

# From Franco to Vox: Historical Memory and the Far Right in Spain



CARR RESEARCH INSIGHT

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## ABSTRACT

While 85 years have now passed since the end of the Spanish Civil War, and 46 since the end of the Franco Dictatorship, historical memory continues to be a great source of political and social tension in Spain today. In comparison to nations such as Germany and Greece, the country remains an outlier insofar as it transitioned to democracy without ever achieving legal justice. This is due to deeply-embedded myths of reconciliation and equal accountability created and maintained by the ruling class, the royal family, the education system, the judiciary, and the mainstream media. Since the 1990s, the Socialist Party, motivated by political opportunism and pressure from the far left, regional parties, and domestic and international human rights organizations, has fractured “the pact of forgetting”; however, as the article argues, its own ideological shortcomings and institutional constraints have prevented a full rupture. As such, while the newly-proposed Law of Democratic Memory, which the current leftist coalition government (PSOE-Unidas Podemos) foresees passing this year, does represent significant progress, the Socialist Party’s own limitations prevent justice—in the form of an independent truth commission and the prosecution of Francoist crimes—and contribute to promoting a cultural of impunity, which is one of Spain’s principal deficiencies in terms of democracy.

This CARR Research Insight includes a critical discussion of the following themes: Franco’s construction of historical memory, the positions of Spain’s most important political parties on the issue from the end of the Dictatorship to the present, the 2007 Law of Historical Memory, the exhumation of Franco’s remains from the Valley of the Fallen, and the Law of Democratic Memory. It also examines in detail the position of Vox on the subject, arguing that it acts as an ultra-conservative defender of the culture and privileges of the victors. Furthermore, it represents a blurry and complex combination of the country’s past and present contexts, which points to its uniqueness in comparison to other far right parties in Europe and beyond.

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## From Franco to Vox: Historical Memory and the Far Right in Spain

It is often argued that the most unresolved issue of Spain's transition from dictatorship to democracy is the territorial conflict between the central government in Madrid and the country's autonomous regions, particularly Catalonia. As Ramón Arango puts it, "Modern Spanish history is an account of unsuccessful attempts to sustain a viable nation-state."<sup>1</sup> Alongside this, and indeed entangled with it, we must place historical memory, which 85 years after the start of Spain's Civil War (1936-9) and 46 years after the Dictatorship (1939-1975) remains a major point of political and social tension in Spanish society. Perhaps the most visible example of this, at present, are the frequent, heated parliamentary exchanges between Spain's first leftist coalition (PSOE-Unidas Podemos)<sup>2</sup> since the Second Republic (1931-9) and the conservative Partido Popular (whose precursor, Alianza Popular, was founded by seven prominent ministers of the Franco regime) and its far-right splinter party Vox.

This article synthesizes primary (government and private archives, parliamentary minutes, laws and decrees, political speeches and programs, NGO and IGO reports, and social media) and secondary sources (books, journals, and media archives) to critically examine the struggle over historical memory in Spain from the rise of the Franco dictatorship in 1939 to the present context, in which Vox constitutes the third largest party in the Spanish parliament and represents the most vocal, enduring voice of *sociological Francoism*—a term frequently used to refer broadly to the whitewashed ideas, myths, and attitudes associated with the Dictatorship that still exist in some form today and influence politics and social relations. This can entail, for example, ultra-Catholicism, extreme nationalism, centralization, racism, Islamophobia, the demonization of the left, and a manipulation or negation of historical memory.<sup>3</sup>

The first section of the text analyzes the different ways in which the Franco regime successfully constructed a one-sided narrative of historical memory from 1939-1975. The second scrutinizes the period between Franco's death in 1975 and the point at which the PSOE (Socialist Party) finally endeavored to partially unravel the tightly-woven mummy of historical memory that was hegemonic in post-Franco Spain. Thereafter, the article examines three significant advancements since this policy shift occurred: the 2007 Law of Historical Memory, the exhumation of Francisco Franco's remains from the Valley of the Fallen, and the newly-proposed Law of Democratic Memory, which the current PSOE-Unidas Podemos coalition foresees passing by the end of 2021. Finally, the paper assesses Vox's position regarding the law and draws conclusions on the current political and social battle over historical memory in Spain.

This research draws on the previous seminal contributions of Santos Juliá (1999, 2004), Paloma Aguilar (1999, 2006, 2008, 2013), Omar Encarnación (2008, 2014), Katherine Hite (2011), Paul Preston (2010, 2012), Rubén Juste (2017), Andrés Villena (2019), Ángel Viñas (2019), and others.

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<sup>1</sup> E. Ramón Arango (2019). *The Political History of Spain: Franco's Legacy*. New York: Routledge, Chapter 1.

<sup>2</sup> Podemos changed its name to Unidos Podemos in May 2016 to reflect its alliance with Izquierda Unida and other leftist organizations. In March 2019, Unidos Podemos again changed its name to Unidos Podemos to emphasize the influence of the feminist movement within the party.

<sup>3</sup> J. Xidias (2020). "Vox: The Revival of the Far Right in Spain". CARR Research Insight 2020.4. London, UK: Centre for Analysis of the Radical Right: 7.

## Introduction

Katherine Hite defines historical memory as “the ways in which groups, collectivities, and nations construct and identify with particular narratives about historical periods or events.”<sup>4</sup>

These narratives powerfully shape politics and social relations in both tangible and subjective ways insofar as they are based on interpretation and a combination of facts and myths. Furthermore, as Hite explains, “In political contexts that involve transitions from conflict, war, and repression, all of which involve traumatic individual and collective experiences, these memories prove difficult to ignore politically. Memories often become mobilized to challenge opponents.”<sup>5</sup>

In the case of Spain, the term *memoria histórica* is employed in reference to the Civil War (1936-9) and Dictatorship (1939-1975). From Francisco Franco’s passing in 1975 until Socialist Party (PSOE) prime minister José Luis Rodríguez Zapatero’s rise to power in 2004, there was a relatively stable right-left consensus known as *el pacto del olvido* (the pact of forgetting). The 1977 Law of Amnesty, passed by parliament, formalized this agreement with a vote of 296 in favor, 2 against, and 19 abstentions—both the PSOE (Socialist Party) and PCE (Communist Party) supported it.<sup>6</sup>

Since 2007, when the Socialist Party successfully passed the *Ley de Memoria Histórica* (Law of Historical Memory),<sup>7</sup> Spain has entered into a new period that Hite categorizes as the “politics of memory,” an attempt to challenge the dominant narrative regarding the Civil War and Dictatorship. As Paloma Aguilar points out, this has been largely based on “borrowed memory of past events that the subjects have not experienced personally” insofar as children and grandchildren have played a crucial role in shaping awareness and progress.<sup>8</sup>

The PSOE’s political shift on historical memory began to develop in 1993 when the party entered into a period of crisis in light of a major corruption scandal known as *el caso Filesa*. It soon became clear that, for the first time since winning the 1982 general election, the PSOE could potentially lose power, and shortly thereafter it did indeed, suffering successive electoral defeats at the hands of the conservative Partido Popular (People’s Party) in 1996 and 2000. At this point, the Socialists started branding PP leader and new Spanish prime minister José María Aznar as a neo-Francoist.

There were other important factors that conditioned the Socialist Party’s political shift on historical memory, including: pressure from more than 160 domestic grassroots organizations led by the Association for the Recovery of Historical Memory (ARMH), created in 2000; scrutiny from the United Nations and Amnesty international; and significant developments in Argentina, Chile, and South Africa.<sup>9</sup> In this regard, domestic and international power dynamics interplayed to shape positive change in Spain. As a result,

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<sup>4</sup> Katherine Hite, “Historical Memory,” in *International Encyclopedia of Political Science*, Volume 1, edited by Bertrand Badie et al (2011). Thousand Oaks: Sage Publications, 1078-81.

<sup>5</sup> Hite, “Historical Memory,” 1078-81.

<sup>6</sup> Ley 46/1977, de 15 de octubre, de Amnistía, <https://www.boe.es/buscar/pdf/1977/BOE-A-1977-24937-consolidado.pdf>.

<sup>7</sup> Ley 52/2007, de 26 de diciembre, <https://www.boe.es/buscar/pdf/2007/BOE-A-2007-22296-consolidado.pdf>.

<sup>8</sup> Paloma Aguilar Fernández (1996). *Memoria y Olvido de la Guerra Civil Española*. Madrid: Alianza, 41.

<sup>9</sup> Omar Encarnación (2014). *Democracy Without Justice in Spain: The Politics of Forgetting*. Philadelphia: University of Pennsylvania Press, 159.

since 2007, the PSOE has demonstrated a legislative commitment to advancing historical memory and has played an important role in fostering greater societal awareness and recognition of the human rights abuses of the past, which has shaped important yet incomplete progress in terms of social justice.

Richard Wilson argues that such political shifts regarding historical memory are often motivated by an attempt to “manufacture bureaucratic legitimacy” or rebrand leftist parties in order to improve their position electorally.<sup>10</sup> This is certainly true of the PSOE insofar as its increasing politicization of *memoria histórica* since the early 1990s contributed to its return to power from 2004-2012 and from 2018-present. In this regard, prime ministers José Luis Rodríguez Zapatero and Pedro Sánchez fractured the long-standing Socialist Party position under Felipe González that Spain needed to move on from its past traumas. In fact, as Omar Encarnación points out, González called the 1977 Law of Amnesty “enormously positive” while stating: “I hope this law will close a long and tragic period of Spanish history.”<sup>11</sup> This important development highlights two key elements: Spain’s democracy is far more consolidated today than it was previously, in large part due to EU membership, and political opportunism plays a significant role in shaping ideological changes concerning historical memory.

Prior to the PSOE’s enactment of the Law of Historical Memory in 2007, the only other political forces that had challenged the right’s hegemony in this area were the United Left (Izquierda Unida: a leftist coalition founded in 1986 that incorporated the Spanish Communist Party and is today part of Unidas Podemos) and regional parties, notably the Republican Left of Catalonia (Esquerra Republicana de Catalunya) and the Basque National Party (Eusko Alderdi Jeltzalea).

Since 2007, other important policy initiatives have been implemented. The two most prominent examples have been the exhumation of Francisco Franco’s remains from the Valley of the Fallen (Valle de los Caídos) in 2019—a mausoleum northwest of Madrid built by political prisoners from 1940-1958 to glorify the Francoists’ victory in the Spanish Civil War—and the newly-proposed Law of Democratic Memory (Ley de Memoria Democrática), which the current leftist coalition government (PSOE-Unidas Podemos) intends to pass later this year.

## Historical Memory Under Franco

In July 1936, generals José Sanjurjo, Emilio Mola, and Francisco Franco staged a military coup against the democratically elected, leftist coalition government known as the *Frente Popular* (Popular Front). Though the Francoists—or “Nationals,” as they referred to themselves—claimed that it was a response to the assassination of one of their key political leaders, José Calvo Sotelo (Leader of *Renovación Española*—an ultra-conservative party that promoted National-Catholicism and the restoration of the Bourbon monarchy), as Paul Preston and Ángel Viñas detail in their seminal work, Mola, Sanjurjo, Sotelo, Goicoechea, and other prominent figures had been preparing the coup since 1934 with logistical support from Benito Mussolini’s regime following an unsuccessful overthrow attempt by Sanjurjo (at the time, Director of the Civil Guard) in 1932.<sup>12</sup>

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<sup>10</sup> Richard Wilson, “Prosecuting Pinochet: International Crimes in Spanish Domestic Law,” *Human Rights Quarterly* 21 (4) (1999): 927-79.

<sup>11</sup> Encarnación. *Democracy Without Justice in Spain*, 72.

<sup>12</sup> Paul Preston (2010). *La Guerra Civil Española: Reacción, Revolución, Venganza*. Madrid: Debolsillo.

The failed military coup in 1936 resulted in a brutal three-year civil war that the Francoists ultimately won in April 1939. The most important factors that contributed to the Republicans' defeat were Hitler and Mussolini's aid to Franco and Britain and France's refusal to support the Republicans. Germany's Condor Legion—a Nazi military unit comprised of air force and army personnel—played a prominent role during the war while the Italians contributed Legionary Airforce planes and around 75,000 troops. In contrast, British and French prime ministers Neville Chamberlain and Léon Blum strictly adhered to their non-intervention agreement.<sup>13</sup> This reality ushered in a violent dictatorship that lasted for 36 years. Edward Malefakis puts the regime's brutality into perspective by highlighting that for every political assassination carried out by Mussolini, Franco executed 10,000.<sup>14</sup>

In this regard, Paul Preston has categorized the Franco Dictatorship as “the Spanish Holocaust.” He justifies this terminology by showing how the regime used a wide array of savage tactics to dehumanize, persecute, terrorize, and silence the enemy—including forced exile, hard-labor camps, torture, and rape—with the end of goal of eradicating all traces of Republicanism and constructing a new collective identity known as *nacional-catolicismo* (National-Catholicism), which fused ethno-nationalism with nostalgia for Spain's Catholic Inquisition and imperial past. In this respect, Franco viewed the Spanish Civil War as merely the first stage of cleansing Spain from Republicanism (and other undesired ways of thinking/being) in order to construct a new and enduring national narrative.

According to Preston, there were two main factors that conditioned this “Spanish Holocaust.”

The first was the regime's firm conviction that Spain's internal Others—social democrats, socialists, communists, Jews, freemasons, leftist women, trade unionists, etc—were morally corrupt and responsible for Spain's post-1898 decline.<sup>15</sup> The second was Franco's use of Spain's African colonial army, which was accustomed to brutally suppressing the resistance of North African Muslims, against these individuals. By doing this, the Francoists transposed the colonizer-colonized hierarchy to Spain's domestic context in order to dehumanize and terrorize their enemies. They therefore did not just seek victory, but rather total annihilation. As Franco put it in an interview with the Chicago Tribune in late July 1936, “There will be no compromise, no truce ... I will save Spain from Marxism at any cost.” The interviewer then asked Franco if he would be willing to kill half of Spain to achieve his goal, to which he responded, “I repeat, I will do whatever it takes.”<sup>16</sup> General Mola (the main tactician of the 1936 failed coup) echoed similar sentiments: “It is necessary to spread terror, eliminating without scruples or hesitation all those who do not think like us ... All those who oppose the victory of the movement to save Spain will be shot.”<sup>17</sup>

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<sup>13</sup> Preston. *La Guerra Civil Española*; Angel Viñas (2019). *¿Quién quiso la guerra civil?: Historia de una conspiración*. Madrid: Editorial Crítica.

<sup>14</sup> Edward Malefakis, “La dictadura de Franco en una perspectiva comparada,” in *Franquismo: el Juicio de la Historia*, edited by José Luis García Delgado (2000). Madrid: Ediciones Temas de Hoy, 36.

<sup>15</sup> In 1898, during the Spanish-American War, Spain lost Puerto Rico, Cuba, the Philippines, and Guam.

<sup>16</sup> Jay Allen, “Triunfaré Cueste lo que Cueste,” *Documentos CTXT*, July 16, 2016, <https://ctxt.es/es/20160713/Politica/7191/Franco-Allen-Golpe-de-estado-Rep%C3%BAblica-militares.htm>, translated by the author.

<sup>17</sup> Cited in Paul Preston, “Franco y la Represión: la Venganza del Justiciero,” in *Novísima: Actos del II Congreso Internacional de Historia de Nuestro Tiempo*, edited by Carlos Navajas Zubeldía and David Iturriaga Barco (2010). Logroño: Universidad de la Rioja, 59, translated by the author.

Franco's National-Catholicism, which increasingly overtook fascism as the dominant ideology within the regime from 1942 onward (when the tide of the Second World War began turning towards the Allied Powers), consisted of a myth of national homogeneity rooted in ultra-Catholicism, ultra-nationalism, a centralized state, and the Castilian language. This one-sided, exclusive narrative broadly portrayed the country's internal Others as the *anti-España* (anti-Spain)—individuals who foreign influences (liberalism, Marxism, etc) had manipulated and corrupted. Franco called this “the international Judeo-Masonic-Bolshevik conspiracy” (*conspiración judeo-masónico-bolchevique internacional*).

Antonio Vallejo Nágera, Head of Psychiatry of the Spanish Army, published a series of pseudo-scientific studies between 1936 and 1939 that fortified Franco's othering of Republicans. Based on fieldwork he conducted with political prisoners, he claimed that they possessed a “red gene” that made them “mentally inferior” and “psychopathic,” which, he argued, justified their incarceration, harsh treatment, and even execution. Nágera was an admirer of Nazism, and the Institute for the Research and Study of German Heredity (*Deutsches Ahnenerbe*) established by Heinrich Himmler (one of the main architects of the Holocaust) inspired his ideas. Nágera concluded that, in order to improve “the Spanish race,” it was necessary “to militarize schools, universities, workplaces ... and all other social locations.” He also suggested that the regime should seek to prevent “the red gene” from being passed on from one generation to another.<sup>18</sup> These studies served as a pretext for the removal of thousands of Republican children from their mothers and their transfer to “good Catholic families.”<sup>19</sup>

The national narrative that the regime politically constructed portrayed Franco as a messianic figure who had rescued Spain from the anti-Christ-Second Republic. Thus, like the absolute monarchs of the past, Franco's rule was depicted as divine, exemplified by his self-denominated title *Caudillo de España por la Gracia de Dios* (Supreme Leader of Spain by the Grace of God).

Central to Franco's one-sided construction of historical memory was uniting diverse right factions (Falangists, Alphonsine and Carlist monarchists, the clergy, large land and factory owners, and others) around the myth of *una cruzada* (a crusade) to save Spain and Christian civilization from the left. Framing the Civil War as such allowed him to gain the Vatican's blessing the same day the Francoists defeated the Republicans. On April 1, 1939, Pope Pío XII sent the following telegram to Franco:

Raising our heart to the Lord, we sincerely appreciate, Your Excellency, this victory for Catholic Spain. We offer our vows because your very dear country, having reached peace, embarks with new vigor on the old traditions that had made it so great. With these sentiments, we send to you, Your Excellency, and to all Spaniards our holy blessing.<sup>20</sup>

Franco responded as follows:

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<sup>18</sup> Antonio Vallejo Nágera (1937). *Eugenesis de la Hispanidad y Regeneración de la Raza*. Burgos: Editorial Española, S.A.; Antonio Vallejo Nágera (1938). *Política Racial del Nuevo Estado*. San Sebastian: Editorial Española; Antonio Vallejo Nágera (1938). *Divagaciones Intrascendentes*. Valladolid: Talleres Tipográficos Cuesta, 34-65, translated by the author. See also: Enrique González Duro (2008). *Los Psiquiatras de Franco. Los Rojos No Estaban Locos*. Madrid, Peninsula.

<sup>19</sup> Vallejo Nágera. *Eugenesis de la Hispanidad y Regeneración de la Raza*; Vallejo Nágera. *Política Racial del Nuevo Estado*; Vallejo Nágera. *Divagaciones Intrascendentes*, 34-65.

<sup>20</sup> “El Papa Pío XII y Franco,” *Fundación Nacional Francisco Franco*, May 21, 2014, <https://fnff.es/historia/642381836/el-papa-pio-xii-y-franco.html>, translated by the author.

The telegram from Your Holiness has produced great emotion. Our total military victory was a heroic crusade against the enemies of Religion, Spain, and Christian civilization. Spaniards, which have suffered so much, raise their heart with Your Holiness to the Lord, who granted them his grace. They ask for his protection in our great future work.<sup>21</sup>

From this point onwards, as Alfredo González Ruibal explains:

Catholicism was key to the entire ideology of the regime. The idea was we are going to torture you, we are going to kill you, but we are doing that because you are evil, and we are doing this because we need to redeem you. It is for your own good because we want you to go to heaven, and for that you have to be punished, you have to suffer, so there were these ideas of sin and redemption that was so Catholic and so Spanish.<sup>22</sup>

In 1959, ultra-Catholicism was further infused into the state apparatus. Upon joining the World Bank and the IMF, Franco officially ended Spain's model of national self-sufficiency known as *autarquía*, which proved to be economically disastrous. The regime further sidelined Falangists, and Opus Dei economists from "the Navarra School," were put in power to run the economy. This was essentially a primitive form of what we today call neoliberalism and shaped an annual average GDP increase of about 7% until Franco's death.<sup>23</sup> Though there were always different forms of resistance to Franco's narrow, mythicized national narrative, this economic and consumption boom, as Edward Malefakis points out, played an important role in preventing greater agitations.<sup>24</sup> Moreover, Franco exercised hegemony over historical memory in the Gramscian sense<sup>25</sup> by controlling the education system and the media while using the state's security apparatuses (the secret police, paramilitary forces, and the judicial system) to quickly suppress any means of dissent.<sup>25</sup>

In line with Anthony Smith's scholarship on national identity,<sup>26</sup> building and glorifying large monuments such as the *Valle de los Caídos* (Valley of the Fallen) and *Arco de la Victoria* (Victory Arch) while erasing images and references to Spain's Second Republic (1931-9), which Franco portrayed as an aberration and corruption of "Spain's great Catholic imperial past," also played an important role in constructing a consolidated, one-sided historical record.

## Historical Memory From 1975-2007

Following Francisco Franco's passing in 1975, Spanish parties on both sides of the political spectrum agreed to a *pacto del olvido* (pact of forgetting). Although the Socialists (PSOE) and Communists (PCE) had vehemently struggled against Francoism from exile from 1939 until after the dictator's death, this agreement allowed for their safe return from abroad and participation in the first democratic elections since 1936. Following broader trends of Eurocommunism, Felipe González and Santiago Carrillo, the respective leaders, perceived this as the most viable way to positively alter the direction of Spanish society and position themselves and their parties within this system. For the right, the pact

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<sup>21</sup> "El Papa Pío XII y Franco," translated by the author.

<sup>22</sup> Quoted by Alfredo González Ruibal, Researcher at the Consejo Superior de Investigaciones Científicas (CSIC), in the documentary titled *The Dictator's Playbook, Francisco Franco* (2019), Cream Productions, in association with PBS.

<sup>23</sup> Bethany Moreton, "Our Lady of Mont Pèlerin: The 'Navarra School' of Catholic Neoliberalism," *Capitalism: A Journal of History and Economics* 2 (1) (2021): 88-153.

<sup>24</sup> Edward Malefakis (1992). *Southern Europe in the 19th and 20th Centuries: A Historical Overview*. Madrid: Instituto Juan March.

<sup>25</sup> Lorenzo Fusaro and Jason Xidias (2017). *An Analysis of Antonio Gramsci's Prison Notebooks*. London: Routledge.

<sup>26</sup> Anthony Smith (1991). *National Identity*. Reno: University of Nevada Press.



of forgetting meant that no one from the Francoist regime would be put on trial for political crimes or prevented from taking part in Spain's new democracy. As Gema Pérez Sánchez points out, "state power remained completely in the hands of persons intimately involved with Francoism. Its legacy was liquidated not by outsiders but by some of the very persons entrusted with its preservation."<sup>27</sup> Furthermore, as Francisco Gor adds, "The judges who publicly expressed their Francoist ideology were few and far between, but they occupied the highest positions on the judicial ladder."<sup>28</sup>

In 1977, 93% of Spain's parliamentarians approved the Law of Amnesty, which granted immunity for all political crimes associated with the Civil War and Dictatorship, thus institutionalizing this multi-party, cross-spectrum consensus between the UCD (a conservative coalition), PSOE (Socialist Party), and PCE (Communist Party).<sup>29</sup> The only notable exception to this was Alianza Popular (Popular Alliance), an ultra-conservative party founded by seven former members of the Francoist regime, which abstained. Antonio Carro Martínez, an important member of parliament and former minister under Franco justified the abstention as follows, "A responsible democracy cannot amnesty its own destroyers."<sup>30</sup> This quote exemplifies the Francoist and indeed neo-Francoist myth—present in both the PP and Vox's parliamentary discourses—that the democratically-elected leftist governments of the Second Republic were responsible for starting the Spanish Civil War, not the Francoists July 18, 1936 military coup.

The Law of Amnesty set the stage for the 1977 *Ley de Reforma Política* (Law of Political Reform). Torcuato Fernández Miranda, a lawyer and president of the Francoist parliament at the time, drafted the legislation. It was not a new law institutionally disconnected from Francoism, but rather was the eighth and final Fundamental Law of the Realm passed by the regime between 1938 and 1977. The justification for this was that, in 1969, when Franco named Juan Carlos I as his future successor as head of state, and again in 1975 when the King formally took over, he made a legal oath before the Francoist parliament to continue the principles of the *Movimiento Nacional* (National Movement) and the *Leyes Fundamentales del Reino* (Fundamental Laws of the Regime).<sup>31</sup>

From the point of view of the Socialist and Communist parties (PSOE and PCE), the political strategy of the 1977 Law of Amnesty, was, as Omar Encarnación puts it, "not to punish the old regime but to get democracy off the ground in as swift and nonconfrontational manner as possible."<sup>32</sup> The dominant perspective was that, due to the deep resentment in society, this was the only viable option; otherwise, the country ran the risk of continued authoritarian rule or another civil war. Santiago Carrillo, the leader of the Spanish Communist Party at the time and key figure in Spain's transition to democracy, described the pact as follows: "In our country, there is but one way to reach democracy, which is to throw out anyone who promotes the memory of the Civil War."<sup>33</sup>

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<sup>27</sup> Gema Pérez Sánchez (2007). *Queer Transitions in Contemporary Spanish Culture: From Franco to La Movida*. Albany: SUNY Press, 14.

<sup>28</sup> Francisco Gor (1996), "De la Justicia Franquista a la Constitucional," in *Memoria de la Transición*, edited by Joaquín Prieto et al. Madrid: Taurus, 222.

<sup>29</sup> Ley 46/1977, de 15 de octubre, de Amnistía, <https://www.boe.es/buscar/pdf/1977/BOE-A-1977-24937-consolidado.pdf>.

<sup>30</sup> Mónica Ceberio Belaza, "Alianza Popular sostuvo que la amnistía de 1977 no era 'buena medicina,'" *elpais.com*, April 18, 2010, [https://elpais.com/diario/2010/04/18/espana/1271541610\\_850215.html](https://elpais.com/diario/2010/04/18/espana/1271541610_850215.html).

<sup>31</sup> "Don Juan Carlos de Borbón nombrado 'sucesor al título de Rey,'" *rtve.es*, July 22, 1969,

<https://www.rtve.es/alacarta/videos/archivo-casa-real/don-juan-carlos-borbon-nombrado-sucesor-titulo-rey-22-julio-1969/1492323/>; "El juramento de Juan Carlos I como rey de España," *rtve.es*, November 22, 1975,

<https://www.rtve.es/alacarta/videos/fue-noticia-en-el-archivo-de-rtve/juramento-juan-carlos-como-rey-espana/344043/>.

<sup>32</sup> Encarnación, *Democracy Without Justice in Spain*, 50.

<sup>33</sup> Encarnación, *Democracy Without Justice in Spain*, 3.

This was a very different scenario than what occurred in Greece and Portugal, which were also shifting from dictatorship to democracy at the time. In the case of the former, the newly-established Greek government put on trial the leaders of the 1967 military coup for high treason, resulting initially in a death sentence and finally in life imprisonment. In the case of the latter, following the Carnation Revolution, Portugal purged much of the Salazar-Caetano regime from high positions in the military, police, judiciary, and the media.

Though Spain's most powerful political parties stressed the importance of what Nietzsche called "active forgetting," purging traumatic events that "return like a ghost and disturb the calm of a later moment."<sup>34</sup> Republican families had to continue living with the reality that Spain had (and indeed still has) the second highest number of forced disappearances<sup>35</sup> in the world after Cambodia, an estimated 114,000.<sup>36</sup> Furthermore, they continued to be surrounded by memories of dehumanization and violence such as the Valley of the Fallen, which, until 2019, featured the tomb of Francisco Franco at the foot of the altar and still exhibits the founder of the Spanish *Falange* (fascist party), José Antonio Primo de Rivera.

Following Franco's passing, King Juan Carlos I led Spain's elite-guided transition to democracy. The dictator had groomed him from the age of ten, providing him with a similar military training, and bestowing upon him the responsibility of carrying forward the values of his *Movimiento Nacional* (National Movement).<sup>37</sup> Ultimately, the King opted for democracy and European Community membership while simultaneously ensuring that the key players of Francoism continued to exercise substantial power in Spain's "new" political system.

The 1977 Amnesty Law shaped what Encarnación describes as "a period of intense cooperation between the government and the opposition in crafting democratic institutions."<sup>38</sup> This included the restoration of the monarchy, granting partial autonomy to Spain's regions, passing the Pacts of Moncloa (the economic recovery plan negotiated between capital and labor in the late 1970s), and joining the European Community.

From 1982 to 1996, under prime minister Felipe González, the position of most PSOE politicians was that "active forgetting" was essential to modernizing Spain and consolidating its democracy. A 1981 military coup attempt by hard-line Francoists had bolstered this dominant position that emerged within the party from 1977 onward. Consequently, the Socialists, who had officially abandoned their Marxist political program at their 1979 party congress,<sup>39</sup> aimed to create a new legacy for Spain based on EC

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<sup>34</sup> Friedrich Nietzsche (2008). *On the Genealogy of Morals*. Oxford: Oxford University Press. For further details on Nietzsche's concept of "active forgetting," see, for example: Encarnación, *Democracy Without Justice in Spain*, 21.

<sup>35</sup> The Rome Statute of the International Criminal Court defines forced/enforced disappearances as "the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time." Furthermore, it classifies this phenomenon as a crime against humanity.

<sup>36</sup> "Decenas de miles de personas siguen desaparecidas en el mundo por motivos políticos," *Amnistía Internacional*, August 30, 2010, <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/decenas-de-miles-de-personas-siguen-desaparecidas-en-el-mundo-por-motivos-politicos/>; Natalia Junquera, "Spanish Government to Spearhead Efforts to Find Civil War Victims," *elpais.com*, July 12, 2018, [https://english.elpais.com/elpais/2018/07/12/inenglish/1531388057\\_522551.html](https://english.elpais.com/elpais/2018/07/12/inenglish/1531388057_522551.html).

<sup>37</sup> Paul Preston (2012). *Juan Carlos I: El Rey de un Pueblo*. Madrid: Debate.

<sup>38</sup> Encarnación, *Democracy Without Justice in Spain*, 74.

<sup>39</sup> El Congreso Extraordinario del PSOE, 28 y 29 de septiembre de 1979, <http://e-spacio.uned.es:8080/fedora/get/bibliuned:DerechoPolitico-1980-06-10077/PDF>.

membership. At the heart of their political strategy was thus the idea that defying the past would prevent progress in the present and damage the party's reputation and momentum. As Antonio Muñoz Sánchez points out, the United States government and the Social Democratic Party of Germany both played an important role in shaping this position of moderation.<sup>40</sup>

However, the PSOE's posture on historical memory began to change in 1993 when it entered into a period of instability in light of the *Filesa* corruption scandal and other problems. From this point onwards, the PP (formerly, Alianza Popular), positioned itself as a viable threat to González's power. Following the Socialist Party's loss in the 1996 general election, the issue became more relevant, though it did not really become salient until the 2000s. At this point, as Paloma Aguilar points out, the PSOE, IU (United Left), and Catalan and Basque nationalist parties began stigmatizing the PP for its Francoist roots.<sup>41</sup> This occurred primarily in opposition to the rise of conservative prime minister José María Aznar (1996-2004). International developments—notably the indictment of former Chilean dictator Augusto Pinochet in Chile for crimes against humanity in 1998—also influenced this shift.

Aznar's grandfather was a diplomat under Franco, and his father was a Falangist (Spanish fascist) official in Franco's nationalist army during the Civil War (1936-9) and one of the key figures that managed the regime's propaganda thereafter. In his youth, Aznar followed closely in his father's footsteps, becoming an active member of the Frente de Estudiantes Sindicalistas (Front of Syndicalist Students), a Falangist association that promoted the ideas of José Antonio Primo de Rivera, who founded the Spanish fascist party in 1933. The PSOE took advantage of Aznar's background and ultra-conservative political discourses and positions to label him as a neo-Francoist and increasingly position historical memory as an important part of its political platform. This trend has continued to present day.<sup>42</sup>

### The 2007 Law of Historical Memory

PSOE leader, José Luis Rodríguez Zapatero, narrowly defeated the Partido Popular in the 2004 general election and thus became prime minister (with the support of Izquierda Unida—United Left—and regional parties). That year, the Socialists established the *Interministerial Commission for the Study of the Situation of the Victims of the Civil War and Francoism* (Comisión Interministerial para el Estudio de la Situación de las Víctimas de la Guerra Civil y del Franquismo). This set the stage for further initiatives.

Two years later, the Spanish Parliament approved a proposal submitted by IU and Iniciativa per Catalunya Verds (Iniciative for Catalonia Greens) to establish 2006 as the year of Historical Memory. The United Left's proactiveness in this regard highlights a significant break from the Spanish Communist Party's (PCE) commitment to the *pacto del olvido* (pact of forgetting) under Santiago Carrillo, as previously documented.

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<sup>40</sup> Antonio Muñoz Sánchez. *El Amigo Alemán*. Madrid: RBA Libros, 2012.

<sup>41</sup> Paloma Aguilar Fernández, "La presencia de la guerra civil y del franquismo en la democracia española," *Pasajes: Revista de pensamiento contemporáneo* 11 (2003): 20.

<sup>42</sup> "José María Aznar López," *CIDOB*, April 10, 2019,

[https://www.cidob.org/biografias\\_lideres\\_politicos/europa/espana/jose\\_maria\\_aznar\\_lopez](https://www.cidob.org/biografias_lideres_politicos/europa/espana/jose_maria_aznar_lopez); J. Xidias (2020). "Vox: The Revival of the Far Right in Spain". CARR Research Insight 2020.4. London, UK: Centre for Analysis of the Radical Right: 7.

The PSOE presented the initiative as follows:

On the occasion of the 75th anniversary of the proclamation of the Spanish Second Republic, 2006 is hereby declared as the Year of Historical Memory, as tribute and recognition to all the men and women who were victims of Civil War, or later on, of the repression of Franco's dictatorship, for their defense of democratic principles and values, as well as those who, by their effort in favor of human rights, and the defense of public liberties and reconciliation among the Spanish people, made possible the democratic regime established with the Constitution of 1978.<sup>43</sup>

This coincided with a report published by the Council of Europe titled "Need for International Condemnation of the Franco Regime,"<sup>44</sup> in which it expressed its concern for the human rights violations of the Civil War and Dictatorship and made recommendations to address them. These developments provided the impetus for the adoption of the 2007 Law of Historical Memory,<sup>45</sup> which ruptured what Encarnación calls the "myth of equal culpability": the deeply engrained idea in Spanish society that "both sides bore equal responsibility" for the Spanish Civil War.<sup>46</sup> The PP's spokesperson, Eduardo Zaplana, along with other key members of the party, including Manuel Fraga and María Dolores de Cospedal, expressed strong opposition to the legislation, claiming "What we are doing is using history as a political weapon. This is a law against the democratic transition."<sup>47</sup>

The Law of Historical Memory was the product of the pressures of more than 160 grassroots organizations, the most prominent of which was the AMRH (Association for the Recovery of Historical Memory). It was also a legal response to pressures from the United Nations, Amnesty International and Human Rights Watch, which regarded the 1977 Law of Amnesty as incompatible with the International Covenant on Civil and Political Rights and the UN Convention for the Protection of People Against Forced Disappearances because it prohibited the prosecution of crimes against humanity and forced disappearances. Progressive developments in Argentina, Chile, South Africa, and elsewhere also conditioned the passing of legislation. In this sense, the law was very much an example of local associations appealing to transnational justice<sup>48</sup> in order to exert leverage against the PSOE in order to rupture its past silence and comply with the global human rights frameworks to which Spain is an adherent.

The Law of Historical Memory formally condemned Francoism and granted rights to victims and their descendants for the first time. Notably, it stipulated the right to Spanish nationality for forced exiles and their children and grandchildren (Seventh Additional Disposition); the removal of Francoist symbols from public places (Art. 15); the prohibition of political acts at the Valley of the Fallen (Art. 16); state assistance for locating forced disappearances (Arts. 11-14); financial reparations under certain conditions (Art. 5-9); and

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<sup>43</sup> Ley 24/2006, de 7 de julio, sobre declaración del año 2006 como Año de la Memoria Histórica, <https://www.boe.es/buscar/pdf/2006/BOE-A-2006-12309-consolidado.pdf>, translated by the author.

<sup>44</sup> Recommendation 1736, *Council of Europe*, March 17, 2006, [https://pace.coe.int/pdf/05f49e13a5d6352bf2cb23cb7915c71b36679fb43326667a8259ffe25682ae848428feba12/recommendation\\_1736.pdf](https://pace.coe.int/pdf/05f49e13a5d6352bf2cb23cb7915c71b36679fb43326667a8259ffe25682ae848428feba12/recommendation_1736.pdf).

<sup>45</sup> Ley 52/2007, <https://www.boe.es/buscar/pdf/2007/BOE-A-2007-22296-consolidado.pdf>.

<sup>46</sup> Encarnación, *Democracy Without Justice in Spain*, 113.

<sup>47</sup> Encarnación, *Democracy Without Justice in Spain*, 171.

<sup>48</sup> The International Center for Transnational Justice defines transnational justice as "the ways countries emerging from periods of conflict and repression address large-scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response."

the granting of Spanish citizenship to the International Brigades (volunteers from 53 countries who fought on behalf of the Republic during the Spanish Civil War) (Art. 18).<sup>49</sup>

Though the law was a significant step forward following three decades of “active forgetting” because it condemned the Dictatorship and paved the way for further progress, it did not overturn the Amnesty Law of 1977 and allow for prosecution. Following its passing, prominent Spanish judge Baltasar Garzón attempted to investigate and prosecute human rights violations by the Franco regime. He described the importance of his investigation as follows: “Impunity has been the rule in the face of events that could be legally categorized as crimes against humanity.”<sup>50</sup> In response to this, the Spanish Supreme Court disbarred Garzón for 11 years for an unrelated charge (illegal wiretaps of the Gürtel corruption case). As Michael Humphrey argues, this court decision was clearly aimed at removing Garzón’s judicial activism from Spain’s legal arena and closing off legal remedy for the victims of Francoism.<sup>51</sup>

In 2012, the Supreme Court further impeded progress in this regard. Decision 101/2012 declared that Spanish judges cannot investigate crimes pertaining to the Civil War and Dictatorship. It expressed its position as follows: “The fundamental idea of the transition, so praised nationally and internationally, was achieving a peaceful reconciliation between Spaniards, both the Law of Amnesty and Spanish Constitution were essential landmarks in this historical fact.”<sup>52</sup>

It is important to note that, as of 5 November 2020, Spanish governments had only recovered the remains of 9552 disappeared persons.<sup>53</sup> This has been due to multiple factors, in particular the lack of a centralized system to manage exhumations, the absence of funding from the PP when it was in power from 2012-8, and resistance and bureaucracy at the local level. As Emilio Silva, Founder of the Association for the Recovery of Historical Memory (ARMH), puts it: “While there is not justice for so many families of victims, democracy in Spain will remain incomplete.”<sup>54</sup>

### The Removal of Franco’s Tomb from the Valley of the Fallen

The Valley of the Fallen is Spain’s most powerful architectural symbol of National-Catholicism. The monument boasts a 150-meter cross (492 feet), the tallest in the world, and its temple is larger than St. Peter’s Basilica in the Vatican. It is located in the Cuelgamuros Valley at the foothills of the Guardarrama Mountains and can be seen from as far as 40 kilometers away (25 miles). In grandiosity, it is comparable to El Escorial—the monastery and Royal Palace Felipe II built that represents the height of the Spanish monarchy and empire. Franco described it as follows in an interview just after the monument’s inauguration in 1959, commemorating 20 years since the “Nationals” victory

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<sup>49</sup> Ley 52/2007, <https://www.boe.es/buscar/pdf/2007/BOE-A-2007-22296-consolidado.pdf>.

<sup>50</sup> Cited in Michael Humphrey, “Law, Memory, and Amnesty in Spain,” *Macquarie Law Journal* 13 (25) (2014): 1-16.

<sup>51</sup> Humphrey, “Law, Memory, and Amnesty in Spain,” 1-16.

<sup>52</sup> Sentencia 101/2012, de 8 de mayo de 2012, <https://www.boe.es/boe/dias/2012/06/05/pdfs/BOE-A-2012-7511.pdf>, translated by the author.

<sup>53</sup> Cortes Generales, Diario de Sesiones del Congreso de los Diputados, Núm. 204, 5 de noviembre del 2020, 84, [https://www.congreso.es/public\\_oficiales/L14/CONG/DS/CO/DSCD-14-CO-204.PDF](https://www.congreso.es/public_oficiales/L14/CONG/DS/CO/DSCD-14-CO-204.PDF); María Lourdes Herrasti Erlogorri. *Arqueología de la memoria: el método arqueológico aplicado a la investigación de la historia reciente* (2020). Tesis Doctoral. Viscaya: Universidad del País Vasco.

<sup>54</sup> Cited in María M. Delgado, “Memory, Silence and Democracy in Spain: Federico García Lorca, the Spanish Civil War, and the Law of Historical Memory,” *Theatre Journal* 67 (2) (2015): 178.

in the Civil War: “El Escorial is the monument of our past grandeur, and the Valley of the Fallen is the landmark and foundation of our future.”<sup>55</sup>

From 1975 until 2019, the high altar displayed the tombs of the dictator and José Antonio Primo de Rivera, founder of the *Falange* (Spanish fascist party). While the current government has recently removed the former’s remains, the latter’s are still present. In addition, there are at least 33,700 bodies located in crypts.<sup>56</sup>

In the State Official Bulletin (Boletín Oficial del Estado) from 2 April 1940, Franco described the architecture of the Valley of the Fallen as follows:

“The scale of our Crusade, the heroic sacrifices of our victory, and the far-reaching significance that this epic event [the Spanish Civil War] has had for the future of Spain cannot be perpetuated with the simple monuments that are often used for commemoration in towns and villages. The stones that are to be erected must have the grandeur of ancient monuments that defy time and oblivion.... The chosen location upon which the magnificent temple of our deceased will be built will be, for centuries, a place of prayer for those who fell while defending God and the Fatherland.”<sup>57</sup>

Initially, Franco intended for the Valley to be exclusively for the “Nationals”; however, from the 1950s onwards, as part of his myth of having achieved reconciliation and peace, he transferred the remains of some Republicans who died in the Civil War. In most cases, this occurred without the knowledge and consent of their families.<sup>58</sup>

Twenty thousand political prisoners built the Valley; and, at a time when Spain was suffering from a severe economic crisis that resulted in over 200,000 famine-related deaths,<sup>59</sup> its construction cost about 6.5 million Euros. The monument remains the largest mass grave in Spain with more than 12,400 unidentified bodies.<sup>60</sup>

Following a long period of inaction from the Socialist Party, the 2007 Law of Historical Memory prohibited political acts related to the Civil War and Dictatorship at the Valley of the Fallen, and finally initiated a critical debate on the symbolic significance of the monument. More specifically, the law established that the state “would honor and rehabilitate the memory of all those who perished as a result of the Civil War and from the political repression that followed” and would “deepen knowledge of this historical period ... and foster reconciliation and coexistence in society.”<sup>61</sup>

In early 2011, the PSOE went a step further by creating the Commission of Experts for the Future of the Valley of the Fallen (Comisión de Expertos para el Futuro del Valle de los

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<sup>55</sup> “Declaraciones de Francisco Franco al director del diario Pueblo,” *Fundación Nacional Francisco Franco*, May 1, 2019, <https://fnff.es/historia/222958032/Declaraciones-de-Francisco-Franco-al-director-del-diario-Pueblo-1-de-mayo-de-1959.html>.

<sup>56</sup> Juan Miguel Baquero, “¿Quiénes son los otros muertos del Valle de los Caídos?,” *eldiario.es*, November 13, 2019, [https://www.eldiario.es/sociedad/muertos-valle-caidos\\_1\\_1259907.html](https://www.eldiario.es/sociedad/muertos-valle-caidos_1_1259907.html) - :-:text=Esto dice la comunidad benedictina... procedentes de toda España”.

<sup>57</sup> Boletín Oficial del Estado» núm. 93, de 2 de abril de 1940, 2240, <https://www.boe.es/datos/pdfs/BOE//1940/093/A02240-02240.pdf>, translated by the author.

<sup>58</sup> Paul Preston (2012). *The Spanish Holocaust: Inquisition and Extermination in Twentieth-Century Spain*. London: HarperPress.

<sup>59</sup> Isabel Castelló Botía, “Evolución de la mortalidad asociada a desnutrición en la España Contemporánea 1900-1974,” *Revista de Demografía Histórica-Journal of Iberoamerican Population Studies* 28 (2) (2010): 25-50.

<sup>60</sup> Juan Miguel Baquero, “Estos son los otros muertos del Valle de los Caídos,” *eldiario.es*, September 1, 2018, [https://www.eldiario.es/sociedad/muertos-valle-caidos\\_1\\_1958818.html](https://www.eldiario.es/sociedad/muertos-valle-caidos_1_1958818.html).

<sup>61</sup> Informe, Comisión de Expertos para el Futuro del Valle de los Caídos, Ministerio de la Presidencia, 29 de noviembre de 2011, [https://digital.csic.es/bitstream/10261/85710/1/INFORME\\_COMISION\\_EXPERTOS\\_VALLE\\_CAIDOS\\_PDF.pdf](https://digital.csic.es/bitstream/10261/85710/1/INFORME_COMISION_EXPERTOS_VALLE_CAIDOS_PDF.pdf), translated by the author.

Caídos), which published a report six months after its establishment recommending that Franco's remains be transferred elsewhere. It expressed its position as follows:

Redefining the Valley of the Fallen, ridding it of ideological and political connotations, and addressing the moral dimension of memory, will only be possible if the monument is reserved for those who perished during the Civil War. Thus, we recommend that the remains of General Francisco Franco be transferred to a location either chosen by his family or considered most appropriate." Furthermore, it commended that José Antonio Primo de Rivera, who died in the Civil War, should be moved from his privileged location to the crypt, where the other bodies lie.<sup>62</sup>

In 2017, while the Partido Popular governed Spain, the PSOE introduced a non-binding proposal/consultation (una proposición no de ley) in parliament whose objective was to gauge the willingness of the Congress of Deputies to reform the Law of Historical Memory.<sup>63</sup> Opposition leader Pedro Sánchez stated its objective as follows: "To improve a law of extraordinary value for all socialists in our country on the tenth anniversary of its approval" and "guarantee its effective compliance against the attitude of those who consciously paralyze it."<sup>64</sup> The vote total was 198 in favor, 1 against, and 140 abstentions—the Partido Popular abstained, claiming it was expressing "absolute indifference" because Spaniards need to look forward rather than backward. By abstaining and expressing such rhetoric, the PP seeks to simultaneously disassociate itself from its Francoist roots and impede a critical analysis of Spain's past. In contrast, Unidos Podemos (a coalition of far-left parties that includes Izquierda Unida and later changed its name to Unidas Podemos) supported the initiative and proposed two amendments aimed at making it more progressive.<sup>65</sup>

After a successful no-confidence vote that ousted PP prime minister Mariano Rajoy in 2018, Sánchez assumed the premiership and announced that the Socialists would modify the 2007 Law of Historical Memory to remove Francisco Franco from the Valley of the Fallen. It expressed its position as follows: "Only the remains of people who perished in the Civil War may lie there."<sup>66</sup>

Following Supreme Court rejections of multiple appeals from conservative interests including the Francisco Franco Foundation and the Benedictine Community of the Abbey of Santa Cruz of the Valley of the Fallen, in 2019, the PSOE proceeded to exhume and transfer Franco's remains to El Pardo-Mingorrubio Cemetery, about 16 kilometres from central Madrid. Sánchez expressed the decision as follows: "The government has put an end to an anomaly in Spain, a European democracy: the exaltation of a dictator in a mausoleum constructed by the dictatorship to glorify the dictatorship."<sup>67</sup>

In relation to the earlier discussion that established a link between political opportunism and historical memory, it is essential to acknowledge that the PSOE attempted to exploit

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<sup>62</sup> Informe, Comisión de Expertos para el Futuro del Valle de los Caídos, translated by the author.

<sup>63</sup> Cortes Generales Diario de Sesiones del Congreso de los Diputados, Núm. 52, 11 de mayo de 2017, [https://www.congreso.es/public\\_oficiales/L12/CONG/DS/PL/DSCD-12-PL-52.PDF](https://www.congreso.es/public_oficiales/L12/CONG/DS/PL/DSCD-12-PL-52.PDF).

<sup>64</sup> "Pedro Sánchez presenta una propuesta de reforma de la Ley de Memoria Histórica para "mejorarla" y "garantizar su cumplimiento efectivo", psoe.es, <https://www.psoe.es/actualidad/noticias-actualidad/pedro-sanchez-presenta-una-propuesta-de-reforma-de-la-ley-de-memoria-historica-para-mejorarla-y-garantizar-su-cumplimiento-efectivo/>.

<sup>65</sup> "Pedro Sánchez presenta una propuesta de reforma de la Ley de Memoria Histórica para "mejorarla" y "garantizar su cumplimiento efectivo", psoe.es, <https://www.psoe.es/actualidad/noticias-actualidad/pedro-sanchez-presenta-una-propuesta-de-reforma-de-la-ley-de-memoria-historica-para-mejorarla-y-garantizar-su-cumplimiento-efectivo/>.

<sup>66</sup> Real Decreto Ley 10/2018, de 24 de agosto, <https://www.boe.es/boe/dias/2018/08/25/pdfs/BOE-A-2018-11836.pdf>, translated by the author.

<sup>67</sup> Declaración institucional de Pedro Sánchez con motivo de la exhumación de los restos de Francisco Franco, 24 de octubre de 2019, <https://www.lamoncloa.gob.es/presidente/actividades/Paginas/2019/241019-ps-declaracion.aspx>, translated by the author.

Franco's exhumation by arranging for it to occur two and half weeks before the general election and inviting national television to cover the event. This manoeuvre provoked serious criticism from across the political spectrum. On the right, Partido Popular leader Pablo Casado argued that the government should respect Spain's transition (pact of forgetting) and look forward not backward—this weak condemnation was consistent with the PP's long-standing strategy of engaging in “the politics of memory” from the side of the victors while simultaneously being careful to disassociate itself from its Francoist DNA. Vox's leader Santiago Abascal was the PSOE's most vocal critic, claiming that Franco's exhumation was a “profanation” and that Sánchez was “going beyond trash TV with this morbid electoral show.”<sup>68</sup>

These PP and Vox's statements reflected the public opinion of their constituencies—77% of PP voters and 81% of Vox's supporters disapproved of transferring Franco's remains.<sup>69</sup> With regard to the PSOE, a post-electoral CIS poll (Spain's most popular surveying agency) showed that its pre-election exploitation of the issue ultimately had little bearing on the 10 November 2019 result—94% of voters stated that it did not influence their decision.<sup>70</sup>

### The Law of Democratic Memory

In 2014, Pablo de Grieff, the United Nations' Special Rapporteur on the Promotion of Truth, Justice, Reparation, and Guarantees of Non-Recurrence published a report on the deficiencies of the 2007 Law of Historical Memory stating the following:

The most serious shortcomings are to be found in the spheres of truth and justice. No State policy was ever established with respect to truth; there is no official information and no mechanisms for elucidating the truth. The current scheme for the “privatization” of exhumations, which leaves this responsibility to victims and associations, aggravates the indifference of State institutions and raises difficulties with regard to the methodology, homologation and officialization of truth. The families' need to give their loved ones a proper burial is urgent. In the area of justice, excessive formalism and restrictive interpretations of the Amnesty Act and the principle of legality not only deny access to justice but they also impede any sort of investigation.

The Special Rapporteur emphasized Spain's adherence to the International Agreement of Civil and Political Rights (1977), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment (1987), and the International Convention for the Protection of All Persons from Forced Disappearances (2009) while asserting the following: “The strength of democratic institutions lies not in their power to silence or ignore certain matters, especially those related to fundamental rights, but in their ability to manage them effectively, however complex and awkward they may be.”<sup>71</sup>

Despite this prominent critique and constant pressure from domestic human rights associations including ARMH, powerful international NGOs such as Amnesty International, and leftist and regional parties, the Partido Popular, which was in power from 2012-8, made clear that historical memory was not a priority and consequently eliminated funding

<sup>68</sup> Santiago Abascal, Twitter Post, October 24, 2019,

[https://twitter.com/Santi\\_ABASCAL/status/1187307184570413057?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1187307184570413057%7Ctwgr%5E%7Ctwcon%5Es1\\_&ref\\_url=https%3A%2F%2Felpais.com%2Fpolitica%2F2019%2F10%2F24%2Factualidad%2F1571917516\\_344634.html](https://twitter.com/Santi_ABASCAL/status/1187307184570413057?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwtterm%5E1187307184570413057%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Felpais.com%2Fpolitica%2F2019%2F10%2F24%2Factualidad%2F1571917516_344634.html).

<sup>69</sup> Marisa Cruz, “PP, Ciudadanos, y Vox recelan de la exhumación de Franco,” *elmundo.es*, October 21, 2019, <https://www.elmundo.es/espana/2019/10/21/5dac9bf7fdddf6f8f8b45e4.html>.

<sup>70</sup> CIS Estudio 3269, Diciembre 2019, [http://datos.cis.es/pdf/Es3269marMT\\_A.pdf](http://datos.cis.es/pdf/Es3269marMT_A.pdf).

<sup>71</sup> Pablo de Grieff, “Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence,” *UN General Assembly*, July 22, 2014, <https://digitallibrary.un.org/record/780680?ln=es>.



for it along with the Office for Victims of the Civil War (Oficina de Víctimas de la Guerra Civil). Former prime minister Mariano Rajoy expressed his position as follows: “I am in favor of eliminating all of the articles in the Law of Historical Memory that speak of allocating public money to recover the past. I would not give even one public Euro for this purpose”<sup>72</sup>— this is ironic considering that the PP gave more than 150,000 Euros to the Francisco Franco Foundation while Aznar was in power (1996-2004).<sup>73</sup> As a result, it was not until after the Socialist Party returned to power in 2018, pressured by Unidos Podemos, that more progress could be achieved in this area at the national level.

In 2018, the PSOE under prime minister Pedro Sánchez created the General Direction for Historical Memory (Dirección General para la Memoria Histórica) and also commemorated the 80<sup>th</sup> anniversary of Republican exile, remembering the more than 500,000 Republicans that fled Spain following the Francoists’ 1936 military coup.

Two years later, in 2020, following the exhumation of Franco’s remains from the Valley of the Fallen, the PSOE submitted a bill to Congress in which it proposed a Law of Democratic Memory. Paloma Aguilar defines democratic memory as “armed conflicts that have destabilized or interrupted democracy by overthrowing legitimate, democratically-elected governments.”<sup>74</sup> The bill drew inspiration from a similar law passed in 2017 in Andalucía. The party, clearly influenced by the UN report previously mentioned, stated its position as follows:

Spanish society has a debt of memory with those people who were prosecuted, incarcerated, tortured and lost their belongings and lives in defense of democracy and freedom. The memory of the victims of the coup, the Civil War, and the Dictatorship, and their acknowledgement, reparation, and dignity represent a moral duty in political life ... History cannot be constructed from the oblivion and silencing of the defeated ... The consolidation of our constitutional order today allows us to finally confront the truth about our past. Forgetting is not an option in a democracy.<sup>75</sup>

The proposal was the product of pressures from Spanish civil society, the UN, the European Union, international NGOs, and progressive developments in Argentina, Chile, and South Africa as well as in some of Spain’s autonomous regions. Moreover, despite ideological differences, there was a strong consensus within the first leftist coalition since 1936 (PSOE-Unidas Podemos) that the 2007 law was inadequate.

Under the newly-proposed legislation, the state would be in charge of attempting to identify the roughly 114,000 missing persons currently buried in unmarked graves throughout Spain. It would also convert the Valley of the Fallen into a place of educational memory and relocate José Antonio Primo Rivera (the founder of the Spanish Fascist Party—Falange—who the Republicans executed for rebellion in 1936) from the main altar to the crypt, pave the way for the potential illegalization of the Francisco Franco Foundation and the seizure of its more than 30,000 archives related to the Civil War and the Dictatorship,

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<sup>72</sup> Natalia Junquera, “La Promesa que Sí Rajoy Cumplió,” *elpais.com*, October 5, 2013, [https://elpais.com/politica/2013/10/05/actualidad/1380997260\\_542677.html](https://elpais.com/politica/2013/10/05/actualidad/1380997260_542677.html), translated by the author.

<sup>73</sup> Juan Miguel Baquero, “Las cuentas de la Fundación Francisco Franco: más de dos millones de euros donados por entusiastas del régimen,” *eldiario.es*, January 6, 2019, [https://www.eldiario.es/sociedad/fundacion-franco-millones-fanaticos-dictador\\_1\\_1767249.html](https://www.eldiario.es/sociedad/fundacion-franco-millones-fanaticos-dictador_1_1767249.html).

<sup>74</sup> Aguilar Fernández. *Memoria y Olvido de la Guerra Civil Española*, 41.

<sup>75</sup> Anteproyecto de Ley de Memoria Democrática, 15 de septiembre de 2020, [https://www.mpr.gob.es/servicios/participacion/Documents/APL\\_Memoria\\_Democrática.pdf](https://www.mpr.gob.es/servicios/participacion/Documents/APL_Memoria_Democrática.pdf), translated by the author.

and prohibit and fine public exaltations to Franco as well as vandalism of historical memory sites.<sup>76</sup>

The bill also establishes that the government would modify the education curriculum for students between the ages of 12-18 (ESO y Bachillerato) to promote “knowledge of Spanish democratic history and the struggle for public values and freedoms.”<sup>77</sup> At present, most students leave school with little critical understanding about the Civil War and Dictatorship, which reinforces “the myth of equal culpability.” The objective is to ensure that educators receive training on key progressive themes in Spanish history—such as the social advances of the Second Republic and the diverse struggles against Francoism—and that students think critically about these issues.

In addition, the PSOE and other leftist parties have introduced a parallel bill into parliament titled *Stolen Babies in the Spanish State* (Proposición de Ley sobre bebés robados en el Estado español) that would centralize investigation and truth-seeking regarding the children the Franco regime took from Republican mothers and sold to Catholic families who supported the regime. The current coalition intends to also enact this into law prior to the end of 2021.<sup>78</sup>

### Vox and Historical Memory

Vox is the most prominent far-right party in Spain today and the third most representative force in parliament with 52 seats (out of a total of 350) in the Congress of Deputies.

In contrast to some other European contexts such as France, Vox was not an extremist party that entered from the margins, but rather, it emerged from the very womb of the Partido Popular (whose forebearer, Alianza Popular, was founded by seven prominent ministers of the Franco regime). Thus, whereas the right can be understood as the child of Francoism, the far right can be understood as its neo-Francoist grandchild. In 2013, several members of the Partido Popular, who sought to disassociate themselves from the party’s rampant corruption and considered Prime Minister Mariano Rajoy (2012-8) to be too passive on key social issues, splintered and founded Vox.<sup>79</sup>

The party’s president, Santiago Abascal, recently stated: “We are the voice of all those who had parents on the nationalist side and resist having to apologize for what their families did. We are the voice of all those who do not want to change the name of their street because of the fanatical political beliefs of those who want a Spain of one-sided memory.”<sup>80</sup>

In this regard, Vox seeks to defend conservative and ultra-conservative values and privileges in Spanish society against what it portrays as the new Popular Front or anti-Spain—a coalition consisting of the PSOE, far-left Unidas Podemos, and regional parties. Thus, president Santiago Abascal and other party leaders portray Vox as the true defenders of democracy. One such example of this was a video Vox published on its website in which

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<sup>76</sup> Anteproyecto de Ley de Memoria Democrática.

<sup>77</sup> Anteproyecto de Ley de Memoria Democrática.

<sup>78</sup> For further details, see: Proposición de Ley sobre bebés robados en el Estado Español, Boletín Oficial de las Cortes Generales, March 6, 2020, [https://www.congreso.es/public\\_oficiales/L14/CONG/BOCG/B/BOCG-14-B-65-1.PDF](https://www.congreso.es/public_oficiales/L14/CONG/BOCG/B/BOCG-14-B-65-1.PDF).

<sup>79</sup> Xidias, “Vox: The Revival of the Far Right in Spain.”

<sup>80</sup> Cited in Nicolás Pan Mantojo, “Abascal cree que la memoria histórica es un debate infecto,” *elpais.com*, January 14, 2019, [https://elpais.com/politica/2019/01/14/actualidad/1547461441\\_818774.html](https://elpais.com/politica/2019/01/14/actualidad/1547461441_818774.html), translated by the author.

its Secretary General, Javier Ortega Smith, holds the hand of an elderly woman called Teresa and claims that his party will do everything in its power to overturn the Law of Historical Memory and return the Francoist cross she so cherishes, which had recently been removed, to her hometown. Ortega Smith closes the video by saying “We are all Teresa.”<sup>81</sup>

Vox’s 100-point political program includes a section titled *España, Unidad y Soberanía* (Spain, Unity and Sovereignty) in which it states its official position regarding the Law of Historical Memory: “No parliament should have the power to define our past, and much less exclude Spaniards that have different viewpoints. The past cannot be used to divide us.”<sup>82</sup>

This statement is grounded in the political myth that the democratically-elected Popular Front government of 1936 was responsible for the Spanish Civil War and that the Dictatorship and the Law of Amnesty achieved reconciliation and peace between all Spaniards. This, however, ignores the different crimes against humanity committed by the Franco regime, including the estimated 114,000 forced disappearances<sup>83</sup> and 30,000 babies stolen from Republican mothers,<sup>84</sup> which continue to be a source of tremendous grief amongst part of the Spanish population.

With respect to the newly-proposed Law of Democratic Memory, Macarena Olona, Secretary General of Vox in the Congress of Deputies (Spain’s most powerful legislative chamber), has called the law “totalitarian” and has promised to appeal it to the Constitutional Court—Spain’s high court that evaluates the constitutionality of legislation—upon its enactment. Furthermore, she has criticized the PSOE-Unidas Podemos coalition government for “attempting to win through laws a war it lost on the battlefield” and for “breaking the pact in which Spaniards forgave each other during the Transition.”<sup>85</sup>

Abascal recently criticized the current government, claiming that “They do not only want to profane General Franco’s tomb, but they also want to ... tear down the [150-meter] cross [at the Valley of the Fallen] ... They want to rewind history to win the Civil War and implant an anti-Spanish Communist Republic.”<sup>86</sup> This notion of “an assault against the crucifix” evokes Spain’s first *Reconquista* against the Muslim Other and the second, as politically constructed by Franco, against the so-called “godless Popular Front.” In this regard, Vox is clearly reviving National-Catholicism while being cautious not to link itself explicitly to pre-constitutional Francoism. This highlights the blurry and complex links between the past and modern contexts that shape Vox’s political behavior as well as the uniqueness of Spain’s far-right in comparison to other parties in Europe and elsewhere.

Vox’s nationalistic and Catholic discourses grounded in ultra-conservative values depict a conception of “Spaniardness” that is exclusive of pluralism (Spain as a nation of nations), secularism (particularly, in education), social progressivism in different forms, such as

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<sup>81</sup> Vox España, April 9, 2018, <https://www.youtube.com/watch?v=xKUKWuzsoLc>, translated by the author.

<sup>82</sup> Vox, *Cien Medidas Para La España Viva*, 2019, translated by the author.

<sup>83</sup> Amnistía Internacional, “Decenas de miles de personas siguen desaparecidas en el mundo por motivos políticos”; Junquera, “Spanish Government to Spearhead Efforts to Find Civil War Victims.”

<sup>84</sup> Boletín Oficial de las Cortes Generales, Proposición de Ley sobre los Bebés Robados en el Estado Español, March 6, 2020, [https://www.congreso.es/public\\_oficiales/L14/CONG/BOCG/B/BOCG-14-B-65-1.PDF](https://www.congreso.es/public_oficiales/L14/CONG/BOCG/B/BOCG-14-B-65-1.PDF).

<sup>85</sup> Vox España, September 17, 2020, <https://www.voxespana.es/actualidad/vox-recurrira-la-totalitaria-ley-de-memoria-democratica-ante-el-tribunal-constitucional-20200917>, translated by the author.

<sup>86</sup> Santiago Abascal, Twitter post, September 15, 2020, <https://www.voxespana.es/actualidad/abascal-quieren-rebobinar-la-historia-para-ganar-la-guerra-civil-e-implantar-una-republica-comunista-antiespanola-20200916>.

radical feminism and LGBTQ+ rights, and Republicanism (by defending the impunity of the monarchy despite it being plagued by recent corruption scandals). For Vox, all of these elements together with the current leftist governing coalition constitute the illegitimate anti-Spain.

## Conclusions

Academic literature suggests that the more violent a regime is, the greater the attempt will be to seek justice thereafter.<sup>87</sup> Furthermore, as Golob argues, “The moment of transition is the golden opportunity to forge a new, democratic social contract, and the new democratic future envisaged by that contract will be possible, and will last, only by using the law to confront and overcome the repressive and abusive past.”<sup>88</sup>

In this regard, Spain is an outlier. As previously documented, until the 2007 Law of Historical Memory, very little progress was achieved in terms of social justice related to the Spanish Civil War and Franco period. One of the major reasons for this was the dominant position on the left that “turning the page” was essential to construct a stable democracy integrated into the European Community. Consequently, the multi-partisan 1977 Law of Amnesty reformed the Dictatorship from within and institutionalized a wide political consensus around “the pact of forgetting”—as the saying goes, *let bygones be bygones*.

Some scholars have argued that this delay of truth-seeking allowed for just enough stability to ensure that Spain would not regress to authoritarian rule, or even worse to another civil war.<sup>89</sup> While this may be true, the purging of trauma in the Nietzschean sense has perpetuated the power of Francoist/neo-Francoist elites in Spanish society and freed them from accountability from the diverse human rights violations of the past. Furthermore, it has fostered a culture of impunity on the right. As Santos Juliá puts it, “The Spanish transition was a unique case of national reconciliation without legal justice.”<sup>90</sup>

Politicians on both sides of the political spectrum, the royal family, the education system, and the mainstream media have sustained the idea of “needing to move on” and “the myth of equal accountability.” As Vicenç Navarro points out, perhaps the most prominent example of this was when former PSOE defense secretary José Bono placed two individuals at the front of a military parade: one was a Republican who had fought against the Nazis, the other was a soldier from Spain’s Blue División who had fought alongside the Nazis in Operation Barbossa.<sup>91</sup>

Today, Felipe VI, like his father previously, plays an important role as Head of State in perpetuating this deeply-engrained and dominant belief in Spanish society. In a recent speech, he stated the following, “The advances and the progress achieved in our democracy are the result of reencounter and the pact between Spaniards after a long

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<sup>87</sup> See, for example: Alexandra Barahona de Brito, Carmen González Enríquez, and Paloma Aguilar (2001). *The Politics of Memory*. Oxford: Oxford University Press; Katherine Hite and Paola Cesarini (2004). *Authoritarian Legacies and Democracy in Latin America and Southern Europe*. Notre Dame: University of Notre Dame Press.

<sup>88</sup> Stephanie Golob, “Volver: The Return of/to Transitional Justice Politics in Spain,” *Journal of Spanish Cultural Studies* 9 (2) (2008): 127.

<sup>89</sup> See, for example: Adam Przeworski (1991). *Democracy and the Market: Political and Economic Reforms in Eastern Europe and Latin America*. Cambridge: Cambridge University Press; Juan J. Linz and Alfred Stepan (1996). *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Baltimore: Johns Hopkins University Press.

<sup>90</sup> Santos Juliá Díaz, “Echar al Olvido, Memoria y Amnistía en la Transición,” *Claves de Razón Política* 129 (2003): 14-24.

<sup>91</sup> Vicenç Navarro, “Por qué la monarquía no es buena para España,” *publico.es*, January 1, 2021, <https://blogs.publico.es/vicenc-navarro/2021/01/21/por-que-la-monarquia-no-es-buena-para-espana/>.

period of confrontation and divisions.”<sup>92</sup> Such discourses perpetuate the myth of reconciliation that Franco started with the 2824/1966 and 10/1969 decree-laws<sup>93</sup> which nullified the alleged “political culpability” of the left for the Spanish Civil War. As Manuel Fraga, Franco’s Minister of Propaganda and founder of Alianza Popular (the precursor to the Partido Popular and its far-right splinter party Vox) put it at the time: “We have definitively buried the remains of past divisions and have put an end to our Civil War.”<sup>94</sup>

A CIS poll has highlighted the extent to which “the pact of forgetting” has permeated the mind-set of Spaniards: 73% of people who lived under Franco said their families spoke little or had no discussion about the war, and the majority of respondents claimed both sides were responsible for the same number of deaths.<sup>95</sup> This masks the reality, as Paul Preston points out, that the Francoists were responsible for about five times as many deaths as the Republicans from 1936-9, in addition to the human rights violations of the Dictatorship (1939-1975).<sup>96</sup>

Furthermore, this position ignores the fact that, between 1940 and 1958, the Franco regime carried out a comprehensive nationwide search into the forced disappearances of his supporters known as the *Causa General* (General Cause).<sup>97</sup> In contrast, as previously documented, there are still around 114,000 missing Republicans in mass graves around the country.<sup>98</sup> The reality is that this delay in truth-seeking will prevent most of these remains from ever being recovered. Furthermore, unlike Nazi Germany and the Greek military junta, for example, there have been no convictions of crimes against humanity, and unlike South Africa, there has been no Truth and Reconciliation Committee.

Since the 1990s, the PSOE, pressured by the far left, regional parties, and human rights organizations domestically and internationally, has altered its position on historical memory. Indeed, it is no longer advocating for purging the past. Political opportunism or party politics has been a major factor in shaping this shift. This new “politics of memory,” as Hite calls it,<sup>99</sup> has emphasized transnational justice grounded in Spain’s international treaty obligations. That is, confronting the traumatic past through human rights legislation. In this regard, the strong interplay between domestic and international pressures has shaped important progress.

The Partido Popular has been steadfast. As Manuel Fraga put it at the time the left proposed the Law of Historical Memory: “It irritates me that today there are irresponsible people who fuel the Civil War. It is dangerous digging up the ghosts of the past by promoting the vindication of historical memory. This is a violent attempt to settle the score.”<sup>100</sup> Vox’s position is even more pronounced, as it more openly positions itself as the

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<sup>92</sup> Cited in Navarro, “Por qué la monarquía no es buena para España.”

<sup>93</sup> Decreto 2824/1966, de 10 de noviembre, de indulto para extinción definitiva de responsabilidades políticas, <https://www.boe.es/boe/dias/1966/11/12/pdfs/A14218-14219.pdf>; Decreto 10/1969, de 31 de marzo, por el que se declara la prescripción de todos los delitos cometidos con anterioridad al 1 de abril de 1939, <https://www.boe.es/boe/dias/1969/04/01/pdfs/A04704-04704.pdf>.

<sup>94</sup> Laureano López Rodó (1991). *Memorias. Años Decisivos*. Barcelona: Editorial Plaza Janés Cambio 16, 474.

<sup>95</sup> Encarnación, *Democracy Without Justice in Spain*, 42, 114.

<sup>96</sup> Preston, *The Spanish Holocaust*.

<sup>97</sup> Paul Preston (2012). *The Spanish Holocaust: Inquisition and Extermination in Twentieth-Century Spain*. London: HarperPress.

<sup>98</sup> “Decenas de miles de personas siguen desaparecidas en el mundo por motivos políticos,” *Amnistía Internacional*, August 30, 2010, <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/decenas-de-miles-de-personas-siguen-desaparecidas-en-el-mundo-por-motivos-politicos/>; Natalia Junquera, “Spanish Government to Spearhead Efforts to Find Civil War Victims,” *elpais.com*, July 12, 2018, [https://english.elpais.com/elpais/2018/07/12/inenglish/1531388057\\_522551.html](https://english.elpais.com/elpais/2018/07/12/inenglish/1531388057_522551.html).

<sup>99</sup> Hite, “Historical Memory,” 1078-81.

<sup>100</sup> María Antonio Iglesias, “El Político Resistente. Entrevista: Manuel Fraga,” *elpais.com*, April 30, 2006, [https://elpais.com/diario/2006/04/30/eps/1146378407\\_850215.html](https://elpais.com/diario/2006/04/30/eps/1146378407_850215.html).

defenders of the culture and narrative of the victors. Although the party's most prominent leaders do not explicitly condone the Franco regime, they do implicitly link themselves to its legacy through quotes such as: "We are the voice of all those who had parents on the nationalist side,"<sup>101</sup> "the current government is the worst Spain has had in 80 years [that is, it is worse than the Dictatorship],"<sup>102</sup> or "Sánchez wants to tell us where we have to bury our dead" in relation to Franco's exhumation from the Valley of the Fallen.<sup>103</sup>

In reality, because the PP and Vox share the same DNA (Alianza Popular), there is not a major difference between the most conservative figures in the former, such as Isabel Díaz Ayuso, and the prominent voices of the latter, such as Santiago Abascal, Iván Espinosa de los Monteros, Rocio Monasterio, Macarena Olona, or Javier Ortega Smith.

While the 2007 Law of Historical Memory constituted the most significant attempt to confront Spain's Francoist past, this opposition from the right coupled with the Socialist Party's contradictions, legislative shortcomings, bureaucracy, and widespread indifference in Spanish society have led to limited progress. Its main achievements were that it created information offices for the victims of Francoism, a map of Republican mass graves in Spain, a Commission of Experts for the Future of the Valley of the Fallen (which paved the way for the removal and transfer of Franco's remains), and an action protocol for the exhumation of victims of the Civil War and the Dictatorship.<sup>104</sup>

The 2020 Democratic Memory bill, while still inadequate in the eyes of the UN, Amnesty International, and a wide array of other international and domestic human rights organizations, makes further progress in confronting Spain's Civil War and dictatorship. It provides a much larger budget (11.3 million Euros) for historical memory (in particular exhumations) and stipulates the central government's responsibility in coordinating this with local authorities; nullifies the sentences issued by the Franco regime against Republicans; establishes fines for damaging mass graves and other places of historical memory; paves the way for the illegalization of the Francisco Franco Foundation and seizure of its more than 30,000 archives pertaining to the Civil War and Dictatorship; stipulates transforming the Valley of the Fallen into a civil cemetery and education site; and emphasizes the importance of including democratic memory into Spain's secondary school curriculum, teacher training programs, and civil service exams.<sup>105</sup>

Regarding the latter point, as Vicenç Navarro points out, "the history that is taught in public [state] schools [and even more so in religious private and charter schools] ignores the progress made by the Second Republic in relation to the previous monarchical system ... from the agrarian reforms to the enormous expansion of the education system, both resisted by the Catholic Church, which was the largest landowner in the country and controlled the education system, were measures of enormous relevance."<sup>106</sup>

<sup>101</sup> Cited in Nicolás Pan Mantojo, "Abascal cree que la memoria histórica es un debate infecto," *elpais.com*, January 14, 2019, [https://elpais.com/politica/2019/01/14/actualidad/1547461441\\_818774.html](https://elpais.com/politica/2019/01/14/actualidad/1547461441_818774.html), translated by the author.

<sup>102</sup> "Vox denuncia la gestión de Sánchez: 'el peor gobierno en 80 años'," *voxespana.es*, September 9, 2020, <https://www.voxespana.es/grupo-parlamentario/actividad-parlamentaria/preguntas-orales/pregunta-abascal-sanchez-peor-gobierno-80-anos-20200909>, translated by the author.

<sup>103</sup> "Monasterio, sobre Franco: 'Sánchez nos quiere decir dónde tenemos que enterrar a nuestros muertos'," *ondacero.es*, <https://www.ondacero.es/noticias/monasterio-franco-sanchez-nuestros-muertos-201910105d9f4d1e0cf25e92b86cef7e.html>, translated by the author.

<sup>104</sup> Paloma Aguilar Fernández and Clara Ramírez Barat, "Amnesty and Reparations Without Truth or Justice in Spain," in *Transition, Justice, and Memory in Europe: 1945-2013* (2014), edited by Nico Wouters. Madrid: Intersentia.

<sup>105</sup> Anteproyecto de Ley de Memoria Democrática, 15 de septiembre de 2020, [https://www.mpr.gob.es/servicios/participacion/Documents/APL\\_Memoria\\_Democrática.pdf](https://www.mpr.gob.es/servicios/participacion/Documents/APL_Memoria_Democrática.pdf).

<sup>106</sup> López Rodó. *Memorias. Años Decisivos*, 474.

While the newly-proposed Law of Democratic Memory is the most comprehensive initiative to date that confronts Spain's repressive and violent past, and is a significant advancement in comparison to the 2007 law, as UN and Amnesty International reports point out, it remains inadequate because there is a lack of political will within the PSOE to attempt to overturn the Law of Amnesty of 1977 in order to prosecute the human rights violations of the Civil War and Dictatorship. In this sense, it remains complicit with the right in fostering a culture of impunity. Furthermore, the outlook on historical memory radically shifts according to which political party is in power. In fact, both the Partido Popular and Vox have recently advocated for overturning all laws related to historical memory and strictly abiding by the Law of Amnesty.

Pablo Casado, the leader of the PP, has promised to introduce a *Ley de Concordia* (Law of Concord) in order to reinforce "the Constitution and legacy of the transition" against the alleged "onslaught" of the PSOE, Unidas Podemos, and regional parties. Casado has stated that "During the transition, there was no concealment, no subordination, no fear, just moral greatness and a sense of history, reconciliation, and agreement ... We don't need the sectarian rewriting of history that fuels resentment in Spanish society." To this end, one of the key figures who is elaborating this proposal is Adolfo Suárez Illana, son of Adolfo Suárez, the president of Spain who passed the Law of Amnesty in 1977.<sup>107</sup> Vox has recently published a book titled *Memoria Histórica, Amenaza para la Paz en Europa* (Historical Memory, A Threat to Peace in Europe) in which 15 prominent conservative figures (including Stanley Payne) express their views. Herman Tertsch, one of Vox's EU parliamentarians, states the objective of the text as follows: "It aims to combat the cultural bombardment to generate hate and the lies diffused by the left about the Civil War."<sup>108</sup>

On the other side of the political spectrum, two fundamental factors largely explain the PSOE's commitment to advancing democratic memory while stopping short of attempting to prosecute the human rights violations of the past: one is that it seeks to maximize votes on the left amongst those for which the issue matters but fears the political backlash that a more aggressive approach would provoke; the other is that the Socialist Party is part of what is often referred to in Spain as the *régimen del 78* (regime of '78), which, as previously mentioned, contributed to institutionalizing the myths of reconciliation and equal responsibility. This allowed it, along with the PCE, to exercise power and legitimacy within the evolving post-Franco Spain-EC nexus. As Rubén Juste and Andrés Villena have documented,<sup>109</sup> the PSOE—through prominent politicians such as Miguel Boyer and Carlos Solchaga—formed a complex web of institutions together with Francoist elites whose common ground ended up being the Pacts of Moncloa, which revolved around two essential elements: neoliberalism and EC membership. Since that time, as the aforementioned scholars have shown, this has continued to evolve. Thus, the Socialists seek to advance historical memory without shaking the existing political, economic, legal, and media structures—the establishment—too much.

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<sup>107</sup> Iñigo Aduriz, "Casado aparca su plan para derogar la ley de Memoria Histórica y evita un debate sobre Franco en la campaña catalana," *eldiario.es*, January 31, 2021, [https://www.eldiario.es/politica/casado-frena-ley-alternativa-memoria-historica-evitar-debate-franco-campana-catalana\\_1\\_7177702.html](https://www.eldiario.es/politica/casado-frena-ley-alternativa-memoria-historica-evitar-debate-franco-campana-catalana_1_7177702.html).

<sup>108</sup> VOX Twitter post, March 6, 2021, [https://twitter.com/vox\\_es/status/1368189065649065985](https://twitter.com/vox_es/status/1368189065649065985).

<sup>109</sup> Rubén Juste (2017). *IBEX 35: Una Historia Herética del Poder en España*. Madrid: Captain Swing, 2017; Andrés Villena (2019). *Las Redes de Poder en España: Élités e Intereses Contra la Democracia*. Madrid: Roca Editorial.

That said, following the last general election, in order to be able to pass legislation, the PSOE had no choice but to form a pact with Unidas Podemos, which, in contrast to the PSOE, does advocate for overturning the Law of Amnesty and judging Francoist crimes.<sup>110</sup> This pact contradicted Pedro Sánchez's statement three months earlier that "he would not be able to sleep at night" if he had to govern with Unidas Podemos.<sup>111</sup> However, since the far left only has 35 seats in the Congress of Deputies (out of 350) in relation to the PSOE's 120, its political influence is limited. Thus, its strategy, alongside some regional parties, has been to demand less ambitious modifications to the newly-proposed Law of Democratic Memory.

Until the PSOE is willing to open up Pandora's box by challenging the Law of Amnesty, in line with the conclusions of UN and Amnesty International reports, Spain will remain only a partial democratic success story. There is a need for an independent mechanism, such as a Truth Commission, that elucidates the Civil War and Dictatorship. Furthermore, future initiatives should make clear that no amnesty can prevent justice. A key component of this is overturning the Law of Official Secrets of 1968,<sup>112</sup> which continues to conceal important details regarding the horrors of the regime. The absence of this contributes to perpetuating a culture of impunity, which remains one of the fundamental problems of Spanish politics today.

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<sup>110</sup> Programa de Podemos para un nuevo país, 60: [https://podemos.info/wp-content/uploads/2019/04/Podemos\\_programa\\_generales\\_28A.pdf](https://podemos.info/wp-content/uploads/2019/04/Podemos_programa_generales_28A.pdf).

<sup>111</sup> "Pedro Sánchez afirma que 'no dormiría por las noches' si hubiese aceptado la oferta de Podemos," El País YouTube channel, September 20, 2019, <https://www.youtube.com/watch?v=eyZuhPqYa40>.

<sup>112</sup> Ley 9/1968, de 5 de abril, sobre secretos oficiales, <https://www.boe.es/buscar/pdf/1968/BOE-A-1968-444-consolidado.pdf>.



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