Spanish judge Baltasar Garzón debarred for 11 years

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On Thursday February 9, the Spanish Supreme Court handed down an 11-year ban on National Court judge Baltasar Garzón holding office.

By the end of the debarment, Garzón will be 68 years old, effectively ending his legal career. In their ruling, which is not subject to appeal, the panel of seven Supreme Court judges said that Garzón would permanently lose his position as judge.

The judges Joaquín Giménez, Andrés Martínez Arrieta, Miguel Colmenero, Francisco Monterde, Juan Ramón Berdugo, Luciano Varela and Manuel Marchena, voted unanimously to declare Garzón guilty of abusing his powers for ordering recordings of conversations between suspects of a corruption case involving the right-wing Popular Party (PP), now in government. He taped the accused while they were in prison and talking to their lawyers.

The present case against Garzón was brought by the two main figures accused in the infamous “Gürtel” corruption case: businessman Francisco Correa and his right hand man, Pablo Crespo. Correa cultivated links with officers of the PP and is accused of bribery, money laundering and tax evasion.

After a four-year investigation, Garzón became the first person to be punished in this case.

Garzón is also charged with allegedly perverting the course of justice and breaking the 1977 Law of Amnesty, which pardoned the crimes of the Franco era, by probing the disappearance of 114,000 people during the Spanish Civil War and ensuing fascist dictatorship. The verdict is expected later this month.

The real aim of the witch-hunt against Garzón and his debarring is to punish him for threatening to undermine the corrupt settlement reached by all factions of the Spanish political elite and ruling class. The formation of a parliamentary regime in Spain and the country’s integration into the institutions of bourgeois Europe, such as the European Union (EU), starting in the late 1970s, depended on hiding the crimes of the fascists and their heirs in the PP.

In 2005 Garzón called for a “truth commission” to investigate crimes against humanity during the dictatorship of General Francisco Franco, who ruled Spain from the end of the civil war in 1939 to his death in 1975.

In 2008 he opened the investigation at the request of victims' relatives. He ordered the exhumation of 19 unmarked mass graves, one of which is believed to contain the remains of the poet Federico Garcia Lorca.

Garzón's investigation would have covered three periods—the civil war from July 17, 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.”

Garzón's indictment made clear that his intentions were limited, not to raise political issues but something “much more moderate”—the investigation of “forced disappearances”. One month later, he dropped the case against Franco and his allies under pressure from the state prosecutors and said he was passing responsibility to regional courts for opening 19 mass graves believed to hold the remains of hundreds of victims.

This did not save the judge. Garzón was suspended in 2010, pending trial on charges he exceeded his authority by ordering an investigation into mass killings during the 1936-39 civil war. The two other cases were brought later.

The ruling elite fear that such an investigation would not only uncover the summary executions, the mass graves, the disappearances, the stolen children and the fascist repressions, but identify those responsible for

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these crimes. Many of their descendants and supporters occupy positions at the highest echelons of the state, in the PP government and the judiciary itself.

Above all, such an investigation would bring into question the political settlement after the death of the dictator, which gave a political amnesty to the fascists, the military, civil guard, judges, church leaders and all those involved in the crimes of the Franco regime.

The democratic regime established in the years following the death of Franco rescued Spanish capitalism from the retribution demanded by the working class, thanks to the Communist Party and the social democrats of the PSOE. But these arrangements are coming under increasing strain as social tensions within Spain rise once more. A section of the ruling elite has decided that a time of reckoning is fast approaching and has determined to make a pre-emptive counter-strike against Garzón, with major ramifications for the rule of law.

The immediate impact of the verdict and sentence is to ensure that no one within the judicial system will never again do anything that runs counter to the interests of the ruling elite.

Garzón commented, “This sentence eliminates all chances of investigating corruption and its associated crimes, opening up an area of impunity and, in its aim of getting rid of one particular judge, compromises the independence of Spain’s judiciary.”

The sentence was met by demonstrations involving some 10,000 people chanting “Enough of the judicial mafia”, “Purification of the Francoist judges” and “Francoists out of the Supreme Court”. Placards read, “Spain upside down, the corrupt and the fascists have the judge judged” and “They cover their offences by getting rid of Garzón”.

The spokeswoman for the Judicial Power, Gabriela Bravo, responded to the widespread public outrage with a defence of the Supreme Court. “I understand that part of the citizenship does not agree with the sentence,” she said, “but I think it is intolerable that they (the Supreme Court judges) are being called fascists because of it.”

Several members of the judiciary have also expressed their disbelief and outrage at the sentence in the Gürtel case and warned of the effects it will have on investigations by other magistrates. Jaume Asens, from the Defense Commission of the Lawyers School in Barcelona, considered the sentence “an attack on the independence of the judges ... What the judges of the Supreme Court have made clear is that it is risky to investigate the powerful.”

A similar sense of outrage was entirely absent in the remarks of the federal coordinator of Izquierda Unida (IU), Cayo Lara. IU is a political coalition led by the Communist Party. Lara declared complacently, “Today is a very sad day for Spanish justice and for democrats.”

However, he went on to minimise the implications of the sentence. To his mind, this sentence against Garzón “does not have to set a precedent,” he said. He trusted that the other trials would not “follow the same road”.

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