

Spain's Garzón acquitted for investigation of Franco-era crimes

Alejandro López, Chris Marsden
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The Supreme Court's decision to acquit Baltasar Garzón of misconduct for launching an investigation into the crimes committed under Gen. Francisco Franco's fascist regime represents a tactical retreat by Spain's ruling elite in the face of popular hostility to his prosecution.

However, claims that the ruling has somehow restored the reputation of the Spanish judicial system should be rejected with contempt.

Justice Minister Alberto Ruiz-Gallardón Jiménez stated that the court's ruling was proof that "there is a strong and independent judiciary" in Spain. "None of the criticism against the Supreme Court, in my view unjustified, has made it lose its prestige in the eyes of Spanish citizens."

Nothing could be further from the truth. It is in an attempt to restore the lost prestige of the judiciary—and to call off a politically damaging prosecution—that the Popular Party (PP) government offers this endorsement of the Supreme Court's decision. The aim, as always, is to continue covering up the crimes of fascism and prevent a political reckoning with the perpetrators of these crimes and their heirs.

In 2008, Garzón opened the first investigation of those responsible for the military coup of July 17, 1936, examining the disappearances of 114,266 people, as well as indicting Franco, 44 former generals and ministers, and 10 members of the Falange party. He then ordered the exhumation of 19 unmarked mass graves.

For this he was accused of perverting the course of justice and breaking the amnesty law, passed in 1977, exempting everyone who committed any offence for political reasons prior to this date of responsibility.

From the very beginning, the Supreme Court used all means available to stop Garzón. On November 17,

2008, he agreed to drop his investigation after state prosecutors questioned his jurisdiction.

This did not placate his opponents, however. The right wing wanted his scalp. In 2010, the Supreme Court declared admissible three criminal cases against Garzón, one accusing him of accepting a bribe, which was later dropped, one for breaching the amnesty law brought by the Falange and the rightist trade union, Manos Limpias, and one for ordering illegal wiretaps in the infamous Gürtel corruption case involving the PP.

However, with thousands demonstrating in support of Garzón, it soon became clear just why the Spanish bourgeoisie had needed and still needed the "Pact of Forgetting".

The Supreme Court clearly calculated that to have conducted an extensive trial against a Spanish judge for investigating mass murder by the previous regime in the name of preserving the sanctity of these constitutional arrangements would have backfired. They therefore set out to defuse a potentially dangerous situation.

With Garzón barred from holding office for 11 years on February 9, in relation to the Gürtel case, the decision was taken to acquit him Monday regarding a breach of the amnesty law. But the judges, in a six-to-one verdict, did so on a technicality, while unequivocally defending the law.

Garzón had "misinterpreted Spanish law but did not knowingly and arbitrarily violate the limits of his jurisdiction," they decreed.

The crimes committed under fascism—murders, forced disappearances, rape, torture, slavery, etc.—"have far surpassed the time frame established in the penal code," the Supreme Court stressed. The "right to know the historical truth is not part of the criminal process."

The court's ruling declares, "It should be noted that

the Amnesty Law was enacted with the full consensus of political forces in the constituent period that emerged from the democratic elections in 1977.”

The law was “the result of a clear and patent claim of the political forces ideologically opposed to Francoism” incorporating “other positions, left and centre and even right.”

It was “deemed necessary and indispensable in the operation carried out to dismantle the framework of the Franco regime...no judge or court, in any way, can call into question the legitimacy of this process.”

The “national reconciliation,” it asserts, was achieved in part thanks to the amnesty law that prevented “two Spains facing each other.” This was “the will of the Spanish people.”

The amnesty law had nothing to do with the will of the people, who wanted nothing more than to make the fascists pay for their crimes. It was the will of the political representatives of the Spanish bourgeoisie, left and right, who were determined to restabilise capitalist rule in the turbulent days following Franco’s death and the collapse of his regime.

Its chief political authors were the Communist Party, the Socialist Party (PSOE) and their trade unions, whose task was to prevent the development of a revolutionary confrontation at all costs—including forgiving those who had murdered many of their compatriots.

Even so, for the *Wall Street Journal*, the verdict did not go far enough. Garzón should have been punished for “abusing the law,” and the decision not to do so is described as “a troubling blow to the 1977 amnesty covering the bloody misdeeds of Spain’s authoritarian period—the deliberate ‘forgetting’ of the past to which contemporary Spain owes so much.”

The *WSJ* attacks Garzón for “overturning the considered judgment of the founders of Spain’s democracy on how the country should make peace with its past.”

It ends by defending the amnesty because it ensured that “the sins of the guilty do not engender new strife among the innocents, and that those sins are not exploited for political gain.”

On the contrary: It is the ruling elite that “owes so much” to the amnesty agreed on by the Stalinists and social democrats. It is entirely necessary and correct that the “sins of the past” should “engender new strife”

and be “exploited for political gain” by the victims of these crimes. The amnesty law protects only the guilty and allows their sons and daughters and their children also to posture as democrats while enjoying fully the ill-gotten wealth and privilege handed down to them.

Thanks to the betrayal of the revolutionary strivings of the working class, the fascists retained their positions of power, with former ministers and advisers of Franco forming the PP that now rules the country and drives millions of people into desperate poverty through its austerity measures.



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