

Table 8

The legal framework and public policies on memory. The Law on Historical and Democratic Memory of Andalusia and the New National Law on Memory. Its projection in the consolidation of La Desbandá as a great antifascist memorial in Spain and Europe.

The event was held on Saturday at 18:30 and featured the participation of:

-Martina Velarde Gómez, in charge of Historical Memory in the Spanish Parliament. Spanish politician and lawyer. Member of Parliament for Córdoba. General Secretary of Podemos in Andalusia. She has driven the promotion of the Law on Andalusian Historical Memory, so that Francoist crimes are not subject to prescription or amnesty.

-Diego Blázquez Martín, General Director of Democratic Memory, doctor of the Carlos III University of Madrid. He worked as an advisor for the first vice president of the Government. He has been a member of the Ministry of Equality departments and has extensive in advising on equality policies. Advisor in the Office of Manuela Carmena.

-Mauricio Valiente Ots. Doctor of the Carlos III University of Madrid Human Rights activist and Secretary for Democratic Memory of the Communist Party of Spain. Third deputy mayor of Madrid.

-Rosa María García Alcón defines herself as a social activist. Former militant of the FUDE (Spanish Democratic University Federation) in the anti Francoist fight, was imprisoned in the DGS (General Directorate of Security), Francoist security headquarters, where she was tortured. She was incarcerated in the women's prison of Madrid, Yesarías, for three months, and was convicted by the TOP (Public Order Court) to a two-year prison sentence for the crimes of illegal propaganda and unlawful association. She is a plaintiff in Argentina and the Spanish State against González Pacheco, known as Billy el Niño, and other members of the police for having been a victim of torture. President of La Comuna, association of prisoners and reprisal victims of the Franco Dictatorship. 'The fight for the right to justice and public policies on memory'

-Luis G. Naranjo Cordobés, High school teacher committed to the Historical Memory. Educating building with memory. Numerous publications. Memory of Córdoba. 'The Andalusian Law on Memory. Development in the framework of La Desbandá'. **Currently president of the Forum for the Memory of Córdoba.**

Martina Velarde Gómez congratulates the meeting of the Congress for Memory, which is an extremely necessary event. The Law on Democratic Memory was passed nine days ago, to which it should be commended, despite it coming 45 years too late. The previous law passed in 2007 under the Zapatero government became an empty promise due to a lack of legal tools for making it effective. The legal and political sabotage from the contra right was an obstacle to it being put into practice and paralysed its development. This law has rectified these errors and we trust that it will be possible to implement it without obstacles.

The creation of the law that has just been passed was an arduous and difficult process in the House of Representatives, where Enrique Santiago, General Secretary of the Communist Party of Spain also participated. At some points the PSOE paralysed the law in order to try and reach agreements with other political parties. It was not until June 2022 that the processing of the

law was resumed. There were amendments to the totality by the PP, Ciudadanos and Vox, the right wing parties of the House, whose interventions reached the point of insulting the victims and the legislators of the Spanish Constitution. Over 500 amendments were presented in the Senate that failed to prosper.

It has been a law created with the participation of Memorialist Associations and agreed upon with other political groups, above all with the Leader of the Government and his party. The correlation of forces in Parliament determines the characteristics of the law; if Unidas Podemos were in the majority it would have been different. The law supposes an important step towards the recovery of Historical Memory and the rehabilitation of the victims of the Francoist genocide in the last century. It also includes amongst victims of fascism those who died during the so called *Transición*.

This law is an undoubtable success despite its possible defects, because it establishes legal mechanisms to avoid obstruction by the right. The first of these is that fascism is illegal in Spain. Article 1.3, states that the Nationalist Uprising was illegal along with the Dictatorship that followed it. Furthermore, according to article 2.3, all laws, including the Amnesty law, shall conform to International Humanitarian Law against war crimes, crimes against humanity and genocide, which do not expire and cannot be amnestied. Thus, the Amnesty Law cannot be applied to the crimes of fascism. Thirdly, there is the recognition of the condition of victim, which up to this point had not yet been provided for. In article 4 of the law, the condition of victim is recognised in all people who suffered any type of repression on the part of Francoism, and their relatives. The judgments and convictions suffered by those who fought for freedom are going to be legally null and void.

Among the mechanisms established for ensuring compliance with the law are the following: a DNA bank shall be created to recognise the victims and also the theft of babies. There will be a prosecutor specialised in the fight against the impunity of Francoism. Access to public and private archives is made possible. A census is established for the conservation and recovery of documentary heritage. Fascist symbols are banned and thus will be removed from public spaces. The Historical Memory is included in school curricular. Distinctions and honours awarded by Francoism are revoked. Article 40 abolishes titles of nobility awarded between 1948 and 1968. Article 57 creates a Democratic Memory Council as a consultative body, with the participation of Spanish memorialist associations, and a Centre of Democratic Memory to safeguard the dignity of the victims. Finally there is also a technical commission on the violation of Human Rights, including the victims of the Fascist State between 1968 and December 1983, to which victims of the Transition are recognised.

Chapter II of the law gives special mention to the active role of women as prominent figures in the struggle for democracy and the values of freedom, equality and solidarity. Women were active subjects in the political and union struggle, suffering humiliation, threats, persecution, rape and violence for being mothers, partners or daughters of those murdered by the Franco dictatorship. Also victims were the girls and boys who were stolen, which was a special form of violence against women.

Martina ended her speech by giving thanks to everyone who fought for democracy, because thanks to them progress has been made as regards freedom and recognition of rights.

Diego Blázquez Martín explains that the law is enormously complex due to the number of interlocutors involved in it, which constitutes a richness of the text. June 2020 saw the opening of a participation process for the creation of the law which achieved a high number of interventions, suggestions and ideas. Because of this there were many hours of attention dedicated to the proposals being made via new technologies, due to the pandemic. He quotes Vázquez Montalbán when he said that 'anti-Francoism is one of the most noble and dignified efforts to be remembered in the history of humanity. It is heritage of morality and human values of this country.

The logic of reinforcing public policies on memory through regulations. He reminds us that it is the Centenary of the March on Rome of the Italian fascists that is afforded notable relevance. Great interest in this event has been awakened, which means that a trace of authoritarianism exists in European societies. The European construction was based on the idea that the history of the 20th century would not be repeated. However, the resurgence of far right movements demands we recover the historical memory to reinforce democratic identity. This means great progress. The law therefore has a future value, to which its impact in education must be highlighted. The historical memory is now on school curricula. The antifascist struggle is the best heritage of the European Union. The measures related to culture and the raising of awareness.

Mauricio Valiente says the law provides us with many tools for our task, those of us who are involved in social activism, or in the field of education, in the institutions, town halls. An effort must be made in order to transform the law into tools for working for Human Rights. It is important to manage the data well, because exaggerating the events or describing them with broad strokes does not contribute to the development of the historical memory. It is necessary to know the law properly to use it and be more effective in the work; to not talk about hearsay.

The law does not correspond to the correlation of forces that exist in society. The battle is being lost among young people. We have to try and modify this correlation of forces in society, directing ourselves to the undecided and attempting to neutralise the discourse of the enemy. It's also necessary to fortify and raise the tone. In education there is a sort of right-wing 15M. The use of equidistance is one of the tactics used by the right. Equidistance is easily assumable by an extremely wide sector. The discourse of the far right must be listened to better combat them: they vindicate Franco and the civil war, but the majority of their argument requires clinging to equidistance. We need to be able to confront this discourse.

Sociological Francoism forced us to adapt to society, concealing ideas and our own biographies to avoid repression. It is necessary to recognise there were victims caused by the popular response against the coup.

Three instruments have been modified in the law for this battle. Reference must be made to the coup, which is a powerful argument in the debate on victims. All of the victims were caused by a military coup that put an end to a constitutional regime. The coup forced the population to rise up and defend the institutions. The law points to this argument, which is fundamental. The coup was a project of annihilation of a democratic process.

Second argument, the link of the Franco dictatorship with the European fascist regimes. The fascist units acted under the cover of the forces of the Axis in the Second World War. This line

of argument should also serve to combat anti-communism, indicating that the colonial powers suppressed a large part of the world population. It is also important to take advantage of the antifascist consensus as a result of the reaction against the hostility of the far right movements.

Thirdly, the duty towards and right to the truth as the law sees it, establishing a Truth Commission, not to create a manual on the history of Spain, but to explain what happened. The military coup was carried out to safeguard the interests of a minority who had the economic, social and ecclesiastic power.

Rosa García, the dictatorship consisted in the dead on the nationalist side being recognised and honoured, while the republican victims were forgotten. A discourse was later imposed regarding a fratricidal war, which continues to function because there have not been any other policies on historical memory that have faced up to this. In the 45 years of democracy, the Spanish state, which is the body that has the responsibility of ensuring the law is complied with, has confronted the problem of historical memory in drips.

A number of laws were passed to compensate the victims, such as the pensions awarded to soldiers on the republican side in 1976. They were likewise given to the widows and orphans who demonstrated that their husbands or parents had died in the war. Confiscated assets were returned to the unions. The right to a pension was also recognised for members of the republican police force and guard. Militiamen and women, however, were refused this right. A compensation was also created for those who could demonstrate they had spent three or more years in prison and had been born before 1930. The two latter laws were reformed by the Zapatero government. Aznar passed a law to restore seized assets to the historical political parties.

Law 20 of 2022, of 19 October, which has just entered into force and makes considerable advances in respect of the previous one, thanks to the struggles of the memorialist movement. More bravery on the part of the political forces was needed. The word justice appears 27 times in the law. Justice is defined in international humanitarian law and in the Declaration of Human Rights. Justice demands that the organisers, concealers and accessories to the fact be prosecuted for serious crimes against human rights. The objective is to end impunity for this crimes. This must be fulfilled with this law. It is an undeniable and unnegotiable right, and justice cannot be separated from truth and reparation, as pointed out by the United Nations Special Rapporteur on Truth, Justice and Reparation.

It is painful for us victims of Francoism who have spent more years seeking justice in this democracy than those that were lived through under dictatorship. The silence imposed by the fascist terror has continued afterwards in democracy, too. When Franco died many people in the towns went out and searched for their dead, knowing where they were because they had kept the memory. There were even town halls that faced up to the enduring fear, and made commemorative monuments. This all stopped with the attempted coup of 1981. In the Transition, which was neither model nor pacific, and cost many victims, the pact of silence was conceived, the most evident expression of which is the Amnesty Law. This law equates victims with killers. The killers are amnestied without investigations, trials or convictions. In contrast, the victims retained their convictions until the passing of this law. These judgments have now been declared illegal -and not just illegitimate- as a demand from the memorialist movement.

The defencelessness of the victims is demonstrated by the Argentinian lawsuit; they have to travel thousands of kilometres to seek justice. There are a thousand actions within it, and individuals under investigation, including Rodolfo Martín Villa. This Law 20.2022 should serve to make lawsuits possible in Spain. There are hundreds of thousands of victims. There are 13 paragraphs that determine who the victims are. In Spain it has not yet been possible to put Francoism on trial. But the legitimacy is always on the side of those who face up to dictatorships, totalitarian regimes and injustice.

Luis Naranjo, promoter of the 2017 Andalusian Law on Memory, which was established as a result of the memorialist struggle, and which has served to introduce key aspects into the Law on Democratic Memory in the Spanish state. The Andalusian Law on Memory remains blocked and is suffering a process of regression. It can now be unblocked thanks to the national law that has just been enacted. If this had not been possible, it's the last opportunity for the victims of the Franco dictatorship. Another failure would be an insult to them by the monarchical democracy.

In Andalusia there was a large participation in order to pass the Law on Memory between 2013 and 2017. The military coup was the origin of all the policies of vengeance, which appears perfectly defined in the Andalusian Law. This starting premise breaks the equidistance between the two sides, because were it not for the coup, the massacres that occurred afterwards would not have happened. The workers and labourers wouldn't have died, but neither would have the masters. The II Republic is the most important event in the current democratic experience. The Andalusian Law on Memory introduces the II Republic as a key factor in the democratic antifascist memory.

The position as regards the Amnesty Law divides the memorialist movement. Supported by the United Nations' Resolution on Enforced Disappearances, the Andalusian Law proposes the annulment of any law that opposes international regulations. Crimes against humanity are not subject to amnesty under any circumstances. The law passed now does not abolish the Amnesty Law, which is the base of democracy and coexistence in this country, but states that the decisions of the Supreme Court cannot go against international case law. The Amnesty Law cannot protect crimes against humanity.

The 2007 law passed by Zapatero externalised the recovery of historical memory. Town halls and citizen associations have the responsibility of this recovery. The Andalusian Law places the state as responsible for the duty towards Memory. Political and legal liability for the exhumations lies with the State, with the participation of memorialist associations. The privatisation of the exhumation process, which facilitates the recusal of judges in the face of the problem, is therefore avoided. The Law on Democratic Memory in line with the Andalusian Law has placed the State as the main party responsible for driving and developing memorialist policy, turning the political line as regards memorialist matters established by Zapatero on its head.

Other proposals of the State law have been taken from the Andalusian Law. For instance, the creation of a DNA bank, the Democratic Memory Council and others. The rights of the victims come before the rights of property owners. The Truth Commission is also put forward by the Andalusian Law. Nevertheless, a truthful account of history has not entered the teaching

curriculum, and the training of teachers is not contemplated by the law. There is a need for teacher training plans.

Furthermore, the implementation of the law via regulations is necessary. An official census of victims is required. Along with a protocol for exhumations. Budgetary provision. And political will, increasing the political power of the citizenry. A strong educational drive is needed in order for the Desbandá to reach Spanish and European culture. There is also a need for a visitor centre on La Desbandá or Huía. An Exhumation Plan that makes it clear there was a genocide.