

Spain's judge Baltasar Garzón on trial for investigating Franco crimes

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20 January 2012

Spanish judge Baltasar Garzón appeared in court January 17 in the first of three cases aimed at silencing him and thwarting his investigations.

Garzón is accused of ordering illegal wiretaps of suspected members of the infamous “Gürtel” corruption network, many belonging to the Popular Party (PP), which won elections last November, and their lawyers to discover whether they cooperated in money-laundering operations. Demonstrators outside the Spanish Supreme Court declared that they won't stop until they get “truth...justice and reparations”. Other protests are taking place around the world.

On January 24, Garzón appears in court on charges that he abused his judicial power by launching an investigation into the crimes committed during the Civil War (1936-1939) and the dictatorship of Generalissimo Francisco Franco that continued until the dictator's death in 1975. Garzón demanded the regime be held accountable for murder, ordered mass graves to be opened and compensation paid to Franco's victims, and began investigations into the disappearance of 113,000 babies, many abducted from the regime's political prisoners.

A third case against Garzón, for which a date has not yet been fixed, deals with allegations that he took bribes. It relates to payments he received for seminars he gave in New York.

Garzón's attorney, Gonzalo Martinez-Fresneda, declared, “Judge Garzón is facing the perfect storm”. If convicted, Martinez-Fresneda added, Garzón faces removal from the bench for up to 20 years.

The case that has provoked the most venom from the Spanish ruling elite, and mobilised the entire political and legal machinery against Garzón, is his investigation of the crimes of the fascist regime. The additional cases are politically motivated in order to further blacken the

judge's character and destroy his credibility, thus justifying the charge that he has no jurisdiction to investigate Franco's crimes.

Following Franco's death, a new constitution was drawn up in Spain by a section of the old regime and the leaders of the Stalinist Communist Party (PCE) and the Socialist Workers Party (PSOE). Enshrined in the “peaceful transition from fascism to bourgeois democracy” was an amnesty to “forget and forgive” the regime's crimes. To date, not a single person has been prosecuted for them.

The PP, formed out of the remnants of Franco's Falange party, reacted with predictable hostility to Garzón's investigations from the start. One PP senator described it as “reopening wounds that were happily closed.”

The PP's founding president, the recently deceased Manuel Fraga, who served as Franco's propaganda minister, called the investigations “outlandish”.

The PP was not alone in opposing Garzón's investigations. Former PCE general secretary Santiago Carrillo, one of the architects of the transition agreements, denounced the move as an “error” and “not the best way” of restoring the historical memory of the period under the dictatorship.

It was relatives of Franco's victims who first petitioned the courts to investigate the crimes. Garzón took up the case in 2008, but almost immediately the overt fascists of the Falange and the fascist trade union Clean Hands (Manos Limpas) demanded that the investigation be halted, accusing Garzón of abuse of power. They were successful, and he was suspended from his job.

Behind the scenes, the United States was also at work. It was determined to prevent Garzón invoking “universal jurisdiction” laws, which he had used most

famously to pursue the Chilean dictator, Augusto Pinochet, in 1998; and to investigate torture allegations by Spanish detainees at the US detention camp in Guantánamo, Cuba, the use of Spanish bases for CIA “extraordinary rendition” flights, and the death of Spanish cameraman José Couso, killed by US shelling in Baghdad.

Recent WikiLeaks cables reveal the sustained pressure the US State Department put on the Spanish PSOE government and the attorney general to curb Garzón’s activities. As a result, the PSOE government passed legislation watering down universal jurisdiction and allowed proceedings against Garzón to begin. The PSOE has been virtually silent on the campaign against Garzón ever since. Many in the PSOE detest Garzón for indicting PSOE government officials over state-financed death squads that assassinated the Basque separatist group ETA in the 1980s.

The prosecution of Garzón is a travesty of justice. While he is suspended from his job and faces the end to his career for attempting to investigate heinous crimes, those who were complicit in them continue to enjoy political amnesty and their heirs increase their wealth and power.

Until his death on Sunday, Manuel Fraga had remained what King Juan Carlos called “a great servant of the state”—a PP grandee, ambassador to the UK, head of the autonomous region of Galicia and senator.

The Franco family is another case in point. The Spanish daily *El País* recently described its disgusting wealth and privileges. King Carlos awarded the family a new title of nobility—the duchy of Franco. The family’s accounts have never been investigated, let alone their fortune—including the assets and gifts that Franco received as head of state. Until the day she died, his widow Carmen Polo received a pension that was higher than the salaries enjoyed by Spanish prime ministers. Her daughter is the head of a major real-estate empire and presides over several companies, some of which were created during the dictatorship.

The last PSOE government passed a Law of Historical Memory and promised to remove all Francoist street names and symbols and recompense the victims, but they did as little as slowly as possible. Many such symbols remain, and Franco’s body, as well as that of the Falange founder, José Antonio Primo de Rivera, enjoys place of pride at the huge Valle de los

Caidos monument built by Franco’s political prisoners. Every year, memorial masses are held there.

Garzón always insisted that his investigations never breached the amnesty laws. His treatment is proof that Spain’s ruling elite is adamant that any attempt to shed light on the crimes of one of the world’s most despotic regimes and hold those responsible to account is impermissible.



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