils to determine the money and resources they contribute.

There is no way that Spanish workers will be satisfied with the half-measures and evasions the PSOE and its backers have now

enshrined in law. The demands for justice will not go away, and those self-proclaimed parties of the left that seek to prevent them being realised will only discredit themselves.

In similar fashion, the PP, the far right and the Catholic Church have already dismissed the concessions made to them as irrelevant and mounted a counter-attack.

Two days before the Spanish Congress passed the Law of Historical Memory, the Vatican beatified 498 Spanish "martyrs"—mostly clergy killed during the Civil War. Cardinal José Saraiva Martins addressed the right-wing crowd of 40,000, some waving Franco-era flags. He attacked the Spanish government for making divorce and gay marriages easier and for disrupting plans by the PP to make religion compulsory in schools. He urged Catholics to make the same sacrifices as those beatified to defend the church against the rise of secularism saying, "Martyrdom is a realistic possibility for the entire Christian people."

Pope Benedict XVI added that the example of Spain's "martyrs" "bears witness to the fact that the Baptism commits Christians to participate with courage to expand the Kingdom of God, going as far as sacrificing their very lives."

The PSOE again sought to appease the Church by embracing the beatifications and reassuring it that the Law of Historical Memory is no threat to its power and privileges. Foreign Minister Miguel Ángel Moratinos even led the official Spanish delegation to the ceremony.

But the right wing recognises that, whatever efforts are made by the PSOE and its allies, the breach in the "pact of forgetting" and the demands of working people for a historical accounting with Francoism signal the beginning of the end for the efforts made since 1975 to bury the past. In turn, this will fuel the political and social conflicts now developing in Spain and create the condition for the working class to be armed with the political lessons of the defeat of the Spanish revolution due to the betrayals of the Stalinists and social democrats, and of their role in saving the skin of the bourgeoisie during the period of transition following Franco's death.



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