



Some Notes About The “Amnesty Law” of 1977 and The Current Debates on The “Impunity” of The Crimes of Francoism

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Received: 📅 March 1, 2022

Published: 📅 March 31, 2022

Introduction

The triumph of Franco's dictatorship led to a policy of annihilation of the ideological adversary, and the harsh repression of the first years undoubtedly contributed to the consolidation of the regime and its long duration. The dictatorship managed to endure over time and was only dying to the beat of its charismatic leader. There was no rupture, there was no collapse, there was no victory for the vanquished of yesterday, or in any case, this one was Pyrrhic. Consequently, who was going to judge Francoism?

The inability of the opposition to impose a real rupture that would mean the defeat and dismantling of the francoist state apparatuses, will give rise to a process of democratic transition that, if it was once branded as “exemplary” and still exportable to other latitudes, later generations are putting in solfa one day and another too, the results of such a celebrated process at almost all its extremes.

Focusing on issues that directly concern the *impunity* of the crimes of Francoism, affirmation not by topical less accurate, its presence on the political agenda more than forty-five years after the death of the dictator is striking. Could this be another example of the shortcomings of a broken, battered and deranged Spanish left? or, on the contrary, as long as the debts of the past are not settled, it is not possible to move towards a truly democratic future.

In this sense, one of the laws whose annulment is demanded in different national and international forums, in order to prosecute the dictatorship, is the Amnesty Law approved by the Spanish Parliament in 1977; such a law would have forgiven all the crimes perpetrated by the dictatorship from its beginning to its end, and whose validity remains one of the greatest obstacles to prosecuting the Regime and its torturers, some still proud of their services to the State and who enjoy, of course, full freedom.

Now, if we place ourselves in the time of the end of the dictatorship, The reality of the facts changes almost radically; it is true that measures of grace had been taking place on

the occasion of the coronation of King Juan Carlos on November 25, 1975. Later, the partial amnesty of 30 July 1976 was approved, the preamble to which justified the amnesty “in national reconciliation”, “a true reason of State, in which the end of pacification justified the means used of the amnesty” [1]. However, the deputy Mr. Carro Martínez intervening on behalf of his group, Alianza Popular, which brought together the Francoist right, was already concerned about the extension of the amnesty of March 14, 77, because the grace or pardon “affected real terrorists to, true professionals of violence”, and then stated unequivocally that since the holding of the elections of June 15, 1977, there was no fit the possibility of political crimes“. What does it come to, what legitimacy does the new amnesty that you propose to us today have? [2].

As this new project contemplated the *total amnesty* that had been unanimously demanded by the opposition with large mobilizations in the streets and squares throughout Spain, and that also included prisoners and convicted of terrorist crimes, deputy Mr. Carro argued that “Operate with the amnesty concept that erases the crime for atrocious acts of death in cold blood, relentless, it casts doubt on the legitimacy of such facts...” [...] “It is not understood that events that have shocked spaniards, who have received unanimous condemnation, can, in a row, be benefited by indiscriminate amnesties [3].

And appealing nothing less than the judgment issued by Jiménez de Asúa against the excessive measures of grace approved by the Second Republic, and with an eye on the socialist group of which Jiménez de Asúa had been part, “one of the most important penalists of our century”, feared the popular deputy Mr. Carro, that “the new amnesty that you propose to us today, instead of contributing to national reconciliation [...] it translates into a ferment of social insecurity, into the institutionalization of ignorance of the rule of law and into a profound erosion of authority.” Spain with these proposals slipped dangerously down the path of “anarchy” and announced that its group would abstain in the vote [4].

The fiery defense of the Amnesty Law was carried out by communist deputies who considered this Law a capital piece of national reconciliation, and Marcelino Camacho, in his plea argued, "We, precisely, the communists, who have so many wounds, who have suffered so much, have buried our dead and our grudges"

Camacho asked for amnesty for all, without excluding the place where anyone had been, and with an exultant tone he explained that "what a year ago seemed impossible, almost a miracle, to get out of the dictatorship without serious traumas, is being done before our eyes [...] With the amnesty we will go out to meet the Basque people, who suffer so much in different forms, of all the peoples and all the workers of Spain" [5].

Of interest is the enthusiasm with which the Basque Group welcomes the Law; its spokesman, Mr. Arzallus, draws his speech on the basis of forgiveness and oblivion, basically taking into account the years of armed action of the Euzkadi, "the amnesty was the inexcusable preliminary step to access a democratic situation [...] no Basque will remain in jail or in exile [...] an amnesty of all for all, a forgetfulness of all for all [...] It is not worth at this moment to adduce acts of blood, because there have been acts of blood on both sides, also for power and some very sad and treacherous, It is not possible to speak of terrorism because there has been terrorism on both sides ...

"Let us forget everything [...] A law can establish oblivion, but forgetfulness must go down to people, it has to go down to the whole society" [6].

But the Law was amnesty in passing, and it was not possible to see otherwise the interventions of practically all the groups that advocated its approval, any responsibility of the dictatorship regarding its repressive action in its forty years of validity. Included in the articles of the Law, in the 2nd, paragraphs e) and f) were amnestied all crimes and misdemeanors that may have been committed by the authorities, officials and agents of public order, on the occasion or occasion of the investigation and prosecution of the acts included in this Law, as well as crimes committed by officials and law enforcement agents against the exercise of the rights of persons [7]. In this way, the Amnesty Law *de facto* and *de jure* forgave all crimes perpetrated by the dictatorship from its

beginning to its end.

The approval of this Law has been considered, for years, a serious error, and its repeal is among the objectives of numerous memorial associations in order to finally try those responsible for the "Francoist genocide" (Preston dixit).

Seen by many political and social actors from today, the Law meant in practice a law of "final point", yes, *avant la lettre*, before the possible persecution of the crimes of Francoism in democratic Spain that was beginning to be sketched in a context quite unfavorable for the forces of change, and that now returns strongly to the forefront of the agenda to "get the shames" of that exemplary transition, in which amnesia, conscious oblivion, if not disloyal betrayal, would have left thousands of republican fighters murdered treacherously during the long and bloody dictatorship and whose dignified burial is still waiting for the courage of many Antigones, helpless and forgotten in the gutters.

References

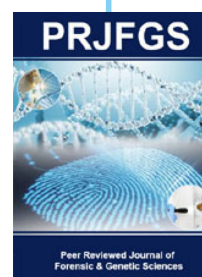
1. Statement by Mr. Carro Martínez on behalf of Alianza Popular at the plenary debate on Friday, 14 October 1977, on Journal of Sessions of the Congress of Deputies, Plenary session nº 11, year 1977, nº 21, p: 957
2. Ibid
3. Ibid p.958. Nothing pointed to crimes produced by law enforcement, because he surely considered them the legitimate response to "subversion"
4. Intervention by Mr. Carro Martínez on ibid, pp. 958
5. Intervention in the Plenary of Marcelino Camacho on behalf of the PCE. *Journal of Sessions... Ob. Cit.* p. 961 (emphasis added).
6. Intervention in the Plenary of Xavier Arzallus, *Journal of Sessions Ob. Cit.* pp. 968-969.
7. BO of the E., No. 248, 17 October 1977, p: 22766. [Law 46/1977, of 15 October, on Amnesty] No voice rose up questioning this total amnesty to Francoism, and not even the deputies of the right pronounced themselves on the matter; it was something so obvious that it did not deserve a pronouncement on his part. As is well known, the Amnesty Law it was not unanimously endorsed by the House; of 317 votes cast, 296 deputies voted in favour, 2 against, there was 1 null vote and 18 abstentions. Alianza Popular had 16 deputies; two deputies abstained arguing their reasons in plenary: Letamendía and Gómez de las Rocas. I do not know who voted against, as well as from whom the null vote came.



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DOI: [10.32474/PRJFGS.2022.04.000188](https://doi.org/10.32474/PRJFGS.2022.04.000188)



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