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By Carmela Negrete  
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*Despite a progressive government with left-wing participation, trade unionists, artists and anti-fascists continue to be imprisoned in Spain. A planned reform will do little to change this*



Albert Gea/REUTERS

*Familiar treatment of state power by citizens who exercise their right to freedom of demonstration (an opponent of an event organized by the ultranationalists of Vox in Barcelona is taken away, March 2019)*

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Antonio González Pacheco, better known as Billy el Niño, was a police commissioner who went down in history as one of Franco's cruelest torturers. Pacheco was never brought to trial, and two years after the caudillo's death he was decorated by Rodolfo Martín Villa. Although Villa had been Minister for Trade Union Relations during the Franco regime and in this role was responsible for the murder of trade unionists - he was charged in the Supreme Court of

Argentina for the Vitoria massacre in March 1976 - he rose to become Vice President of the Spanish government in 1981. Neither Pacheco nor Villa were ever prosecuted. The leniency of the Spanish state, which was democratized in 1977, towards the henchmen and henchmen of the Franco dictatorship stands in striking contrast to the way it treats its citizens who dare to take to the streets for a cause and are often met with the harshest repression for doing so. In a short book, Raul Zelik describes how brutally Spanish democracy acted against Protestants during the so-called Transición (transition to democracy) and also against the independence movement in the Basque Country. Imprisonment, death and torture were common at that time.

But instead of becoming more democratic, the bourgeois order in Spain has tightened the freedoms promised after the end of the dictatorship thanks to a whole series of laws and, under the pretext of strengthening "public security," has established a veritable system of terror based on intimidation and punishment. Neither the conservatives who introduced it nor the social democrats have so far been prepared to abolish these regulations, which allow them to act rigorously against even the slightest resistance.

In 2015, the right-wing conservative government of Prime Minister Mariano Rajoy (Partido Popular, PP) used its absolute majority to push the so-called muzzle law through parliament. The "Ley Mordaza" significantly restricted civil liberties. To this day, activists, trade unionists and other demonstrators face extremely high fines of up to 30,000 euros and prison sentences if they dare to take their protests to the streets. This state threat is based on the "Organic Law 4/2015 of 30 March on the Protection of Public Security", as the official name goes. The Rajoy government had thus repressively protected itself against the growing discontent among the population in the face of corruption cases in the PP and increased social misery due to strict austerity policies.

The "gag law" seems to be tailor-made for the state of emergency in a capitalist society. Since 2011, there have been significant protests in Spain as a result of the 2008 economic crisis, including the May 15th movement and, since 2012, four general strikes against pension cuts and the Troika's neoliberal labor law reform. What was a major problem for the state back then is now only possible with difficulty. The right to demonstrate remains restricted. Since the introduction of the "gag law," gatherings in front of the Spanish parliament have been banned, unless people who are acceptable are demonstrating, as the right-wing Venezuelan opposition recently did.

### **Protesting becomes a luxury**

The Madrid-based neighborhood group "No a la Tala" (No to Deforestation) is an example of how expensive it can now be to demonstrate and fight back thanks to this law: The group has so far been hit with fines of up to 20,000 euros. And all because the activists did not want trees to be cut down in their neighborhood - in a city that can still use every bit of shade in the hot summer months. The offense is "disobedience or resistance to the authorities or their representatives" (Article 36.6), and that also includes civil disobedience by peaceful means. Last year, citizens in Spain paid a total of 12.3 million euros in fines for around 19,000 cases. According to official police statistics, that is seven percent more than in 2022. Another example: students protested at the Complutense University because of the visit of the Israeli ambassador. They were fined 21,000 euros. They also have to pay if they refuse to show identification (Article 36.6) or for "lack of respect for authority" (Article 37.4). It almost goes without saying that the latter paragraph of the law allows officials a fairly wide scope for interpretation.

### **Trade unionists in prison**

"The Six from Switzerland" (Las Seis de La Suiza) are six trade unionists who have experienced first-hand what the law means in practice. In June 2024, the Supreme Court confirmed a previous verdict: three and a half years in prison and a fine of 125,000 euros. What happened? In 2017, an employee at the "La Suiza" pastry shop in Gijón, Asturias, reported her boss for sexual harassment. She also claimed that he had bullied her and forced her to do heavy physical work even though she was pregnant. Conversely, the boss reported the employee.

The anarchist union CNT tried to mediate between the two, but without success. Therefore, several rallies were held in front of the pastry shop in solidarity with the employee, who had since been fired without severance pay. More and more residents came to the rallies. The owner reported the union members and there were dozens of investigations for coercion, threats, insults and defamation. The CNT sees this case as an attempt at intimidation that could also deter other people from organizing and fighting. The union is determined to go to the European Court of Justice if necessary.

The CNT is by no means the only union to be confronted with such disproportionate sentences, accusations and threats. The Andalusian Workers' Union (SAT) is one of the most militant organizations in Spain and is therefore feeling the repression particularly hard. According to its own statements, the members of no other European union have been given as many prison sentences as those of the SAT.

### **Antifascists behind bars**

The "Six of Zaragoza" are six anti-fascist youths who have been in prison since last May. In January 2019, they were arrested during a counter-demonstration against an event organized by the extreme right-wing party Vox. Their case once again called into question the right to freedom of expression and protest in Spain. They still maintain their innocence. As Amnesty International documented, they were initially beaten during the rally: "The situation escalated when the demonstrators tried to approach the auditorium and the police repeatedly hit people with batons who were simply standing there and had not used any violence." Only then did stones fly. Hours later, the youths were arrested near the venue and charged with disturbing public order and attacking authority.

Two years later, four of them were sentenced to six years in prison. The other two, who were still minors, were sentenced to pay 11,000 euros and released on probation. In an appeal, the Supreme Court increased the sentence to seven years in prison. The charges were based solely on the statements of police officers. Amnesty has launched a campaign on this case because "no solid evidence was presented during the trial and the right to demonstrate itself became the basis for the verdict, a fundamental right of any fully-fledged democracy."

Alfonso Fernández Ortega was severely punished for allegedly carrying a backpack filled with explosives during one of the general strikes in 2012. The boy, who was just 18 years old at the time, was sentenced to four years in prison, although the evidence was very thin. Citizens' associations in Madrid and other collectives still believe that the whole thing was just a fabrication to intimidate protesters.

### **Artists in prison**

Well-known left-wing musicians are also in prison or have fled abroad to avoid prison sentences. The singer Pablo Hasél has been convicted several times and has been in prison since February 2021. He is accused of "insulting state institutions such as the crown" and "glorifying terrorism". At the same time, supporters of the extreme right are often spared the zeal of the judiciary to prosecute them. They can give the Hitler salute, sing the Franco anthem or run a Franco-glorifying foundation that bears the dictator's name. In any case, Hasél was sentenced to nine months in prison and a six-year ban on working in the public service, and received a fine of around 30,000 euros.

The singer is of course not the only one: Catalan rapper Valtònyc wanted to avoid prison and spent six years in exile. The Audiencia Nacional had previously imposed a sentence on him for "glorifying terrorism and serious insults to the crown." In October 2023, he was able to return to Catalonia because the six years in prison had already expired.

His downfall was, of all things, his criticism of King Juan Carlos I, who fled abroad after his dubious business dealings became known. Juan Carlos has been living in Abu Dhabi in the United Arab Emirates since 2020. At the time, the Spanish public prosecutor's office was investigating him for paying bribes for contracts to build high-speed trains in Saudi Arabia. He is said to have hoarded the necessary money in Switzerland.

In Madrid, Raúl García and Alfonso Lázaro were put on trial for a puppet show; the accusation was glorification of terrorism. For a year, the judiciary discussed whether a poster for a critical play dealing with police violence could be banned. In the end, both were acquitted, and in this case a right-wing media outlet, the news portal *Okdiario*, even had to pay each of them 4,000 euros because they had been described as "ETA sympathizers."

### **No ETA, but still repression**

It is no secret that torture has been practiced in Spain for decades, and that there were even forms of state terrorism, all in the name of combating the Basque left-wing nationalist underground organization ETA. Although the militant group disbanded in 2011, people are still being sentenced for alleged terrorism. This is the case in Altsasu, a small municipality in Navarra. On October 15, 2016, a group of young people got into an argument with two officers of the Guardia Civil, and a fight broke out. However, the young people were later convicted as terrorists. For a broken ankle and bruises, the public prosecutor initially demanded an incredible 375 years in prison for eight young people. A completely absurd demand that would not have been made in other Spanish regions, say numerous legal experts. The Audiencia Nacional in Madrid, which is responsible for terrorism cases, finally sentenced the young people to prison terms of two to 13 years in 2018. A year later, the Supreme Court reduced the sentences to one and a half to nine and a half years. In the end, they spent five years in prison. The daily newspaper *Ara* summed it up like this: "Along the way - more than five long years - lie thousands of days in prison, pain and accumulated suffering for eight young people and eight families, as well as the feeling of having witnessed a major production all this time."

### **Strike against phantom organizations**

The matter was blown out of proportion: in 2014 and 2015, the Spanish police and the Catalan Mossos d'Esquadra were able to take action against "anarchist terrorism" in three operations called Pandora, Piñata and Ice. They arrested several members of organizations such as the "Grupos Anarquistas Coordinados" (GAC), whose existence could never be confirmed. And even if these organizations had ever existed, they were "weak, incapable and objectively dysfunctional," the court in charge found.

In the first phase of the operation, it was not foreseeable that there was little to no evidence to support Judge Javier Gómez Bermúdez's charges against eleven defendants for "founding, promoting, directing and being a member of a terrorist organization in connection with crimes involving the possession and storage of explosive substances or equipment, as well as crimes involving damage to property and destruction with terrorist intent."

Dozens of activists were detained for months and the investigations lasted years. In 2018, the judiciary finally compensated an anarchist with a payment of 1,660 euros because he had been detained for 16 days on charges of terrorism without any concrete evidence. But not everyone was compensated. Either way, the anarchists' reputation remained ruined and there was no rehabilitation from the media, which had made the blow against alleged terrorism so big in the first place.

### **Very limited reform**

But isn't Spain currently governed by an alliance of social democrats from the PSOE and a left-wing alliance, which was first called Unidas Podemos and is now called Sumar? The government has existed since 2018. Have the Spaniards, at least those who voted left, been betrayed? Because the abolition of the "gag law" was the subject of the coalition agreement in the first legislative period and is also in the agreement for the second legislative period.

In the second legislative period of Prime Minister Pedro Sánchez, Unidas Podemos split and the Podemos party went into opposition. There it is again calling for the Public Security Law to be repealed. In July, it passed a parliamentary resolution calling for rubber bullets to be banned. The use of these by the police has already cost several people an eye and has resulted in several deaths, including the young Íñigo Cabacas, who died during a protest in 2012, and 14 migrants who tried to reach the shore off Tarajal on Fuerteventura but were hit by rubber bullets while still in the water. Podemos is also calling for an end to the practice of "immediate repatriation" of undocumented immigrants. It also proposes a new criminal offence, the "party-political use of state structures", to punish the so-called patriotic police, which had spied on Podemos and also Catalan politicians in order to gain political capital for the conservative PP.

In July, PSOE and Sumar announced that an agreement had been reached on the "gag law." The government's second vice president, Yolanda Díaz, spoke of a "repeal" of the norm, but in fact it is a very limited reform. It will only affect Article 36, which punishes the taking and dissemination of images of police officers at demonstrations as an administrative offence. Until now, this offence could be punished with a fine of between 600 and 30,000 euros. This

regulation was in conflict with a European directive on press freedom and therefore had to be reformed - whether wanted or not.

### **A democratic problem**

But overall, the law remains in force for the time being, and this means that disrupting or preventing forced evictions and gatherings in certain public places and squares, such as in front of parliaments, remains prohibited. Nor are unannounced demonstrations allowed. The "blacklists" of activists will continue to be maintained, as will racist controls. If the state drags a citizen to court, for example if they appeal against fines, they must bear the costs themselves. Resistance to state power is expensive, even if it is carried out as passive, non-violent resistance.

For Joaquín Urías, professor of constitutional law and former clerk of the Constitutional Court, the law was a reaction to civil resistance to the Troika: "During these protests, some police forces felt that they did not have sufficient legal means to persecute and repress mass mobilizations on the streets, and the conservative government decided to remedy this deficiency by means of a law," wrote Urías in an article in the magazine *CTXT*. He also noted that Spain has a "growing problem with its judges," namely with judges who do not make their decisions impartially but for ideological reasons. In any case, the sanctions are "in themselves a democratic problem," because in practice it is the police who impose the punishments. "There are cases in which police officers feel it is disrespectful for someone to address them informally or to look askance at them," said the lawyer, who is calling for the norm to be abolished.