

Spain's Socialist Party government colluded with US to conceal Iraq war crimes

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A total of 3,698 cables from the US embassy in Madrid, dating back to at least 1986, have been released by WikiLeaks. They show that whilst the Socialist Workers Party (PSOE) government and judiciary were promoting a public image of independence from US imperialism they were busy working behind the scenes with the Bush and Obama administrations to prevent prosecutions of US officials and military personnel charged with war crimes.

So far, the most revealing set of cables relate to the shooting of Tele 5 cameraman José Couso and Reuters reporter Taras Protsyuk seven years ago in Iraq by US troops. The soldiers involved are accused of shelling or ordering the shelling of Baghdad's Hotel Palestine where over 100 international journalists were staying during the US invasion of Iraq.

Journalists in the hotel stated at the time that the US military were well aware that they were using the hotel and were clearly visible. Washington repeatedly claimed that soldiers were returning hostile fire from the hotel. Vice-President Dick Cheney declared that the suggestion that US troops had deliberately attacked journalists was "obviously totally false ... You'd have to be an idiot to believe that ... The attack on the hotel was simply the result of troops responding to what they perceived to be threats against them".

Subsequent investigations showed that this was a brazen lie. Couso's death was part of a wider pattern, which involved similar attacks on the Al Jazeera and Abu Dhabi television networks. There were numerous instances of non-embedded journalists being fired upon, detained or beaten by US soldiers. Washington had a definite interest in intimidating and suppressing any independent coverage of the war. It wanted to sanitise the US onslaught, denying the American and world public images of both the massacre of Iraqi civilians as well as the deaths of US soldiers.

The revelations afforded by WikiLeaks have given added ammunition to the Couso family, which has spent over seven years battling to get justice for José. They are demanding the cables be used as evidence to show that there was a conspiracy involving former Foreign Affairs Minister Miguel Ángel Moratinos, Justice Minister Juan Fernando López Aguilar, Attorney General Cándido Conde-Pumpido and National Court Chief Prosecutor Javier Zaragoza to dismiss the case. José's brother, Javier, said "We have always known that the Spanish government connived [with the US]... We believe the behaviour of the attorney general's office and the prosecutor's office at the national court has perverted the true nature of these institutions".

The family first petitioned the authorities for an investigation shortly after José's murder. They carried out a sustained international campaign to demand that his killers be brought to justice and organised regular demonstrations outside the US embassy in Madrid. After the PSOE's election in 2004, the new Prime Minister José Luis Zapatero officially condemned the killing and awarded Couso a posthumous medal recognizing his work.

In response to the Couso family petition, the Spanish court issued two formal requests. The first, in April 2004, asked the US Departments of

State, Defense and Justice to share the results of any US investigations into the incident. The second requested that a Spanish judicial commission be allowed to visit the US to take testimony from the three accused military personnel—Lieut. Col. Philip DeCamp, commander of the Fourth Battalion of the Third Infantry Division; Capt. Philip Wolford, company commander of the tank unit that fired the fatal round; and Sgt. Shawn Gibson, the noncommissioned officer who fired the tank's cannon. Washington never bothered to reply to either appeal.

In October 2005, National Court Judge Santiago Pedraz issued a warrant for the arrest and questioning of the three soldiers on charges of murder and war crimes under the Geneva Conventions. Pedraz explained that Spanish universal jurisdiction law allowed for a crime committed against a Spanish citizen overseas to be prosecuted in Spain if the country where the crime took place fails to act. He added that the warrant was "the only effective measure to ensure the presence of the suspects in the case being handled by Spanish justice, given the lack of judicial cooperation by US authorities".

In what turned out to be a prophetic statement the WWSW noted at the time, "In what may indicate a different behind-the-scenes approach, however, Spanish prosecutor Pedro Rubira issued an appeal calling for the court to withdraw the warrant. 'Spain lacks jurisdiction to investigate causes of death in a military conflict and death of a Spanish citizen resulting from US military gunfire,' he asserted." The PSOE government also adopted a cautious approach to the warrant, distancing itself from Pedraz's actions. López Aguilar said that the government's attitude was one of "respect and prudence" toward the ruling.

Since then the case has been dropped by the National Court twice after intervention by Zaragoza and reopened by the Supreme Court after appeals by the Couso family. Last year, Pedraz said new evidence had emerged, including reports by experts and from a former US soldier. He ruled there were "reasonable indications to believe" the three soldiers were responsible. The Supreme Court ordered the case to be re-opened again and Pedraz reissued arrest warrants again in August.

It is clear the US has been exerting enormous pressure on the Spanish authorities to drop the prosecution and the Zapatero government, which received the cold shoulder from US officials after withdrawing troops from Iraq, complied.

According to one WikiLeaks cable, Eduardo Aguirre, a Cuban-American banker appointed US ambassador to Spain by George W. Bush, commented, "while we are careful to show our respect for the tragic death of Couso and for the independence of the Spanish judicial system, behind the scenes we have fought tooth and nail to make the charges disappear".

Aguirre had a lunch on March 7, 2007 with Spanish Minister of the Interior Alfredo Pérez Rubalcaba who divulged that he was "closely following" the Couso case and "was eager to see a cooling of Spanish emotions" surrounding it.

The lunch was held in advance of a March 20 vote on a non-binding

parliamentary resolution agreed between the PSOE and the Communist Party-led United Left (UI) condemning the “illegal, immoral and unjust” decision to go to war in Iraq. The cable notes that the resolution was an attempt to regain popular support in the run-up to regional and municipal elections in May 2007 and in the face of a million-strong anti-ETA march in Madrid organised by the opposition Popular Party. The lunch bore fruit. According to the cable “The PSOE version of the resolution removed IU language calling on the GOS [Government of Spain] to hand over [the] three US servicemen”.

In the same year, shortly before the visit of Secretary of State Condoleezza Rice, the US embassy in Madrid sent a message advising Rice to “highlight the concern of the US government” about the Couso case. “We want a continued vigilance and cooperation from the Spanish government until the case is filed”, the message continued. Another cable sent shortly after stated, “Perez Hernandez [secretary of state for Justice] said he would contact the National Court Chief Prosecutor [Zaragoza] to ascertain how the Prosecutor’s Service would handle this case”.

National Court Prosecutor Zaragoza seems to have had a particularly close relationship with the US, acting as what can only be described as its agent within the Spanish judiciary. He was called in to meet US embassy officials in order to “sensitise him to the USG’s [United States Government’s] concerns” about the Couso case. Zaragoza apologised because he “had not reviewed the case sufficiently himself to establish the best course of action” and that events “had moved swiftly” at a time when he was “preoccupied” with the ETA question.

Zaragoza said that he “was aware” of Attorney General Conde-Pumpido’s interest in the case and “assured Emboffs [embassy officials] that his office would carefully study all aspects of the case and would proceed at a deliberate pace”. He “left open the possibility that the Prosecutor’s Office would seek additional information from USG authorities”. The cable ends by saying, “As soon as Zaragoza informs us how he intends to proceed, we will convey this information to interested Washington agencies”.

Then in July 2007 another confidential embassy report summarized a lunch meeting between US ambassador Aguirre and Conde-Pumpido in which the Spanish official “said that he continues to do what he can to get the case dismissed, despite public pressure from the family, leftist groups, and the press”.

Not only did Conde-Pumpido meet up several times with the ambassador; government ministers were also involved. Vice President María Teresa Fernández de la Vega, according to Aguirre, was “very much involved in the monitoring of the case” and suggested that one of the options was to “present an appeal”. Fourteen days later the Prosecutors Office presented an appeal for the dismissal of the charges against the soldiers.

The Couso case demonstrates how determined Washington is to prevent the world from witnessing the barbarity of US operations in Iraq and to silence those journalists who were not under the direct control and discipline of the US military. It is determined to prevent US troops from being convicted for Couso’s death and setting a precedent for the indictment and trial of Bush, Cheney and all those in the US government and ruling establishment who conspired to carry out the illegal war in Iraq.

The WikiLeaks cables show that running parallel to the attempts to get the Couso case dropped the US ambassador was seeking to derail the case against former Defense Secretary Donald Rumsfeld and other Bush administration officials launched by another National Court judge, Baltasar Garzón. Aguirre writes, “The Deputy Justice Minister also said the GOS strongly opposes a case brought against former Secretary Rumsfeld and will work to get it dismissed. The judge involved in that case has told us he has already started the process of dismissing the case”.

In 2005 Garzón announced he was considering an investigation into the “criminal responsibility” of Bush, former Spanish Prime Minister José

María Aznar and former British Prime Minister Tony Blair for the Iraq war. Aguirre told Zapatero’s secretary of state, Angel Losada, “I’m running out of patience with the unloyal commentaries of the PSOE and its allies over the US”.

In 2007, US Senator Mel Martinez was dispatched to Spain to warn that any investigation “would not be understood or accepted in the US and would have a huge impact on bilateral relations”. According to the cables, Losada reassured Martinez that “the Spanish government will tell Conde-Pumpido that the official stance of the administration is that the government is not in agreement with the [National] Court”. Two days later Conde-Pumpido declared the case to be “fraudulent”. Although Garzón ignored the attorney general’s declarations and attempted to continue the investigation under Spain’s universal jurisdiction laws, he was indicted earlier this year for exceeding his authority when investigating Franco-era crimes and suspended in May pending trial.

Zaragoza is also implicated in the Garzón prosecution. He telephoned the embassy to warn of the possibility of Garzón taking up the case, and said that he himself would publicly question why the same judge had not opened a case when he could have done so in 2004. The next day *El País* published an article where Zaragoza criticized Garzón for not having “considered investigating torture in the past five years”.

Spanish complicity with successive US administrations is not only seen in the fact that they intervened in the procedures, but also in the limiting of universal jurisdiction. In October 2009 the parliament passed a law that restricted the application of universal jurisdiction with the joint votes of PSOE and the PP, after pressure from the Obama administration (Senator Martinez’s comments on the “huge impact on bilateral relations”) and Israel, whose defence minister was being investigated for war crimes in the Gaza Strip.

The WikiLeaks cables also reveal the PSOE government’s duplicity over secret CIA rendition flights of prisoners from Afghanistan to Guantanamo Bay. In 2007 it was forced to declassify information relating to the flights after public uproar over the illegal use of Spanish airports for such flights. However, the documents released were redacted to remove names, locations and other information that would reveal those implicated in the criminal activities, i.e., CIA agents, Spanish police, government officials, etc.

Facing widespread international opposition to the war, both the Bush and Obama administrations wanted to make sure that no one was held accountable for war crimes, and in that way assure that the US could continue violating international law with impunity. For its part, the PSOE—which postured as an opponent of the war for popular consumption—was collaborating with the US to assure that war criminals got away scot free.

According to Javier Moreno, editor in chief of *El País*, “The last was the most complicated because the cables revealed the double speak of government and prosecutors. Our stories showed that they told US diplomats they would try to hinder or even close down the case while telling the family of the dead journalist that they would do everything they could to advance it”.



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