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Shoot the Messenger? Spanish Democracy and the Crimes of Francoism: From the Pact of Silence to the Trial of Baltasar Garzon

As Francisco Espinosa-Maestre illuminates in this newly translated and updated version of the Spanish original, the toxic mythologies of Francoism continue to reverberate bitterly in Spain long after the end of the dictatorship.[1] In thirteen case studies that encompass almost the entire lifespan of the liberal-democratic state, from 1981 to the most recent in 2012, Espinosa-Maestre examines the record of the Spanish judiciary in dealing with investigations into the mass killing of civilians by the supporters of the military coup of July 18, 1936, his objective "to reveal a series of conflicts, isolated and generally unknown, created precisely by the refusal to admit and recognize what took place in Spain as a consequence of the military coup" (p. 3).

That objective focuses centrally on the increasing judicialization of history and the blurring of the boundaries between judge and historian. It is an issue given extra emphasis by the crucial role that the Spanish judiciary played in the consolidation of the Francoist dictatorship as it engaged in violent processes of physical and psychological "reconfiguration." Intended to create a homogenous, monolithic, and hierarchized national community and constructed through a vast judicial system utilized as an instrument of terror, the central message of the dictatorship and its version of the civil war was that atrocities had been suffered only by the supporters of the Francoist regime, and that these atrocities had been committed only by the Republic and its supporters. As Espinosa-Maestre makes clear in this study, those imposed narratives were allowed to survive across the transition to democracy in the late 1970s, an afterlife of violence that was the product of a political brokerage driven by reformist Francoism in return for an amnesty law and a "pact of forgetting." The thirteen cases explored here show the results of those decisions and the endurance of clientelist political modes across the transition; Francoism's victims remain the silenced and "defeated," whilst the fundamental asymmetry at the heart of the commemoration of repression ensured that the victims of violence perpetrated in the wartime Republic had already been named, celebrated, and commemorated long ago by the Franco regime itself. It is a state of affairs that emphatically challenges the long-accepted narrative of Spain's transition to democracy as an exemplary success.

Emblematic of that crushing silence imposed upon Franco's victims across the transition stands the catastrophic reaction to Fernando Ruiz Vergara's 1981 film *Rocío* from sectors of Spain's political and social elite. Shot through the prism of the Catholic festival of the *Romería* of Rocío in Huelva (Andalucia), *Rocío* was in effect the first documentary on the Francoist repression that actually named those responsible for extrajudicial killing–specifically that which had occurred in the small town of Almonte in the immediate aftermath of the military coup in July 1936. Despite ministerial and critical acclaim, on February 23, 198–the very day of the *Tejerazo*–a case was filed against Ruiz Vergara by the family of those his film had named as leading Francoist vigilantes in *Rocío.* The court found in favor of the plaintiffs, leaving the filmmaker heavily fined and professionally ruined. At no point in any of the repeated court cases and appeals did anyone dispute that nearly one hundred people in the village had been extrajudicially murdered by vigilantes in the wake of the coup. As Espinosa-Maestre so clearly shows, this was a warning to all those investigating the repression, an exemplary case that showed the enduring power and influence of the Francoist establishment across the transition to demand that its version of the past was the only one that could be heard in public in the new democracy. It was the "armour plating" of the

derecho al honor (right to honor) of Spanish fascism and the rejection of that "right to honor" of the victims of the dictatorship (p. 177).

As the Ruiz Vergara case showed, that "right to honor" focused intensively on the denial of oral history as a legitimate and valid historical source. And so in the series of court cases examined here against Ruiz Vergara, Isidoro Sánchez Baena, Marta Capín, Santiago Macías, Dionisio Pereira, José Casado Montado, and Ramón Garrido Vidal, the central issue focused on the rejection of the personal testimony of those who lived through or otherwise experienced the repression that occurred in military-rebel-controlled territory in the wake of the July 1936 coup. In various ways, attempts to name those responsible were silenced by these court cases, or more accurately, by the fact that Spanish judges trained and shaped by the Franco dictatorship supported the plaintiffs' claims over the rights of those seeking to open up the difficult past. But as each of these examples of enforced silence illustrates strikingly, this was not about removing the civil war and dictatorship from public discourse altogether, but something rather more subversive: it constituted the active (re)filling of that vacuum of historical knowledge produced by Francoism with a highly selective version of the past.

In this way, the contemporary political Right in Spain–spurred on by the rise of populist conservative nationalism across Europe–has continued to propagate the myths of the dictatorship, ensuring that the rhetoric of Francoism has never really left Spanish society. Whilst Pío Moa stands as this resurgent Francoism's best seller, the work of apologists for the regime continues in towns and villages across Spain. The vicious accusations that emerged from Zamora in 2004/2005 and the attempts to distort the historical reality of the incarceration and extrajudicial execution of Amparo Barayón in 1936–and consequently the Francoist repression more widely–revealed precisely how deeply that sociological Francoism inhabits people at all levels of Spanish society. That those involved in the posthumous assault on Barayón included the town's official chronicler only indicated that historians too could be guilty of consolidating Francoist myths. Shortly after the publication of Espinosa-Maestre's book, the newspaper *La Opinión de Zamora* returned to the story of Amparo Barayón, publishing details of the fate of the man responsible for her murder in what could widely be seen as a final attempt to put the story to rest, a claim to to "carry out the duty of historians" by revealing once and for all what happened to Amparo's executioner. But as Espinosa-Maestre makes clear, this focus on the individual biography of "the murderer" diverts attention from the bigger picture of a military-sanctioned process of lethal "social cleansing" that saw certain categories of people targeted, including many women, who, like the young mother Amparo Barayón were extrajudicially killed for being independent, modern women and for "having ideas" fundamentally at odds with Zamora's conservative society. What the newspaper truly revealed in 2013 as in 2004/2005 was the Right's continued efforts to secure their own version of the past instead of pointing a finger directly at those who were actually responsible for the many thousands of extrajudicial murders carried out in Zamora and elsewhere.

These thirteen cases also illustrate that beneath the accumulated myths of Francoism and efforts on the part of the post-Francoist political class to silence debate and discussion, memory work at the grassroots level is consolidating new dimensions of democratic action, empowered by the efforts of an expansive civic network. This extensive work is embodied in the efforts of Emilio Silva and Santiago Macías who, following the location and excavation of Silva's executed republican grandfather, created the Asociación para la Recuperación de la Memoria Histórica (ARMH). Founded in the millennium year, the ARMH is now an internationally recognized organization at the forefront of grassroots initiatives to rediscover the civil war. But as Espinosa-Maestre shows, even the modest aims of the ARMH–to locate and name victims of the repression–while easily accommodated within contemporary human rights discourses, nevertheless exist too as a strong critique of the transition process and, for some, as a disquieting revaluation of the established historical narrative. In that sense it challenged Francoist myths head-on: it is of little surprise, then, that Santiago Macías too had a court case launched against him.

Though the case against Macías was eventually overturned it again revealed that the work of deconstructing the myths of Francoism inside Spain's constitutional polity has remained the preserve of a politically marginalized civic memory movement facing powerful institutional obstacles: resistance across the political spectrum within the state apparatus and from a formidable sociological Francoism that has made visible its ferocious assault on the recovery of the memory of victims of the dictatorship. In this battle Espinosa-Maestre does point toward some small successes: the story of Violeta Freedman, eventually successful in her long and arduous challenge to the Belgian Nazi Léon Degrelle, resident in Spain; and the trial of journalist Dolores Genovés and her documentary *Sumaríssim 477* (1994) that named those who served as witnesses for the prosecution in the court-martial of the democratic, Cata-

lan, Catholic politician Manuel Carrasco i Formiguera in 1938. The case against Genovés was dismissed by a Constitutional Tribunal with a verdict that unfortunately stands at odds with much of what is still happening in Spain's courts: "without a dialogue with the value judgments of others–with those of the historian, which is what concerns us here–we would be unable to form our own value judgments. Neither would there be space–which can only be attained through freedom–for the formation of a collective historical consciousness" (p. 34).

But that freedom of space remains curtailed by Spain's own laws–even including the 2007 *Ley de memoria histórica*–that appear designed to protect citizens from their own history whilst also protecting the *democratic* state from its responsibility to confront the crimes of the past. In 2005 the *superjuez* ("superjudge") Baltasar Garzón declared–in a foretelling of the case that would be brought against him–that "when someone breaks this chain of falsehoods and inter-related interests he is accused of destabilising the 'new democratic reality' so beneficial for all."[2] Best known for his indictment of General Pinochet, Garzón's challenge is that Spain is *not* different: the disappeared and killed of Francoism are no different from those in Chile and elsewhere beyond Europe: they too must be identified and named by the successor democratic state if the toxic mythology of Francoism is to be destroyed. Since Garzón's efforts to initiate a judicial investigation into the crimes of Francoism, the judge has seen his career in the Spanish judiciary effectively destroyed. With the formal call from the UN in 2008 to investigate human rights abuses committed by the dictatorship also met with the silence, the political assault on Garzón stands representative of the widespread agreement within the post-Francoism political class not to expose the brutal violence of the recent past.

Given the significant international implications of Spain's transition to democracy and the long legacy of a civil war that stood at the heart of Europe's dark mid-twentieth century, this new availability to an English-speaking readership is very much to be welcomed. However, those with an interest in comparative post-dictatorship processes would find the wider contextualization of these thirteen cases useful. Further empirical analysis of the Francoist repression and the extent to which the Franco regime reduced the judicial process to a branch of state terror would make clearer this present-day judicial abuse as a seemingly direct continuation of the dictatorship's policy.

This minor point aside, Espinosa-Maestre offers a highly readable and closely analyzed introduction to Spain's memory wars and the problematic place of the judicial process and the judiciary within these conflicts. The result is an important–and accessible–contribution to understanding the trajectory of historical memory in Spain, opening up events that have long been occluded by the European historiographical mainstream. Illustrating the stranglehold of Francoism on Spain's future as well as its past and present, it is clear that only in the destruction of the "pact of silence" can democracy truly take root in Spain, and only a recuperation of historical memory will lead to the overcoming of the toxic mythologies of Francoism that the transition allowed to survive. What a pity then that the election of the Partido Popular in 2011 all but guaranteed Spanish democracy would continue to exist through the prism of the transition: its continued opposition to historical memory campaigns and its recent decision to remove all public funding for the exhumation of mass graves has ensured that "todo ha quedado atado, y bien atado."

Notes

[1]. Francisco Espinosa-Maestre, *Callar al mensajero: La represión franquista, entre la libertad de información y el derecho al honor*,(Barcelona: Ediciones Península, 2009).

[2]. Baltasar Garzón, *Un mundo sin miedo* (Barcelona: Debolsillo, 2006), 172-73; "Everything has to remain as it is, so that bad consciences can sleep tranquilly in their beds."

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