

Judge Baltasar Garzón suspended for investigating Franco's crimes

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The internationally renowned Spanish judge, Baltasar Garzón, was suspended from his post on May 14, accused of perverting the course of justice by the body that oversees the judiciary, the General Council of the Judiciary (CGPJ). His suspension shows the millions that have sought justice for the victims of the fascist Franco dictatorship the power and influence still wielded by the extreme right 30 years after the so-called “transition to democracy”.

Garzón goes on trial in the Supreme Court later this year. If convicted, he faces up to 20 years suspension, which will effectively end his career as one of the world's most celebrated investigative judges.

He faces three charges. The main charge involves his 2008 investigation into the crimes of the dictatorship. Judge Garzón accused Franco and 44 former generals and ministers, plus 10 members of the fascist Falange party, of crimes against humanity and ordered the opening of mass graves where over 100,000 of their victims were buried.

Emilio Silva, president of the Association for the Recovery of Historical Memory, stated, “Those who are going to put Garzón in the dock for investigating Francoism are those who killed 98 percent of the exhumed victims”.

Amnesty International says it is “unheard of that a magistrate can be tried for searching truth, justice and reparation”.

The second charge against Garzón is linked to his investigation of alleged corruption, popularly known as the “Gürtel case”, involving local government officials and businessmen, many of whom are linked to the right-wing opposition Popular Party (PP). For over a decade, businessman Francisco Correa is alleged to have bribed PP officials in governing regions and cities to give him lucrative contracts. PP treasurer Luis Barcenas, as well

as several mayors, a regional senior official and a European legislator have resigned over the case. Garzón is accused of illegally listening to conversations in prison between the accused and their lawyers.

The third charge involves allegations that Garzón dropped charges against Santander Bank President Emilio Botín a few months after the bank sponsored a series of seminars at the University of New York, beginning in 2005. Although the National Court originally accepted Garzón's claims of innocence, the case was reopened in 2009.

Garzón's suspension was a result of a private prosecution brought by two extreme right-wing organizations—the small public employees trade union Clean Hands (Manos Limpias) formed in 1995 by the leader of the National Front, Miguel Bernard, and Freedom and Identity (Libertad e Identidad). More recently, the Falange also added its name to the writ.

On April 7 this year, Supreme Court magistrate Luciano Varela, agreeing with the litigants, charged Garzón with knowingly acting beyond his jurisdiction when he launched his investigation. Such was the outcry that Varela was later forced to remove the Falange from the writ.

The main charge against Garzón is that he ignored the Law of Amnesty that was passed in 1977, after the death of Franco. The amnesty was one of several measures that comprised the framework agreed by sections of the old regime with the Communist and Socialist Parties to prevent revolution during the “transition to democracy”. The ruling elite, many of whose members have never renounced their loyalty to Franco, fear that an investigation into Spain's past will bring to an end the agreement that covered up the crimes of the fascists.

Garzón has been ruthlessly pursued despite having

capitulated to pressure from the right wing, the Church and the majority of the judiciary and curtailing his activities. Four weeks after he initiated the Franco investigation, he passed responsibility for exhuming mass graves on to local councils, which he knows have limited resources to carry them out or are controlled by the PP.

A few days before his suspension, Garzón asked the CGPJ to allow him to take up an offer of work in “special services” at the International Criminal Court as a representative of the CGPJ, which would have taken him out of the Spanish judicial system and possibly seen his case shelved. But the CGPJ only allowed him to go to the Hague for a period of seven months as a consultant and advisor to ICC prosecutor Luis Moreno Ocampo.

Four days after his suspension, on receiving the “Libertad y Democracia René Cassin” prize awarded to him by the French association “Young Republic”, Garzón reassured his opponents by denying that his investigation was “an attempt against political stability”. He was, rather, carrying out a “democratic necessity” so that “wounds are not reopened”.

Many people in Spain are understandably disgusted about Garzón’s prosecution and the way his investigation has been blocked. In his support there have been several demonstrations and a petition that has attracted tens of thousands of signatures. Scores of artists and intellectuals have sent letters of protest including international figures like film director Pedro Almodóvar, actors Javier Bardem, Juan Diego Botto and Alberto San Juan, singer Pedro Guerra and authors Luis García Montero and Almudena Grandes.

However, the opposition movement is being led by organisations that are responsible for creating the political set-up that prevented a reckoning with Franco’s crimes.

The trade union Comisiones Obreras (CC OO), set up by the Communist Party (PCE), and the Socialist Party (PSOE) controlled General Workers Union (UGT) played a vital role in diverting workers’ political struggles following the death of Franco in 1975 and agreeing to the amnesty for the fascists that is now being used against Garzón.

Their declarations of support for Garzón are carefully worded. The UGT says, “An action that arouses too many suspicions has been transformed into what UGT

considers an unjust prosecution, a lamentable suspension of an upright judge, and a judicial action that will be difficult to be understood in the international sphere, and which will be detrimental to the image of our country”.

The CC OO takes an ostensibly more radical stance, calling for “full reparations to the relatives and the victims of the crimes committed during Francoism, as well as punishment for those responsible”, that is, it adds, “in the cases where any of them is still alive”.

As far as the PSOE government is concerned, its statements have centred on defending itself from attacks by the PP that a PSOE minister took part in a demonstration in support of Garzón. Several PSOE party federations have issued mealy-mouthed statements of support to Garzón, with one reassuring the ruling elite that, “In opposition to what the PP says, these processes do not reopen old wounds but serve to close those wounds that still remain open by impunity and injustice”.

The right has no reason to accept such reassurances. They know that an investigation into the crimes of the Franco regime, of even a limited character, threatens the sordid political compromise that allowed the Spanish bourgeoisie to maintain power. It would also expose the counterrevolutionary role of the Socialist Party and, above all, the Communist Party and its general secretary, Santiago Carrillo, in mediating the transition after the death of Franco.



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