From pillage to reparation: the struggle for Salamanca papers

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It is a great pleasure to have been asked to talk to you today about the case of the so-called "Salamanca Papers". I greatly appreciate Professor Preston's invitation. I think that there are a couple of things I should say to introduce myself. I have only ever spoken in public in England once before. That was thirty-one years ago, in 1975, at a meeting held in Oxford in protest over the last death sentences decreed by the Franco regime. I hate to think what I must have said. I was born and brought up in England, my father having been a London-born ex-RAF pilot and my mother -still alive and kicking- the eldest daughter of a Catalan surgeon, Josep Trueta. Like several hundred thousand fellow Catalans and Republicans, he went into exile in February 1939, at the end of the Spanish Civil War. His exile in England was prompted not only by his political leanings but also by the fact that he had been head of traumatology at Barcelona's largest hospital. He was responsible for introducing a revolutionary treatment for war wounds which the British Ministry of Health was to take great interest in. Indeed, in 1949 he was appointed Nuffield professor of orthopaedic surgery at Oxford, an honour rarely bestowed upon foreign scientists at that time. As for myself, after some years in Deusto University's Humanities department, I currently work in the Basque Country for the Catalan-language newspaper "El Punt". I have also written a dozen or so books mostly aimed at promoting the recovery of what in Catalonia and Spain is known as the "Memòria Històrica", one of the big media issues this year. But without a doubt, the single activity I have been most involved in, over the last five years, is the struggle for the return to Catalonia and Valencia of the so-called "Salamanca Papers". As you probably know, these were the documents systematically looted from the Republicans by Franco's troops in the Civil War. Contrary to what is sometimes said, these papers are not all Catalan, by any means, although the fact that Catalonia is the country that has most pressed for their return makes this seem so to some. They are known as the "Salamanca Papers" because it was in that city they were amassed and for years scrutinized by the Guardia Civil -well into the fifties in fact- in search of "incriminating" evidence against Republicans.

2006 is, I think, a very appropriate moment to look into this question and, indeed, into all questions associated with the Civil War. The year not only marks the 70th anniversary of its outbreak, but also the moment when, after years of struggle, Catalonia has finally witnessed the return of the first documents from Salamanca. Many more are due to return in the coming months. Far from being a question for

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specialists or archivists, the case offers revealing insights into present-day Spain. Insights that enable one to get some idea of how much of Franco's legacy still persists today.

Coinciding with this anniversary, the main Catalan television channel, TV3, has recently broadcast David Dimbleby's interesting documentary "Franco", about which I'd like to say a word. Dimbleby starts off his otherwise impeccable discourse with one comment I am not sure I go along with. He says that Franco and Francoism have today fallen into oblivion because, for most Spaniards, it is "too painful" a memory to maintain, or words to that effect. Though pain may have much to do with it, I feel that conscious and politically motivated suppression of the harshest face of Francoism is the real reason for this void in many Spaniard's minds. In South Africa and some countries in South and Central America, the downfall of malignant regimes was often accompanied by public quests for the truth, moral condemnation and sincere attempts at reconciliation. But in Spain this was not the case.

Between 1995 and 2005, the "Salamanca Papers" issue was to be one of the major and most persistent ideological conflicts, concerning the Francoist legacy, since the dictator's death. The controversy boiled down to whether millions of documents confiscated in Catalonia and other Republican territories, and held in what today is called the General Civil War Archive in Salamanca, should be returned to their original owners or not. The issue may or may not ring a bell for you -the Glasgow Herald did a magnificent 5-page feature on it- but in the Spanish media, it has been absolutely rampant since 1995. For his bold part in it, I'm afraid it may have made Paul no few enemies. I'll start, then, with a brief historical introduction before going on to the conflict in itself. I'd like to end up with a few more general considerations.

As Franco's forces began to move in on Bilbao, in mid 1937, the advantage that could be gained from the accumulation of information regarding their Republican enemies became apparent to the rebel leaders. As part of a strategy aimed at implementing effective repression, they decided it would be profitable to collect and scrutinize documents falling into their hands as they occupied Republican territories. Falangist units were thus instructed to refrain from burning all papers falling into their hands, although, alas, in the case of my own family's library, Falangist zeal won the day at our Barcelona home on January 27th 1939.

Nine months earlier, on April 26th 1938, Ramón Serrano Súñer -Franco's minister and great admirer of the Nazis- had signed a decree that was to create the main unit responsible for enemy document confiscation: the Special Department for the Recovery of Documents (D.E.R.D.). Although greater research is still required into its genesis, historian Agustí Barrera has pointed to Nazi involvement in its creation. Indeed, in November 1937, Franco is known to have asked the German ambassador

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for a commission of Nazi experts to be sent to Spain with a view to instructing the local police in the methods of dismantling political opposition. The commission arrived in Valladolid at the end of that year under the command of SS Colonel Heinz Jost, head of the 6th Department of Foreign Information. This commission, at the outset of 1938, was seconded to Franco's Ministry of Public Order. One of its tasks was to organise the police's political information records office set up in the convent of San Ambrosio in Salamanca, the embryo of today's Archivo. Incidentally, eight years later, Heinz Jost was one of the SS officers sentenced to death at Nuremberg.

The D.E.R.D.'s job was to seize documents from Republican organisations, political parties, trade unions and other associations deemed to be "contrary to the National Movement". Large amounts of documents, some of which going back fifty or more years, were confiscated and subsequently sent to the D.E.R.D. headquarters in Salamanca. At the outset of the war, Franco had chosen this city as his first capital -prior to Burgos- because of its proximity to the friendly Portuguese frontier, in case the Coup failed. Once hoarded there, the confiscated documents were processed and sieved for information that might provide the military regime with details about the activities of hundreds of thousands of citizens. Information was then passed on to the police, political departments and the military courts so that action could be taken against Republican opponents.

After the campaign in the Basque Country and northern Spain, Catalonia, along with Madrid, was to be the main target of the Francoist forces. Significantly, once Catalan soil had first been trodden on in 1938, Franco's army officially began to refer to itself not as the "Ejército de Liberación" -as it did in other territories- but as the "Ejército de Ocupación". Behind this was the fact that Catalonia had a Government, a Parliament and a language of its own, all of which were fuel to the Francoists' obsessive crusade against what they saw as separatism and the threat it meant to the "Sacred Unity of the Fatherland". Moreover, Barcelona had become the provisional seat of the Spanish Republican and Basque governments, obviously heightening its merits as a prime target. The D.E.R.D. therefore drew up a list of over one thousand nine hundred locations to be searched in the city.

Franco's forces finally occupied Barcelona on 26th January 1939. For about six months, one hundred men carried out D.E.R.D. operations at the orders of Navarre Carlist officer Marcelino Ulibarri, himself a personal friend of Franco's since meeting at the Military Academy in Saragossa. As might be expected, the search programme included the Catalan Government and Parliament, the premises of which were temporarily used as a document dump. Amongst other targets, raids were conducted on all official institutions, political parties, trades unions and the homes of politicians. But minority religious centres -such as those of the Barcelona Jewish community, the Protestants and the theosophical and spiritualist congregations-

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were also targeted. Another prime target were the Freemasons, against whom Franco bore a special grudge.

On May 24th 1939, Marcelino Ulibarri ordered all documents confiscated in Barcelona to be sent in railway wagons to Salamanca. In the first haul, over one hundred and forty tons were transported. But others were to follow. Early in 1940, Ulibarri is on record as boasting that he had 800 tons of documents stored in Salamanca. As may be imagined, documents were not scientifically classified but merely grouped in sections according to their origin. About one hundred Guardia Civil were employed for two decades -well into the fifties- to scour the documents and mark in red pencil the names of suspects on whom record cards were subsequently drawn up. Three million of these cards were made, some of which even featured children.

It would be a fascinating yet hugely difficult task to evaluate just how much repression this activity led to in all. It is known, for example, that Salamanca reports led to the disqualification of about one third of Catalonia's teachers. Until 1975, the regime required the D.E.R.D. service to supply special reports on any citizen called upon to occupy a place in the administration. But over the years a large proportion of the documents themselves -as many as 90% suggests historian Josep Cruanyes- were pulped to raise funds for the institution's activities. The D.E.R.D., whose name had in the meantime changed, was not closed down until October 28th 1977, two years after Franco's death. Soon the new democratic regime passed the responsibility for the decadent institution on to the Ministry of Culture and work was started to convert the depot into something resembling an Archive. But no steps were taken to hand documents back to their legitimate owners, nor indeed inform them of their existence, as had happened in similar cases in Germany, Italy and most of Central Europe in the years after the Second World War. Catalan lawyer and historian Josep Benet was amongst the first to call for the return of the documents. Predictably, reactions to these petitions were hostile from the very start. Ricardo de la Cierva, Minister of Culture in Adolfo Suarez's first democratic government, would not hear of it. But this is hardly surprising as today he is seen by many as a historian most favourable to Franco. He was one of the first to outline a policy against returning the documents which, years later, in 1995 and again in 2002, was to be exploited by PP leader José María Aznar. The argument, incongruous though it may seem, was that to give the documents back to Catalonia was to "break up" the archive. And that to break up the archive was tantamount to breaking up Spain.

The spring of 1995 was when the "Salamanca Papers" blew up into a major political issue in Spain. In the dying throes of Felipe González's last term of office, a last minute attempt was made to satisfy a twenty-year old Catalan demand that had

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regularly been downstaged by more apparently impelling issues. González had initially expressed his intention of returning the documents in exchange for ongoing Catalan support -from Jordi Pujol's party- for his minority Government. The initiative was also favoured, at that time, by the fact that Carmen Alborch, herself a Valencian, was Minister of Culture and thus responsible for the Archive. Somewhat clumsy handling of the question, however, caused it to suddenly erupt into a major controversy throughout Spain. For this was the period when the PP, then in opposition, resorted to extreme forms of political harassment to oust González from power. Any agreement with Catalan parties was being portrayed in conservative media as a sell-out to separatism. Parallel to this, the generalisation of financial scandals did much to fuel political conflict. But what really brought things to a head were sensationalist revelations in El Mundo newspaper regarding Socialist involvement in the creation of the GAL, the anti-ETA state terrorism unit. A vicious little snipe -"Váyase Señor González" - "Get out, Mr González"- was now to be repeated ad nauseam by Aznar. With this state of affairs, any attempt at returning the papers in the 90s was to be totally unworkable. Despite the fact that the decree for the return of Catalan documents had actually been drawn up for Cabinet approval on March 17th 1995, the decision was suspended at the last minute. To explain this sudden change, the massive reaction in Salamanca must of course be seen as crucial.

Despite the fact that before the conflict few salmantinos actually knew where the Archivo was, or indeed what it contained, it suddenly became the burning issue for the oncoming municipal elections. Sadly enough, this reaction not only held true for the right, but also for most of the left. At that time, a left-wing majority, presided over by Socialist mayor Jesús Málaga, governed the city for the first time since Franco's death. Málaga mistakenly believed that his only chance of retaining the council would be if he championed the Archivo cause. Soon, the two major parties, the three local newspapers and a large slice of Salamanca society were to perceive the return of the documents in terms of the surrender of a local treasure to the Catalans. No one had informed them that there were no local documents in the institution. In March 1995 this feeling, fanned by the State-wide belligerence of Mr Aznar, resulted in the biggest demonstration in Salamanca's living memory. Tens of thousands of demonstrators gathered in the Plaza. The venerable author and intellectual Gonzalo Torrente Ballester was to address the throng, calling the men and women of Salamanca to "defend the documents in the Archivo because they are yours by right of conquest".

Despite Mr. Málaga's commitment to the campaign, conservative senator Julián Lanzarote won the local council for the PP. He had been portrayed by local media as the most belligerent politician over this "key" issue. Little did it seem to matter to his voters that he based part of his arguments on Francoist doctrine and law. Mr.

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Málaga's defeat was to be little else than a foretaste of the fate that awaited the Socialist party throughout the State. For in 1996 the PP began their first of two terms of office. The Salamanca Papers issue, along with others associated with the historical memory, once again crept back into the drawer to await brighter days. Media interest in the Archivo issue was to evaporate.

But then, in 2001, it came back with a vengeance. That year, the second of Aznar's second term of office, saw the Partido Popular as an all-powerful force with an absolute majority in the Cortes. It was a period associated with an unsavoury wave of jingoism and authoritarian politics in Spain. To speak ill of Franco was increasingly taboo on State media. Indeed Mr Aznar's Popular Party repeatedly refused to back parliamentary motions condemning Franco in parliaments about the State. As regards the Archivo issue, Mr. Aznar's Minister of Culture, Sra. Pilar del Castillo, solemnly announced that the decision regarding the final destination of the documents would be announced that year. Already in 1999, Aznar had taken suspicious steps towards bestowing a more legitimate and scientific wrapping on the Archive, a move some critics saw as an obstacle to returning the Papers. But that was not Aznar's only defiant announcement in 2001. He also made it known that the "European City of Culture" event, programmed in Salamanca in 2002, was to feature a major exhibition of the Archive's contents. Months later, after the presentation of a mock "independent report", Aznar annonced that "not a single paper" was to be removed from the Salamanca Archive. He furthermore proclaimed that the question of returning Civil War documents was now to be considered permanently closed or "zanjado", a term for which the Spanish right seems to have a soft spot.

In response to this, an independent association was set up in Barcelona in early 2002 to channel opposition to these decisions. It was called the Dignity Commission, a name inspired by José Saramago. One of its first concerns was to inform European Union culture officials about the deeper implications of the event planned in Salamanca. European funding and a major European calendar fixture were going to be used to exhibit documents looted by fascists from democratic bodies. The Dignity Commission maintained that this event, about which none of the legitimate owners of documents had been informed -let alone invited to- clashed head-on with the principles with which Melina Mercouri had founded the event in 1986. Predictably enough, the only response came in the form of a sympathetic letter containing the desolé excuse that this was an internal affair of Spain's and that Council intervention would be impossible. Those with longer memories and keen noses could not help capturing faint whiffs of 1936 non-interventionism.

Be this as it may, 2002 marked the beginning of an all-out struggle to get the documents back to their rightful owners. This was done on several fronts. The

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support of the Catalan Government and Parliament was sought and before the end of the year hundreds of local councils and other institutions throughout the country sported banners calling for the return. On the international front, the support of over a thousand university teachers and international celebrities -including various Nobel prize-winners and ex-heads of State- was achieved, thanks to the aid and encouragement of people such as Paul. Incidentally, prior to giving support, several professors expressed their incredulity that documents seized by Franco should not have been returned in democratic Spain. International support proved especially effective. Not only did it catch the media and political class by surprise. It also counteracted the litany -blasted out on all PP-orientated media- that returning the documents would "break up" the archive, greatly discomfort historians and generally divert the course of history. On the contrary, dozens of relevant cases of positive post-conflict document return were highlighted, with sympathy coming from archivists and experts in as many as forty countries. A decisive Conference with leading French and German archive experts was organised in Barcelona by the Catalan Archivists Association in late 2003. That year three different language editions of a book on the issue were also brought out by the Dignity Commission and widely distributed.

Another key activity for the Dignity Commission was to inform owners of the existence of their documents in Salamanca. Most had no idea. Hundreds of affected parties -ranging from institutions and political parties down to family descendents- were informed. Many of them made official petitions for their return. Amongst these, two were particularly emotive. The first, Carles Fontserè, the creator of so many world famous Civil War posters, many of which were held in Salamanca. After thirty years in exile, he only had copies of three of his own works. The second was Teresa Pàmies, the famous Catalan novelist, whose letters to her family -written from exile- had never reached their destination. They were all in Salamanca.

A further front on which the Dignity Commission was active was that of explaining our position in Salamanca, a policy that to some may have appeared pointless, and to others indeed reckless. We found it positive and rewarding. We were to be present at a whole series of debates and presentations in Salamanca over the course of 2002-2005. The first, in October 2002 was a press conference, attended by 140 Catalan personalities, at which philosopher Xavier Rubert de Ventós, paraphrasing Unamuno, warned local authorities: "Archivaréis, pero no convencereís" (You will file documents, but you won't convince). In time, a surprising amount of local support was mustered especially amongst cultural and university groups. Significantly, Salamanca University's Library and Archive Science professor and most of the staff there supported the return. The Faculty of History even sported a large banner calling for it. When vandals ripped it down, the very dean of the Faculty reported the incident to the police. But sadder events also

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occurred. In October 2002, respected critic and journalist Aníbal Lozano was sacked for defending document return in his column in a local paper - Tribuna. Predictably, the local authorities were most hostile to any form of debate. On two occasions, Dignity Commission members were vetoed from taking part in programmes hosted on Partido Popular monitored media. On another occasion, fifty locals protested with banners at the door of the famous Casa de las Conchas, now a library, because a Dignity Commission book launch had been disallowed there by the Castile and León Council. Mayor Lanzarote championed the movement against return, spending vast sums of public money on very warped and malignant propaganda in favour of "not breaking the unity of the Archive". The Dignity Commission and Catalan politicians were portrayed as monsters. Once return was achieved, Mr. Lanzarote actually went as far as changing the name of the street the Archive is in to "Calle del Espolio", "Despoliation street".

But perhaps the most acute example of cynicism came in 2005 when the will of the Socialists to return the Papers became apparent. The mayor had a gigantic banner draped from the City Hall balcony, sporting the slogan "Venceréis, pero no convenceréis": "you will overcome, but you won't convince". It was obviously a snipe at Rubert de Ventós's remark three years earlier. These words had bravely been uttered against the Fascists by Miguel de Unamuno, revered figure in the city and Vice-Chancellor of the University in 1936. Now Mayor Lanzarote shamelessly tried to turn them to his advantage. By so doing, he wanted to portray those favouring return as unfair victors, and those advocating against the return as victims of injustice. Lost in translation was the fact that those "victims" were actually supporters of an institution created by Franco. Not surprisingly, the family descendents of Unamuno were indignant with this and forty-four of them signed a magnificent letter of protest published in El País in December 2005.

So what had occurred between 2002 and 2005 to make the return feasible? To start with, a change in Government in Madrid brought about by the surprise election results of March 14th 2004. Two key factors then sufficed to turn the balance in favour of return. The first was the fact that Catalan society had this time made its demand very visible by way of the Dignity Commission, which had the support of all but one of the Catalan parties. The second factor was that all parties in the Spanish Parliament, barring the PP, were to support the Socialist proposition made on May 18th 2004, calling for a solution to the problem. Even the Catalan branch of the PP showed signs of agreement with the proposition before being called to order. In Salamanca, too, former opponents to return, such as Jesús Málaga, now admitted to seeing the question in quite a different light, nine years on. What the proposition led to was the creation of an independent commission that was to issue a report on a possible return before the end of the year. Though this commission included opponents to return, it is significant that the report received no negative votes

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thanks -in all probability- to the astute diplomacy of former UNESCO Director General, Federico Mayor Zaragoza, president of the commission. Finally, on November 17th 2005, the Bill marking their return was adopted by the Spanish Parliament. When historian and Socialist MP for Valladolid, Mario Bedera defended the Bill, it was an emotive moment for all democrats I think.

One aspect of this Act that was particularly pleasing to the Dignity Commission was that in justifying the return, it effectively extrapolated a thread of legal continuity between the Republic and present-day Catalan institutions. It did so by referring to the annulment in 1977 of the Francoist decree that had suppressed the Catalan Government in 1938. In this sense, some legal experts have seen the Law as one of the most explicit acknowledgements of ongoing Republican legitimacy. And not only this, but as a document which implicitly questions that of the Francoist regime itself. It also explicitly acknowledges the historical right to self-government of the Catalan people, a factor that unfailingly seems to put the more orthodox constitutionalists on edge. However, not all in the Act was to be seen as 100% positive. Although the Dignity Commission managed to have a clause included that opened the return of documents to all private parties involved, throughout the State, it inexplicably excluded documents of a municipal nature from the return. Neither did it make any allowance for the specific consideration of Valencia -or indeed the Basque Country- as communities that had officially called for the return of their documents. Soon after the Bill was adopted, Spanish Television screened a splendid "Informe Semanal" report on the resolution of the conflict. It was probably the first time many Spaniards had been offered an unbigoted view of the issue. Predictably, though, conservatives were furious with the Act, and the PP put the text before the Constitutional Court. Other critics completely overlooked the fact that copies and microfilms of all documents were to be made for the Archivo. Parallel to this, ex-Minister De la Cierva was to lead a chorus of voices proclaiming that the archive, like Spain, was now "in imminent danger of disintegration". One of the reasons he put forward to explain what he called the Government's "treason" in this matter, was his allegation that President Zapatero was a Freemason. As you say in Catalan, 70 years certainly do not seem to have "gone by in vain".

Considerations

Whatever else it might be, the story of the Salamanca Papers offers an excellent ideological backdrop to clue up on the ongoing "legitimacy" Francoism still holds for some in Spain, even today. Although uninformed observers of the affair might be persuaded that the "break-up" of a National Archive was the question at stake here, the tone, message and hysteria generally deployed by opponents often disclose attitudes and ideology far removed from Archive science, let alone from democracy itself. Arguments widely used in 1995, and well into the new millennium, were firmly

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entrenched in the idea that something sacred was being broken, that archives legitimately created by Franco were being usurped by what Franco had defined as rebel or "desafecto" provinces, and that the sacred nature of Castile as a land chosen for the safeguard of the national heritage was being challenged. What I would like to do, briefly and to conclude this talk, is to try and identify some of the symptoms and possible reasons for the ongoing existence of aspects of Francoism in Spain today, despite the "Transition" that took place in the 70s. Much has been written in praise of the "Transition". It is generally considered to be the only option then available for democracy to be attained in Spain. Its major virtue was obviously that violent confrontation was largely, though not wholly, avoided. But today, after three decades of democracy, perhaps the time has come to audit some of its less savoury aspects in an attempt to see what imperishable by-products it has conveyed into present-day Spain.

Certainly, the least edifying feature of the "Transition" was that it permitted the totalitarian State to award itself a general amnesty for crimes it had committed. It also created a moral climate ideal for general amnesia. Characters who might well have been sentenced to jail or whose prestige would certainly have been justly cut down to nought in any more democratic process -to say nothing of Nuremberg- were to feel empowered to persevere as more or less unquestioned political, economic and even moral leaders of the new democratic era. Many who had raised their arm in fascist salute to the bitter end saw no obstacle to taking leading roles in a democratic Spain. This tolerance even opened doors for some to magnificent international careers at institutions such as the International Olympic Committee. Ironically, the only ones taken to court were to be those who wrote about this phenomenon. The figure of the "life-long democrat" suddenly blossomed. One of these, a founder of the Partido Popular and for years democratic president of Galicia, the other day defined Franco as "the hero of peace, prosperity and future democracy" in Corriere della Sera. Another former minister, responsible for destroying large portions of the compromising Falangist Movement's files in 1976, seems to find no opposition to chairing important corporations in Spain today. Few remember him as one of those responsible for the cruel execution of Salvador Puig Antich in 1973. Of course, further examples would be endless.

But the personal recycling of exFrancoists was not the only phenomenon occurring. Parallel to this, the creation of a climate conducive to revealing the cruelty and fascist nature of the regime was to be impossible. It was not until the nineties, in fact, that important documentaries and in-sight reports were timidly to appear in some media. In this task, Catalan and Basque public TV and radio stations were to be particularly good. Books on Franco's concentration camps, the mass graves, the kidnapping of Republican victims' children -a phenomenon much more widespread than in Argentina- or the forced labour of Republican prisoners, began to appear

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thick and fast. But other revealing information did not reach the public opinion until the new century. Indeed, it was only last winter that the existence of the largest mass grave complex in Spain, and maybe in Europe, was revealed in Valencia. Instrumental in this operation were three magnificent Valencian ladies -well into their sixties- members of the Fòrum de la Memòria del País Valencià. Their stubborn research, often defying hostile municipal officials, proved these graves to hold over 26,300 victims. Most victims had been executed between 1939 and 1943. The first Truth Commission Conference ever to be held in Spain, called in Valencia to study this case, is to be in early February next year.

Another disturbing symptom is the large amount of fascist monuments, street names and nationalist symbols which have survived the period. Central Spain is still full of Avenidas José Antonio or Plazas Generalísimo. The Military Hospital in Madrid is still called Hospital del Generalísimo. Parallel to this, it is common to see photographs of Franco's smiley granddaughter Carmencita in Hola magazine and even on Catalan newspaper Avui's society page. Dutch Radio journalist Alex Rietman has recently denounced the content of broadcasts by the COPE radio network, which is owned by the Catholic Church. Every morning and evening, its programmes pour out hate on minorities, and praise on those faithful to the spirit of Franco. Federico Jiménez Losantos, on the air in the morning, recently said that Zapatero's government only spoke with "queers, terrorists and Catalans". He subsequently asked when it would start talking to "normal people". Rietman's conclusion was that in Holland, a radio like that would have its licence removed in 24 hours. But the moral homologation of Francoist values in present-day Spain is anything but traumatic.

It is the Partido Popular, though, that best embodies the homologation syndrome. Although it is formally a democratic party, its recurrent unwillingness to condemn Francoism and the 1936 coup is what raises suspicion. Most of its members will never overtly admit to admiring Franco, but the party shows alarming degrees of tolerance on occasions. On example is Castelló's PP-run city hall, which is currently funding a series of biographies in praise of local celebrities, amongst which feature ex Franco ministers Serrano Súñer and Herrero-Tejedor. At a PP rally held in Madrid last December to oppose the new Catalan Statue of Autonomy, several Foreign Legionnaires were filmed with a banner proclaiming their willingness "to die for Spain". This could perhaps be seen as an unfortunate anecdote. But the enthusiastic applause they received from those around them was certainly not. Perhaps a fairer litmus paper test might be to consider the ideas thrown out by the PP think-tank, the Fundación FAES, which pours out money into backing negationist literature on the Civil War. Various intellectuals sponsored by FAES not only accuse the Republican Government of actually causing the war, but openly deny Franco's attrocities. To express similar arguments in countries of sounder democratic

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tradition is a punishable offence.

Another field showing democratic shortcomings is of course the Judiciary. The fact that the Transition did not involve a clean break with the Francoist regime meant that its structure and members remained untouched. No form of purge was carried out. And though large-scale democratic reforms were indeed introduced by the new Constitution on 1978, can they be considered sufficient? Some think not. For example one senior magistrate and member of Jueces para la Democracia, has pointed out recently that the Transición effectively ratified the jurisprudence established by the Francoist judiciary. "It is shocking" the magistrate wrote recently "that Francoist sentences may still be studied today in Law faculties as part of valid jurisprudence". Indeed, sentences passed in Franco's time, in the complete absence of respect for Human Rights, are often put on the same level as laws passed under the new Constitutional system. This is particularly upsetting when it is death sentences and other repressive judicial rulings that are maintained. In this sense, it is ominous that decisions regarding the review of sentences passed by Republican courts should depend on the Penal Section of the Supreme Court, whereas those passed by Franco's courts should depend on the decision on its much stiffer Military Section.

When we look at the particular judges involved in this area of decision, things take on an even darker hue. The president of the Military Section is one Fernando Herrero-Tejedor. He is on record for having said, to a group of Parliamentary spokesmen, not so long ago, that justice today isn't what it was in Franco's day. For years Herrero-Tejedor's section has refused to review the death sentence of Salvador Puig Antich, the last Catalan executed by Franco after a mock trial in 1973. Despite the flagrant irregularities pointed to by lawyers, Herrero-Tejedor has repeatedly stated that he finds the sentence just, underlining the fact that it was taken unanimously. One cannot help wondering if the fact that he is the son of a Franco Minister and ex-Head of the Falangist Movimiento has anything to do with it. Certainly, many wonder if he is the right man for the post today.

The case of Cándido Conde-Pumpido, State Prosecutor appointed by the Socialists, is again disturbing in this respect. For it was on him that the Government's policy over the annulment of Franco courts' sentences against Republicans depended. He has recently ruled against it. Again, we may wonder if he was the right man for this kind of decision... As grandson of Lucio Conde-Pumpido, a military prosecutor responsible for thousands of death penalties applied in Franco's day, this would seem doubtful. If the Government had wanted an annulment policy, surely judge Herrero-Tejedor would not have been the man entrusted with the official report on the issue. Taking things a step further, at this stage no one can believe that if the Government had really wanted annulment, it would have put the decision in the

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hands of Conde-Pumpido junior. Sadly, it was Zapatero himself, grandson of an officer executed by Franco, who finally announced that annulment was not to be, because -as he pointed out- the current Constitution prevented it. Off hand, I think it would be difficult to name a country in democratic Europe where a Constitution in force -or its equivalent- might be pointed to as the main obstacle to overruling decisions made by a Fascist regime. But in this, Spain seems to be different.

It is difficult to understand exactly why the Socialists are so reluctant to do justice even so many years after the death of Franco. All the more so because this clashes with the promising intentions they expressed after their election victory in 2004. In October 2005, vice-president María Teresa Fernández de la Vega announced plans to annul sentences against Franco victims. She later announced a future "Law for the recovery of the historical memory" and the Government's decision to make 2006 the "Year of Memory" to commemorate the 70th anniversary of the outbreak of the Civil War. Now the "Year of Memory" is drawing to a close and there is pitifully little to show for it. Indeed it is significant that last March, in view of the passivity shown, the Council of Europe should have felt it necessary to call on the Spanish Government to do some urgent "mopping up" as regards the legacy of Franco. It based its recommendation on a report which specified ways in which his regime should be condemned and its ongoing effects corrected. In this report, once again, Paul's participation was to be crucial.

But it is with the presentation of the draft Law for the Recovery of the Historical Memory -made public this summer- that deception has been most bitter. As the Dignity Commission denounced, the bill clearly fails to make an outright condemnation of the Franco regime. Nor does it offer solid acknowledgement for the legitimacy of the Republican institutions. What is does, in effect, is to portray Francoists and Republicans as "rival bands" involved in a scrap. Violence and repression in both camps are placed on the same level and nowhere does it define Francoist crimes as State crimes. Furthermore, the bill makes no mention of the need to return confiscated premises and goods to Republicans nor does it foresee any responsibility or any special initiative by the Government to locate and identify victims still lying in mass graves. As one Majorcan victim's daughter said, "they might pay for the odd spade, but we'll be doing the digging". Parallel to this, no changes are to be made in the Penal Code to define the apology of Francoism as a punishable offence. And though there is a mention of the possibility of changing the names of streets honouring Francoists, the initiative is not compulsory and, as before, it will depend on the local councils. Again, as announced in public statements, the Bill says nothing of sentence annulments. Not even that of Catalan President Lluís Companys, as previously promised by the Government. On the other hand, what is included in the bill is a measure of a rather more sinister nature. The creation of a parliamentary body that will go over the sentences, one by one, to

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decide which victims' honour is to be restored. Presumably, if we are to be told who was wrongly condemned, they will also be telling us who was wisely executed. Needless to say, what the Dignity Commission and other organisations are calling for is general annulment and not individual sentence revision.

One final word on this bill, from the point of view of the Salamanca Papers. In contrast with what the Government had promised, no mention is made of the need to return all documents withheld in Salamanca -for example, municipal ones- to their legitimate owners, or of the need to guarantee full public access to State and private archives associated with the dictatorship and repression.

Unfortunately, hopes raised in many by this Law have been largely disappointed. One perception is that if the pressure exerted by the PP is still so strong, perhaps this was not the best moment to draw it up. What is most upsetting is the refusal to annul sentences, a step seen by many as essential if those unjustly tried are to be honoured. Not to do so certainly does little for the honour and prestige of the legal institutions and democratic pedigree of present-day Spain. This to some may seem a matter of historical and moral relevance alone. But the political consequences are not to be overlooked. The constant judicial harassment to the current Basque peace process would lead one to believe so. It is certainly the most worrying symptom. The legal action recently taken against both the Basque lehendakari, Juan José Ibarretxe, and the leader of the Basque Socialists, Patxi López, for meeting Batasuna leaders, is also disturbing in a democratic society. There is a widespread feeling that president Zapatero is at the mercy of PP-orientated judges. Something is unquestionably amiss in a State which empowers its judges to bring charges against South American dictators and torturers while barring even the moral condemnation of those who practised the same crimes at home, however long ago. The question of the Salamanca Papers has been partially corrected, and this is an encouraging development. But there are ample grounds to believe that Spain has still not fully overcome the Stockholm Syndrome it has long suffered in relation to Franco and his regime.

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