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Fascism is Alive and Well in Spain

The Case of Judge Garzon

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The fascist regime led by General Franco was one of the most repressive regimes in Europe in the twentieth century. It was imposed on the Spanish people by Hitler and Mussolini; without their assistance, Franco could not have defeated the popular forces that defended the democratically elected government of the Spanish Republic during the years 1936–1939.

The establishment of the Republic had opened up the possibility of making important reforms needed in Spain to respond to the demands of the popular classes. The first democratically elected republican government instituted land reform (which antagonized the large landowners – the Catholic Church being among the largest); educational reform that expanded public education (antagonizing the Church, which controlled the educational system); and public pension reform (antagonizing banking). It also facilitated the organization of workers by encouraging trade unionism (antagonizing employers), reduced the number of top officers in the Armed Forces, and instituted many other highly popular changes. In response, the groups opposed to these reforms, led by the Army and assisted by troops and military equipment sent by Hitler and Mussolini, carried out a military coup.

The coup was strongly resisted by Spain's popular classes, who fought for three years to defend the Republic, under enormous difficulties – the major one being the lack of arms (there was one gun for every three soldiers on the front). The Western democratic governments did not lift a finger to help the democratically elected government of Spain. As Winston Churchill said, the European governments were afraid that the popular reforms taking place in the new Republic would "contaminate" their own popular classes, who would then ask for the same changes in their own countries. So these governments chose to follow their class interests, Churchill said, over national interests. And, as history proved, this was the wrong choice. Their failure to assist the democratic forces in Spain only helped Hitler and later, in starting World War II.

Franco's victory in Spain meant brutal repression. More than 200,000 men and women were executed, and another 200,000 died in fascist concentration camps and other places of detention. And 114,266 people simply disappeared. They were killed by the Falange (the fascist party) or by the Army, and their bodies were abandoned or buried without being identified (see my ["A Forgotten Genocide: The Case of Spain"](#)).

Up until the last year of the dictatorship, 1978, repression was a constant in Spain's fascist regime. Of course, apologists for that regime (coming from the fascist apparatus of the state) – such as Juan Linz, later a professor of political science at Yale – denied that Franco's regime was a fascist totalitarian regime. They defined it as authoritarian, but not totalitarian, by which Linz (and Spain's right-wing Popular Party, the PP) meant a regime that did not impose a totalizing ideology on the population. This claim is easily proven wrong. Spanish fascism was rooted in a profound and intense form of nationalism based, by its own definition, on a special race – the Hispanic race (the national day celebrating the conquest of Latin

America was called the Day of the Hispanic Race) – that was chosen by God as the savior of civilization (this being rooted in a profoundly reactionary form of Catholicism) and led by a man of superhuman qualities, General Franco. The regime controlled all the country's value-producing systems, from school tests to sports magazines. To deny the totalizing character of that regime, and how it controlled and imposed itself on all spheres of life, is plain apologetics.

The transition to democracy in 1978 was carried out on terms very favorable to the right-wing forces controlling the Spanish state, led by the king, who regarded Franco "as one of the greatest patriots in the history of Spain, savior of the nation against the Red forces". A key element of the transition was the Amnesty Law, which called for immunity for all who had committed political crimes during the dictatorship. The law was accompanied by a Pact of Silence among the leaderships of all political parties, including the left-wing parties (the socialist and communist parties). As a consequence, the 114,266 disappeared remained disappeared.

Then, three years ago, the grandchildren of the disappeared (the *desaparecidos*) started looking for their bodies. Village by village, they began to search for them – a movement that immediately received huge popular support at the street level. There were people who knew where the disappeared were buried, but they had been afraid to talk about it, even thirty years after Spain's return to democracy. The movement spread throughout the country, putting right-wing forces (and the old leadership of the left-wing forces) on the defensive. This movement has challenged the official perception and presentation of the change from dictatorship to democracy as a "model" transition. In fact, in this "model" transition, the right-wing forces still held enormous power.

The movement to recover the disappeared was instrumental in forcing a new law, approved by the Spanish Parliament, to break the Pact of Silence. The Law of Historical Memory calls for the government and public authorities to help families find the bodies of their loved ones. But the socialists in government (with the exception of the Catalan government, a coalition of three left-wing parties) have done very little to advance this. They are afraid of antagonizing the powerful forces (the monarchy, the Army, and the Church) that insist on the need to respect both the Pact of Silence and the Amnesty Law.

Enter Judge Garzon. This is the Spanish judge who tried to take General Pinochet to court when the general was in London, and who led the movement to take other Latin American dictators to court. He came under increasing pressure from the popular movement working for the recovery of historical memory in Spain to look at what had happened at home, not just abroad. Pinochet, after all, was a boy scout compared with Franco: General Franco's repression was even more brutal than that carried out by his disciple, General Pinochet.

Finally, in response to this popular pressure, Judge Garzon called for an inquiry into the crimes committed by the Franco dictatorship, so as to hold tribunals and take those responsible for the horrors of that regime to court. It was a courageous and highly popular move. For the first time, an official report was prepared, by Garzon, documenting the extent of the repression under fascism in Spain. And, as it turns out, the repression was even broader and deeper than previously known. Many people had never spoken (even to their own children) of what they had seen and experienced during those years.

And, of course, the reactionary forces mobilized. There are very powerful forces in Spain that want to stop Garzon and punish him.

The fascist party (La Falange) and other ultra-right-wing forces took Judge Garzon to the Supreme Court, asking that he be stopped from taking Franco's regime and those responsible for the *desaparecidos* to the tribunals. And to everyone's surprise, a member of the Supreme Court, Judge Varela, who had been assigned by this court to look at the fascists' denunciation of Garzon, saw merit in their request: according to this judge, the Amnesty Law signed in the last days of the dictatorship gave permanent immunity to all who had committed violations of human rights under the fascist regime. This judge's position increased the likelihood of Garzon's being taken to the Supreme Court (a five-member court presided over by a judge who swore loyalty to the fascist regime).

It is interesting to read in Judge Varela's indictment the way in which he justifies the need to take Judge Garzon to court. "[Garzon's] actions seem to imply that there has been a pact of silence about the actions taken by the previous regime, exposing all the political and judicial systems to the criticism of having been insensitive to the defense of human rights and defense of the forgotten". Judge Varela wants to prevent Judge Garzon from continuing his trial of the Francoist regime because it will reveal that there has been a pact of silence and that neither the state nor the courts have put into practice the recently passed Historical Memory Law and have done nothing in defense of the forgotten. In that way, Varela wants to save the honor of the Spanish state and the courts and avoid any further embarrassment to the very powerful forces responsible for that silence and for that democratic insensitivity. The initial work done by Judge Garzon has already proved not only the horrible crimes committed by the Fascist regime, but also the deafening silence during the 30 years of democracy. Judge Varela added that the Amnesty Law prevents any inquiry into the crimes committed during the dictatorship, ignoring the fact that the Spanish state has signed

the United Nations Human Rights Law, which in Article 15.2 clearly states that the "crimes against humanity" cannot be silenced by national laws such as Spain's Amnesty Law.

In a few days, the Supreme Court (chaired by a judge who swore loyalty to the Fascist regime during the dictatorship) will pass judgment on Garzon and most likely will divest him of his judicial responsibilities. To put this in perspective, what is happening is equivalent to the Supreme Court of Germany (presided over by a judge who swore loyalty to the Nazi Government) responding to the request of the Nazi Party and passing judgment on the only judge who had dared to try the crimes committed by the Nazi regime. This is what is happening in Spain. And the "official" international media remain silent.