

Spain: Supreme Court halts investigation into Franco-era crimes

Paul Stuart, Paul Mitchell
13 November 2008

Spain's National Court (Audiencia Nacional de España) has halted the investigation begun by Judge Baltasar Garzón into the executions and repression carried out by the fascist regime of General Francisco Franco. The court ruled by 10 votes to five to suspend the exhumation of mass graves scattered across Spain belonging to the huge number of people who disappeared under Franco's rule.

The court declared, "The activities related to the exhumation of bodies must be suspended while this court resolves questions raised by the public prosecutor regarding the competence of the judge to make this move."

The ruling followed an appeal from the public prosecutor, who stated that he doubted Garzón's competency to investigate Franco's crimes and had no right to give orders that "would be difficult to reverse."

Emilio Silva, head of the Association for the Recovery of Historical Memory, which has led the exhumation campaign, condemned the court's decision, saying, "There are many people who are very old who have been waiting for a long time."

"There has been a complete forgetting during our democracy of those people who were the most repressed and punished," explained Fernando Magán, a lawyer who represents the relatives of some of the disappeared. "There are many relatives who carried on living in these villages near the graves of their parents... Every time this issue was opened up, all the political forces, especially the right, the church and the army, were against reopening the wounds and raising the ghosts of the past."

Garzón's investigation covers three periods—the civil war from July 1936 to February 1937, the state of emergency between March 1937 and early 1945 and the "repressive action" between 1945 and 1952 "marked by the elimination of guerrillas and people who supported them." He has sought information from churches and city halls in an attempt to confirm the number of victims, which currently stands at 114,266 people. Garzón has declared Franco and his henchmen guilty of a systematic plan to exterminate their Republican and leftist opponents and therefore guilty of crimes against humanity. Any survivors could face trial.

Garzón's investigation has created turmoil within the Spanish ruling class. After the end of the Franco dictatorship, a number of legal measures were taken to ensure that there could be no settling of scores with the fascists by the working class. An amnesty in 1977, agreed by all the main political parties including the Spanish Communist Party (PCE), enabled Franco's supporters to continue in office. Former ministers and advisers of Franco formed the current Popular Party (PP) opposition.

However, the demand for a political reckoning with the Franco regime has grown amidst widespread popular hostility to the PP, which led to the downfall of the government of José Maria Aznar in 2004. The Socialist Party (PSOE) government of José Luis Rodríguez Zapatero came to power as a result of opposition to Spain's participation in the Iraq war and the PP's right-wing economic and social policies, which became focused on its claim that Basque separatists were responsible for the Madrid terror bombings.

Since then, the PSOE has done the barest minimum towards meeting demands for justice. In 2007, it enacted the Law of Historical Memory, recognising the "victims" on both sides in the civil war, and rehabilitating their "memory" and also removed some fascist symbols and monuments.

The latest move by the public prosecutor, who is the government's top legal representative, to contest Garzón's investigation must have been done with the agreement of top echelons of the PSOE government. Once again, it has capitulated to pressure from the right wing, which has condemned Garzón for "opening up old wounds" in Spanish society. Manuel Fraga, the PP's founding president and a minister under Franco, declared the investigation a "very grave mistake."

The PP has continued its campaign of provocation, with the council of a town it runs in Huelva ordering the bulldozers into the site of a mass grave in order to construct 119 homes. In Madrid campaigners are trying to prevent the demolition of Franco's notorious Carabanchel prison where many political executions took place.

As for the response of the church, the Bishops conference declared that it was "not qualified" to respond to the request for judicial police to be allowed access to the archives of 22,827

parish churches.

The decision by the Supreme Court was announced a few days after former PCE general secretary Santiago Carrillo called Garzón's investigation an "error" and said the names of those responsible for the deaths and disappearances during the Civil War should not be made public for fear of stigmatising their descendants.

Garzón, who is Spain's most prominent investigative judge, ordered the country's first criminal investigation after a petition demanding an investigation into the forced disappearances was filed by 13 historical memory associations. The United Nations Commission on Human Rights has also called on Spain to abolish the amnesty law, saying it contradicted international treaties.

Last month, Garzón ordered the opening of 19 mass graves, including one near Granada believed to contain the remains of the poet Federico García Lorca, who was murdered at the outbreak of the civil war. Until recently Lorca's family was vehemently opposed to an exhumation, but the family of one of the other men who is buried in the grave asked that it be opened. Nieves Galindo, whose schoolmaster grandfather Dióscoro Galindo was buried with Lorca, described Garzón's investigation as her "last hope".

More politically explosive was Garzón's decision to order the exhumation of bodies from the underground basilica and mausoleum known as the Valley of the Fallen (the Valle de los Caídos), near the capital Madrid, where Franco is still buried alongside José Antonio Primo de Rivera the founder of the fascist Falange party. Since Franco's death it has been a place of pilgrimage for his followers, who meet there every year to commemorate the day he died.

The bones of some 40,000 people who died during the civil war were placed in the monument after its completion in 1958--after 18 years of construction using the forced labour of political prisoners. Amongst them were the remains of Valerico Canales who was shot with other leftists in 1936 in Avila. "We are going to recover my father, my uncle and six others who were executed," said his son Fausto Canales, now aged 74 after Garzón announced his investigation. Canales said Franco had "stolen" the bones of his father and his uncle to ensure that some political opponents were buried alongside his supporters at the Valley of the Fallen. Canales explained that the bodies were left in an unmarked grave until 1959 and then dug up secretly.

"People from the village told us one night they took all the bodies to the Valley of the Fallen. They rushed it, leaving a skull, bones, vertebrae, teeth and finger of a woman killed [with my father]." Canales eventually discovered where his relatives were buried and petitioned the courts for the return of the bodies

"They were moved without the permission of the families and it's not right that they should lie alongside Franco for all

eternity," he added.

When work started on the mausoleum Silva declared, "This is hugely significant and the first step to opening the biggest mass grave in Spain... Ultimately we want all the bodies held there identified and given the sort of burials they deserve."

Since Silva set up the first historical memory society in 2000, some 170 graves have been opened and 4,054 victims of Franco's death squads identified. The societies also drew up a list of 114,266 victims, which was handed over to Garzón and formed the basis of his indictment.

Volunteers in the Central Burgos region have excavated three mass graves and begun work on a fourth. They have also taken one hundred DNA samples from locals to identify the remains. According to *Newsweek*, "volunteers found the grave containing five men—two brothers, a father and son, and another man. Among the skeletons were some belt buckles, the rubber soles of their shoes and bullet casings. Each skull bore a distinct hole... The same day, in the nearby Aranda de Duero cemetery, the association unveiled a plaque to the 606 documented people who were killed in Burgos. The organisers expected a few dozen people, but about 400 showed up, including victims relatives from Brazil, Italy, Switzerland, France and Belgium."

The Andalusian local newspaper *Olive Press* has had a series of reports on the growing activities of the memory societies in the province. In Orgiva 500 people met to discuss the latest information on the enormous mass grave in the El Carrizal Ravine where 2,300 bodies have been discovered so far. Estimates suggest there may be as many as 4,000. Local historian Juan Gonzales Blasco explains how a local shepherd, who was a boy during the civil war, told him that the murderers were 15 Civil Guard officers from Murcia helped by the fascist Le Escuadra Negra organisation from Orgiva and Las Barreras.

The shepherd, who wanted to remain anonymous for fear of reprisals, continued, "The lorries would come every night. The prisoners were lined up and shot. We would hear gunshots all night long. Bang, bang, bang. Inmates from the jail at Orgiva would be marched out to bury the murdered sometimes in mass graves containing 200 bodies... This went on for weeks and months. Sometimes there were as many as 80 people executed a night... Sometimes I would hear 'murderers', 'criminals.' But I also recall things like, 'Don't kill me. I have five children'."



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact