

Spanish government abolishes prosecutions under universal jurisdiction laws

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Spain's right-wing Popular Party (PP) government has placed a ban on attempts to pursue justice for crimes under universal jurisdiction laws. PP spokesman Alfonso Alonso declared it was necessary to eliminate universal jurisdiction because it "only brings conflict."

Universal jurisdiction refers to the idea that a state may prosecute individuals who are not its citizens, who have committed serious crimes, including crimes against humanity, war crimes, genocide and torture outside its territory or against its nationals. Under the new law, prosecutions can only be brought if they involve a Spanish citizen, victims who had Spanish nationality at the time of the events, or if the person accused of the crime lives in Spanish territory.

The new law means an end to a dozen investigations including:

- ? The investigation of CIA rendition flights that landed in Spain after 9/11

- ? The murder of Spanish cameraman José Couso in Iraq by US troops in 2003

- ? The 2012 Israeli attack on the Freedom Flotilla delivering humanitarian aid to Gaza

- ? The kidnap, torture and murder of Spanish United Nations official Carmelo Soria in 1976 by the National Intelligence Directorate of Chilean dictator General Augusto Pinochet

- ? The prosecution of China for genocide, torture and crimes against humanity in Tibet

- ? The complaint against four former SS soldiers by a survivor and the families of five Spanish victims of the Nazi concentration camps

- ? The lawsuit involving the alleged killing by the military in 1989 of five Spanish Jesuits in the Central American University in El Salvador

- ? The investigation of several former top Guatemalan officials charged with genocide and torture committed

against the Mayan population

- ? The investigation of former officials of the Rwandan government for the genocide of four million people and the murder of nine Spaniards in the 1990s

- ? The investigation into the attack by Iraqi special forces in 2011 against the Ashraf refugee camp, in which 35 people are said to have died and 337 injured

- ? The lawsuit into the alleged crimes of genocide, murder, torture and illegal detention of Sahwaris by the Moroccan authorities

- ? The alleged crimes of genocide and torture against followers of the Falun Gong in China

The universal jurisdiction concept is rooted in the 1949 Geneva Conventions. The signatory nations passed laws to "provide effective penal sanctions" for persons "committing, or ordering to be committed... grave breaches" of the Conventions. Article 129 demanded that each signatory "shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts."

The United States and other major powers have always used the Conventions in a highly selective manner, seeking to prosecute international human rights violators deemed hostile to their strategic interests, while opposing universal jurisdiction proceedings brought against themselves and their allies.

Spain integrated the doctrine into its national legislation in 1985, empowering the High Court to prosecute criminal acts such as genocide, terrorism and piracy, as well as "any other which, according to international covenants and treaties, should be prosecuted in Spain."

The most famous case occurred when investigative judge Baltasar Garzón sought the extradition of Chilean

dictator General Augusto Pinochet in 1998, while he was on a visit to the UK. Pinochet was charged with murder and the forced disappearance of more than 3,100 Chileans and foreigners during the military coup he led in 1973 and his subsequent 17-year dictatorship. Pinochet was eventually returned to Chile on the grounds that he was too old and ill to stand trial. The governments of Chile, Spain and Britain manoeuvred to ensure that he was not extradited to Spain to face trial.

In the aftermath of the Pinochet trial, the Spanish political establishment became increasingly uneasy about the application of universal jurisdiction and judges issuing arrest warrants without taking into account foreign diplomatic relations, especially with allied countries. The unease increased when the family of cameraman José Couso, shot by US troops while filming in Iraq, brought a High Court case in 2005 demanding the extradition of the US soldiers involved.

Shortly after, Garzón announced he was considering an investigation into the “criminal responsibility” of then US President George W. Bush, former Spanish Prime Minister José María Aznar and former British Prime Minister Tony Blair.

Behind the scenes the Socialist Party (PSOE) government, which was promoting a public image of independence from US imperialism, was busily working to prevent the prosecution of US officials. US Madrid embassy cables released by WikiLeaks revealed how PSOE officials and top judges collaborated with US officials to prevent any prosecutions taking place (see: “Spain’s Socialist Party government colluded with US to conceal Iraq war crimes”).

Eduardo Aguirre, US ambassador to Spain, 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.”

Garzón was debarred from the Spanish courts in 2012 in an attempt to prevent him investigating the crimes of fascism in Spain.

The latest moves by the PP government came in response to the High Court issuing international arrest warrants for top Chinese Communist Party leaders, including former president Jiang Zemin, ex-Premier Li Peng and three other top Chinese officials for alleged torture and genocide in Tibet during the 1980s and

1990s. Chinese Foreign Ministry spokeswoman Hua Chunying declared, “China is extremely dissatisfied with and resolutely opposed to the wrong actions of the relevant Spanish [court]... Whether or not this issue can be appropriately dealt with is related to the healthy development of ties. We hope that the Spanish government can distinguish right from wrong.”



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