

CORRUPTION IN SPAIN AND THE JUDICIAL ‘FRAMING’ OF JUDGE BALTASAR GARZÓN REAL (Part one)

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25 March, 2012

Countercurrents.org

Some facts

On 17 January 2012 Judge Baltasar Garzón Real walked into one of the ornate courtrooms of the Spanish Supreme Court, which is housed in the former convent known as the *Palacio de las Salesas Reales*, and followed his lawyer to the red velvet chair opposite the prosecution, and before seven judges of the Spanish *Tribunal Supremo* - Supreme Court. He was appearing as defendant in the first of three cases brought against him by private parties. This is possible under Spanish law. The case had been brought by defence lawyers and their clients, businessman Francisco Correa and his right hand man Pablo Crespo. Correa and Crespo cultivated links with officers of the *Partido Popular* - Popular Party, have been in gaol since 12 February 2009, and they and their associates are accused of bribery, money laundering and tax evasion.

On 9 February the Court, in a sentence which is not subject to appeal, handed down an 11-year ban on Judge Garzón holding office. Judge Garzón is now 56; he will be 68 by the end of the debarment. The decision is likely to end his legal career.

The President Joaquín Giménez and Judges Andrés Martínez Arrieta, Juan Ramón Berdugo, Miguel Colmenero, Manuel Marchena, Francisco Monterde and Luciano Varela had voted unanimously to declare Judge Garzón guilty of breaching his judicial duties and violating the constitutional rights of the complainants for ordering recordings of conversations between the defence lawyers and Correa and Crespo while they were in gaol. Correa and many other defendants are linked to the long standing *Gürtel* inquiry on public corruption. Judge Garzón had long suspected that the lawyers were continuing to be involved in the crimes of their clients.

During investigation and at the trial the Supreme Court chief prosecutor had asked that the charges be dropped and Judge Garzón be acquitted.

After a four-year investigation, Judge Garzón became the first person to be punished in the *Gürtel* case.

Judge Garzón announced plans on appealing the case before the Constitutional Court and even the European Court of Human Rights in Strasbourg.

Judge Garzón would subsequently appear in a second case before the Supreme Court, charged with *prevaricación* - in essence perverting the course of justice, for offending the 1977 Amnesty Law which pardoned the crimes of the Franco era - by probing the disappearance of over 114,000 people during the Spanish civil war and ensuing Francoist dictatorship. That trial concluded on 9 February with testimony from the survivors and family members of loved ones who disappeared or were executed by Francoist forces.

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The case began on 24 January 2012 and the verdict was delivered on 9 February.

Disposing on 13 February of a third case against Judge Garzón, the Supreme Court decided to dismiss criminal charges brought by private citizens and Right-wing organisations against the Judge for soliciting sponsorship payments from several institutions, including *Banco Santander* chairman Emilio Botín, to organise a series of lectures on human rights at New York University between 2005 and 2006 while he was on a leave of absence from the National Court. The allegations focused on speculation that the Judge took money in exchange for dropping a tax fraud investigation against Botín.

Still, the Supreme Court found that there was evidence of a crime but ruled that the statute of limitations had passed because the last payment was made on 17 May 2006, more than three years before Judge Garzón was charged.

The plaintiffs had asked that Garzón be given a five-year prison sentence plus a 30-year suspension from the bench.

On 27 January the investigating Judge Manuel Marchena had ruled that Judge Garzón did not breach his duties for shelving the Botín case because his reasoning was based on sound precedents. However, Judge Marchena left the door open for a determination on whether the passive bribery charge - receiving gifts or other benefits on the basis of the high position one holds - should still hold.

During the investigations and at the trial the Supreme Court chief prosecutor had asked that the charges be dropped after determining there was no basis to the passive bribery charge.

Powerful international organisations, Human Rights Watch, Amnesty International, the United Nations Human Rights Committee among them, had repeatedly called on Spain to repeal of the 1997 Amnesty Law. The request had fallen on deaf ears.

In the case of *los desaparecidos* on 7 November 2008 the National Court accepted the Prosecutor's Office challenge to the investigation.

The Socialist-Government-appointed Attorney General Cándido Conde-Pumpido condemned the investigation. He specifically asked Judge Garzón to shelve another case he had opened against six highly placed Americans and warned of the risks of turning the Spanish justice system into a "plaything" for politically motivated prosecutions. Instead of heeding that advice, Garzón opened yet another investigation to seek information on everyone who authorised and carried out the alleged torture of four inmates at Guantánamo Bay.

The Attorney General's intervention followed outbursts by the Popular Party and the Catholic Church criticising Judge Garzón for investigating the case of the victims of *Franquismo*, and thus reopening "wounds from the past."

Judge Garzón effectively rebutted every argument.

In a renewed show of its weakness the Spanish Government - under pressure from the United States Administration, Israel and China and the Spanish Right, in 2009

introduced legislation to narrow the scope of universal jurisdiction to cases in which the victims of a crime include Spaniards or the perpetrators of which were in Spain. The bill was approved almost unanimously by Parliament. It was said to be aimed at “ending the practice of letting its judges seek war-crime indictments against officials from any foreign country, including the United States.”

The view of the Attorney General and the decision of the National Court emboldened the Right.

As a result of a private prosecution brought by far-Right organisations for investigating Franco’s crimes, judges of the National Court accepted a complaint by a shadowy far-Right pressure group called *Manos Limpias* - Clean Hands, and by another called *Libertad e Identidad* - Liberty and Identity on the ground that Garzón exceeded his legal powers - *prevaricación* - in 2008 by ignoring the amnesty granted to Franco and his henchmen in 1977 during the ‘transition’ to democracy. Thereafter, a similar complaint from the *Falange Española*, the re-born Francoist organisation, was admitted.

The Supreme Court appointed Judge Luciano Varela Castro to examine the case. “It is like the end of a farce.” said Francisco Espinosa, a historian who served on an advisory committee for the investigation. “The same people who participated actively in the failed *coup* of 23 February 1981 and in the repression under investigation are precisely the ones bringing the complaint, and the Supreme Court, instead of shelving it, gives the green light.”

On 3 February 2010 Judge Varela rejected Judge Garzón’s petition to dismiss the complaints, claiming that conducting the investigation despite the 1977 Amnesty Law could amount to a crime under Article 446.3 of the Spanish Criminal Code. “Aware of his lack of jurisdiction and that the crimes reported lacked criminal relevance when the proceedings began, [Garzón] built a contrived argument to justify his control of the proceedings he initiated.” wrote Varela in his ruling.

On 25 March 2010 the Appeal Chamber of the Supreme Court confirmed the decision to refuse the dismissal of the case. In its decision the Court asserted that the charge “is not arbitrary, illogical or absurd.”

On 7 April 2010 Judge Garzón was summoned to appear in court.

On 10 April 2010 Judge Garzón appealed against the indictment. He complained that the indictment issued by Judge Varela was politically motivated, compromised judicial independence and sought to impose a specific interpretation of the 1977 Amnesty Law. He also complained of the short time he had been given to appeal the indictment order, which resulted from Varela's summary motion to shorten the length of the trial.

On 22 April 2010, in a 14-page judgment, Varela concluded that Garzón had manipulated the course of justice by knowingly violating the 1977 Amnesty Law which shields all sides, including members of the Franco dictatorship, from legal prosecution. In addition, in Varela's view, the 2007 Law for the Recovery of Historical Memory explicitly conferred on the lower courts - and not on Garzón's court - jurisdiction over locating and excavating the mass graves which still dot the Spanish countryside.

Varela charged that Garzón, in order to overcome these restrictions, tried to create law rather than administer it.

On 28 April 2010 Varela announced that he was considering a request for his recusal from the case.

Just two weeks before the United Nations Human Rights Council - the successor to the Commission on Human Rights, during an examination of Spain's human rights record, had asked the Spanish representative to investigate cases of enforced disappearances, to punish perpetrators, and to provide redress to the victims, the Criminal Chamber of the Spanish Supreme Court in Madrid unanimously upheld the lower court's order that Judge Garzón should stand trial. Garzón had been charged on 7 April 2010 for his attempt to investigate the war crimes committed between 17 July 1936 and December 1951, the bloodiest period of Franco's dictatorship - a charge that Garzón has persistently claimed as politically motivated. Judge Garzón was to have faced trial sometime in the future before a bench of five judges: Juan Saavedra, president, Juan Ramón Berdugo, Joaquín Jiménez, Francisco Monterde and Adolfo Prego.

One will encounter Judges Joaquín Jiménez, Juan Ramón Berdugo and Francisco Monterde as sitting on the bench which disbarred Judge Garzón on 9 February 2012.

On 14 May 2010 the *Consejo General del Poder Judicial*, General Council of the Judiciary, C.G.P.J. voted unanimously - 18-0 with three abstentions - to suspend Garzón. The C.G.P.J. was bound so to decide once Garzón's final appeal to avoid the trial was rejected two days before. The panel which suspended Judge Garzón was made up of political appointees and deeply divided along party lines.

Later that day the C.G.P.J authorised, under several very strict conditions, the assignment of Judge Garzón to the International Criminal Court. For seven months from June 2010 Judge Garzón worked as a consultant to the I.C.C. The three legal actions were left in abeyance.

In December 2010, with the re-election of Judge Juan Saavedra Ruiz to the Supreme Court Criminal Division, the three processes were re-activated. The re-appointment of a Right-wing judge may have suggested to the Spanish legal authorities that the complaints had sufficient weight to merit continuing the process.

On 17 December 2010 Judge Garzón challenged five of the seven Supreme Court justices who could be chosen to try him. He alleged that the Presiding Judge Juan Saavedra, the rapporteur Adolfo Prego Oliver, and Judges Juan Ramón Berdugo, Joaquín Giménez and Francisco Monterde should disqualify themselves from officiating in any way because they had participated in pre-trial activities and thus may have an interest in the outcome which might affect their impartiality. The five judges had intervened in the investigation of the case, and Judge Garzón's counsel claimed that, consequently and, according to a strict interpretation of the principle of *nemo iudex in causa sua* - no-one should be a judge in his own cause, such intervention demonstrated the judges had an indirect interest in the outcome of the process.

After leaving the Court in June 2011 Judge Garzón accepted a position as adviser to *MAPP*, the *Misión de Apoyo al Proceso de Paz en Colombia de la Organización de los Estados Americanos*, the Organisation of American States' Mission to Support

the Peace Process in Colombia, as well as other honorary appointments, and has been lecturing widely in North and South America.

Without fear or favour

Born in 1955, from a working-class Andalucian family, Baltasar Garzón Real was a radical newcomer in a court which was yet to recover from the Francoist dictatorship.

Garzón entered the Judiciary at 23 and joined the *Audiencia Nacional* - the National Court at 32. Attached to the *Juzgado Central de Instrucción* No. 5 - the Fifth Chamber of the Central Criminal Court, his function was that of investigating the cases which were assigned to him, of gathering evidence and evaluating whether a case should be brought to trial. He would not ordinarily try the cases himself.

In time Judge Garzón played a key role in indicting suspected Basque terrorists: *Euskadi Ta Askatasuna* - Basque Homeland and Freedom; E.T.A. had murdered Carmen Tagle, one of Garzón's prosecuting colleagues in 1989. Garzón took charge of many anti-E.T.A. operations and, more controversially, against E.T.A.'s political wing and Basque newspapers. In May 1998 he would disband *Koordinora Arbetzale Sozialista* - *K.A.S.*, an association of groups seeking independence with violent means, on the grounds that it was for all purposes a strategic arm of E.T.A. Two months later he closed down the newspaper *Egin*, regarded as the mouthpiece for E.T.A., a move which raised questions concerning freedom of the press in Spain. In September 2000, in an operation involving 300 policemen, he ordered the arrest of members of *Ekin*, an organisation seen as the successor of *K.A.S.* In October 2002 Garzón suspended the operations of the *Batasuna* Party for three years, again alleging direct connections with E.T.A. In February 2003 he ordered the closure of *Egunkaria*, a Basque newspaper.

In 1990 Garzón personally led police operations against a Colombian-related drug syndicate. The still young judge meant business.

In 1993 Garzón took leave of absence to run for a seat in the Spanish Parliament as an independent in the list of the *Partido Socialista Obrero Español*, Spanish Socialist Workers Party the P.S.O.E. which returned to govern in 2004, but lost power in 2011. He won a seat, but he might soon have gained the impression that the

embattled Socialist Party had taken him on board mainly for window dressing. In 1994 he resigned and returned to his former post.

As investigating magistrate he was in charge of some of Spain's high-profile cases, involving drug trafficking, corruption in high places, and that of the *Grupos Antiterroristas de Liberación* - Antiterrorist Liberation Groups, G.A.L., the shady hit-squad set up by officials within the very government he had left to fight a dirty war against the Basque separatists. Several of Garzón's former political allies ended up in gaol. Garzón charged that Spain's interior ministry financed a campaign waged by mercenaries and radical right-wingers - the G.A.L. Police officers were involved and Socialist ministers helped cover it up. This led to trial and convictions of several high positioned civil servants and of the Interior Minister José Barrionuevo Peña.

That made Garzón no friends from 'the Left' of politics.

His prominence as an international figure had begun with his indictment of leaders of the former Argentine military *junta*, on charges of genocide, terrorism and torture during the 1976-1983 dictatorship. The National Court had assigned him this duty.

By 1996 Garzón was ready to test the limits of international human rights law by opening genocide investigations into the Chilean and Argentine dictatorships. He explored the reach of universal jurisdiction by claiming that former Chilean dictator General Augusto Pinochet could be tried in Spain for the crimes he had committed - as he could not be tried in Chile.

The doctrine of universal jurisdiction empowers national authorities to investigate and prosecute any person suspected of crimes such as genocide, crimes against humanity, war crimes, torture, extrajudicial executions and enforced disappearances - which are crimes under international law, regardless of where the crime was committed or the nationality of the accused and of the victim, and to award reparations to victims and their families. Garzón had become famous for applying such a doctrine extensively. In 2009 the application of the doctrine was severely circumscribed by the Spanish Parliament.

In 1998 Garzón issued an international arrest warrant when he learned that Pinochet was in London for a medical check-up. British police arrested Pinochet in October

1998. Pinochet was held under house arrest in London, pending a decision on his extradition to Spain, until March 2000, when the Home Secretary of the Blair Government decided to release him on the ground that the dictator was deemed unfit to stand trial.

Also in 1998 Garzón sought the extradition of 46 former military and civilian officials from Argentina, including former *junta* members Jorge Rafael Videla and Emilio Massera. But the extradition request was turned down by then President Carlos Menem (1989-1999) - who had pardoned the dictators, and by his successor Fernando de la Rúa (1999-2001).

Pursuing Pinochet and other butchers and trans-border criminals would win Garzón many points of merit from the Left, but eternal enmity from the Right.

In 1999 Garzón opened an investigation in the affairs of Jesús Gil, the former mayor of Marbella and owner of *Atlético* Madrid, on grounds of corruption. Gil was convicted in 2002.

On 17 October 2008 Garzón formally declared the acts of repression committed by the Franco regime to be crimes against humanity, and accounted them in more than one hundred thousand killings during and after the Spanish civil war. He also ordered the exhumation of 19 unmarked mass graves, one of them believed to contain the remains of the poet Federico García Lorca.

On 17 November 2008 Garzón said that he was dropping the investigation against Franco and his allies after state prosecutors questioned his jurisdiction over crimes committed 70 years before by people who are now dead and whose crimes were said to be covered by the amnesty passed in 1977. In a 152-page statement, he passed responsibility to regional courts for opening the 19 mass graves believed to hold the remains of hundreds of victims.

In March 2009 Garzón considered whether Spain should allow charges to be filed against former officials from the United States Government under President George W. Bush for offering justifications for torture. The six former Bush officials are: Alberto Gonzales, former Attorney General; John Yoo, of the Office of Legal Counsel; Douglas Feith, former undersecretary of defense for policy; William Haynes II,

former general counsel for the Department of Defense; Jay Bybee, also at Justice Department's Office of Legal Counsel; and David Addington, Vice President Dick Cheney's Chief of Staff. The investigation - it is said - had gone pretty perilously close to Vice-President Cheney.

In 2001 Garzón extended his investigation into the anti-competitive activity of corporations controlled by Europe favourite joker, the former Prime Minister Silvio Berlusconi, and attempted, unsuccessfully, to have him extradited to Spain on the ground of tax fraud and breach of anti-trust laws through a stake in Spanish TV company *Telecinco*.

In 2003 Garzón indicted Osama bin Laden over the 11 September 2001 attacks in the United States.

In 1999 and 2000 Garzón had filed charges against two Argentine officers in connexion with the disappearance of Spanish citizens during Argentina's 'dirty war' of 1976-1983. In 2005 Adolfo Scilingo was prosecuted in Spain for terrorism, torture and attempted genocide - as the aim of the military regime at the time was the destruction of an entire group, its opponents. The original sentence of 640 years imprisonment was increased to 1,084 years in 2007. Miguel Cavallo was charged with genocide, terrorism and torture. He was eventually extradited to Argentina on 31 March 2008 where he is currently awaiting trial.

Then Garzón turned to more recent and continuing crimes.

In 2002 Garzón sought to interview former State Secretary Henry Kissinger over what the United States Government knew about *Operation Condor*. This Operation involved an agreement among six former Latin American dictatorships - Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay - to kidnap and assassinate, leaving no trace, each regime's political opponents. There being no dead bodies, the conspirators could deny everything. The victims were henceforth referred to as *los desaparecidos* - the disappeared. The use of the term 'enforced disappearances' in international treaties derives from the 'dirty wars' in Latin America during the period.

In 2005 Garzón called for a ‘truth commission’ to investigate crimes against humanity during the Franco dictatorship, which lasted from the end of the civil war in 1939 to his death in 1975.

On 29 April 2009 Garzón opened an investigation into a ‘systematic programme’ of torture at Guantánamo Bay, following accusations by four former prisoners. Garzón said that documents declassified by the United States Administration and carried by U.S. media “have revealed what was previously a suspicion: the existence of an authorised and systematic programme of torture and mistreatment of persons deprived of their freedom” - and that flouts international conventions.

This points to the possible existence of concerted actions by the U.S. administration for the execution of a multitude of crimes of torture against persons deprived of their freedom in Guantánamo and other prisons including that of Bagram in Afghanistan.

Judge Garzón’s inquiry could have been the first formal examination of criminal activity which could have led to a number of U.S. officials being charged with violations of the Geneva Conventions and the Convention Against Torture, which have been signed and ratified by the United States.

It seems that in September 2009 Garzón was preparing to the next phase of his investigation.

In using the expression ‘crime against humanity’ to describe some of the crimes perpetrated by American ‘*Intelligence*’ during the past fifty years, Judge Garzón was taking a highly controversial step. He told the *BBC*: “These days, crimes against humanity are a burning issue, wherever you look in the world - be it Afghanistan, Iraq or Darfur - enough countries to make you realise that this theme never ceases to make the news, just as the fight against this scar, this impunity, never ceases. And if we are referring to the investigations being carried out in Spain in relation to universal justice or eras gone by, then justice needs to follow its course within the parameters of the law. That is what we judges try to do.” By 2005 Garzón could confidently believe that the principle of universal jurisdiction was firmly established in Spain. Or so he thought.

Judge Garzón's troubles stem from the fact that he is no ordinary judge; he is more interested in imparting justice than in blandly administering the law.

Some of Garzón fellow-judges visibly displayed their disapproval: judges are accustomed to 'discretion'. The Spanish Judiciary typically does not look well on magistrates who draw attention to themselves. And that may be an understatement. Some loathe him - for them he is but an abuser of the law to aggrandise himself. Others, though timorously, envy him as a courageous and imaginative defender of justice.

"Other judges are critical of him because they would never dare do the things he has done." said Carlos Jimenez Villarejo, formerly Spain's chief anti-corruption prosecutor. José María Mena, a former public prosecutor, summed it up thus: "If he were a tame, lazy judge, he would not have these sorts of problems."

Judge Garzón was anything but lazy. He had to be stopped. The Spanish Right would swear to finish Judge Garzón after he opened the *Gürtel* case, a corruption case which exploded in 2009 and involved high figures of the *Partido Popular* - Popular Party, then the Right-wing opposition and a linear successor of *Franquismo*, especially its regional governments in Madrid and Valencia. The Judge carefully examined contracts, backhanders and possibly illegal party funding.

It will be seen that the *Gürtel* case, and not as much as the investigation into Franco's systematic butchery, was the catalyser of Spanish re-born neo-Francoist offensive.

Yes, it is true that some of the last voices of Franco's regime spoke loudly against Garzón investigation of *los desaparecidos* - the disappeared.

Manuel Fraga Iribarne, who died last January at age almost 90, was one such voice. He was one of the relics of the Franco regime. He had been for many, crucial years Franco's Ambassador to the Court of St. James and later Minister of Information - read propaganda - and had survived to become the ferryman for many Francoists into the *Partido Popular* - Popular Party that he founded and which was later to be led by José María Aznar, and is presently led by Prime Minister Mariano Rajoy Brey. Rajoy was Aznar's Minister of Public Administration from 1996 to 1999 and Minister of Education from 1999 to 2000; he then served as Deputy Prime Minister from

2000 to 2003. Rajoy was successful in becoming Prime Minister on 21 December 2011. Fraga, the great mentor of them all, was still a Spanish senator at his death. In the past he had broadly orated that it was an error and absurd that a man could define himself as competent in a matter where it is debatable that anyone has competence given the Amnesty Law. And, anyway, “Politically it is a very serious error to revive the problems of the civil war.” Of course, he would say that.

But there are more recent and powerful voices. Once, as a Popular Party spokesperson in the Spanish Congress, appointed by Rajoy, the very young deputy for Madrid María Soraya Sáenz de Santamaría Antón said that there were “many defects in the process” and that Garzón wanted to reopen matters which were resolved in the *transición* - the so-called ‘transition to democracy’ which is said to have taken place in 1977-1978 - and are not strictly judicial. The Prosecutors Office spoke also against the action of Garzón.

The fiction behind all this posturing is that a recent, dark period of Spanish history should never be investigated because of an unwritten, dubious political deal, euphemistically known as the *pacto del olvido* - a pact of forgetting, which is assumed to have been entered into by the parties emerging from the Francoist era. This and the amnesty of 15 October 1977 should prevent any examination of the crimes of the dictatorship. That pact and that law are the foundation of the ‘transition to democracy’. It is not a position which could be sustained in good faith. Nevertheless, the Spanish Public Prosecutor challenged the investigation, claiming that Garzón was not competent to raise the case, which was to be archived as falling under the 1977 Amnesty Law, and calling for the enforcement of the 1977 Law and of Spain’s statute of limitations. He argued that, even if the 1977 Law does not cover the crimes, under the Spanish Criminal Code in force when the civil war began, those offences should be considered ‘ordinary crimes’ and the statute of limitations had in fact expired. Under Spanish law most crimes are deemed to go unpunishable after a 20-year period.

Calls to rein in meddlesome judges - for there are others like Garzón - increased when they announced probes involving Israel, the United States and China. By mid-2009 the Spanish National Criminal Court had received complaints of human rights abuses from as far as Chile, Gaza, Guantánamo Bay, Guatemala,

Rwanda and Tibet. Some ten cases from five continents were being investigated by Spanish judges, under the doctrine of universal jurisdiction.

These investigations were huge sources of headache for the then Spanish Government, and both major Parties would collude in seeking the limited application of the law, even the domestic reception of it.

The Right's *revanche*

It may never be known which case was 'fatal' to the career of Judge Garzón - that of Franco's victims ? that of the American 'Six' - the criminals in and around the White House ? or that of the corruption revealed during the investigation the *Gürtel* case ?

On 6 November 2007 one José Luis Peñas, former Popular Party councillor in the municipality of Majadahonda and friend of one Francisco Correa from 2001 to 2008, filed a complaint with the Anti-Corruption Prosecutor's Office.

To support his claim, he provided evidence which had been obtained by secretly recording conversations which had taken place in meetings with people like Isabel Jordán, the manager of companies such as *Easy Concept*, *Special Events*, *Pasadena Travel S.L.*, *Good and Better S.L.*, *Orange Market*, *et cetera* - mainly shell 'service provider' companies - the shares of which were totally owned by Francisco Correa. There were some twenty companies involved in the web of corruption. So, why should this huge scandal be masqueraded under the name *Gürtel* ? Simple: *Correa*, which in Castellano means *belt*, translated into the German is *Gürtel*, also meaning *belt*.

Three more persons were involved in managing the enterprise, in addition to Correa: Álvaro Pérez nicknamed 'El Bigotes' - The whiskers, Pablo Crespo and Antoine Sánchez.

The quartet would established a complex business organisation for the purpose of profiting from government agencies, in particular from municipalities and autonomous regions such as Madrid, Valencia and Galicia, as well as for the purpose of circumventing legal restrictions of urban and environmental nature which would hamper their real estate business.

Correa started his career organising Popular Party events and functions in the years following the election victory in 1996. He used his growing connections to win contracts from public bodies controlled by the Popular Party and from construction companies during the building boom. Correa describes how at Party rallies, “I began to meet young people of the *New Generations* - a Party grouping, and began a friendship with many of them, then there were mayors, and others were ministers, and one went to Europe, and another married the daughter of the Prime Minister.”

Correa’s companies organised public events during the Popular Party’s government of Prime Minister José María Aznar. He would in time work also for the now Prime Minister Mariano Rajoy and for Esperanza Aguirre, now President of Madrid, both of the Popular Party. What became ‘the *Gürtel* case’ was uncovered by the Spanish daily *El País*, and its investigative journalists were awarded the ‘Ortega y Gasset Prize in Journalism’, at its twenty-seventh edition of 2010 - as the “best job in the press.” [*Público*](#), a newspaper which like *El País* has a center-left orientation, also gave a lot of coverage to the case.

The most common way of securing privileges and advantages was through the use of gifts and bribes to officials and public authorities - cash, luxury cars, designer clothing, expensive watches, Caribbean holidays and parties with prostitutes.

One José Luis Izquierdo López, an accountant and trusted employee of Francisco Correa and Paul Crespo, showed the judges the amounts disbursed this way and recorded in what was called ‘account B’. Izquierdo said that on one occasion he had handed envelopes containing 120,000 Euros (AU\$ 148,000), and 240,000 Euros (AU\$ 296,000) to two Popular Party politicians.

Listed in such account appear some well known names, such as that of Alejandro Agag Longo - the son-in-law of José María Aznar and other Right-wing personalities of the Spanish political world. Among them is one of Aznar’s infrastructure ministers. Both Agag and the former minister denied the allegations and neither of them was named as a suspect. Agag denied any wrongdoing, which is - he says - simply assumed by the fact that his name appears on the secret ‘account B’, used to record the financial dealings of Correa and his cronies.

Agag was a friend of Correa for many years, and reports claim that the *Gürtel* network was introduced into the Popular Party “by the hand” of Agag. Agag became a member of the European Parliament and then secretary-general of the Right-wing European People’s Party bloc in that Parliament. In 2007 the *Financial Times* called Agag one of the top 10 “shakers and movers” in Spain.

In court depositions, José Luis Peñas said that Alfonso Bosch, one of Correa’s most trusted men, organised “step by step” the wedding of Agag and Aznar’s daughter Ana Aznar Botella in 2002. Correa was a witness of honour at the ceremony. Tony Blair and Silvio Berlusconi were also witnesses.

The ‘tone’ of the *Gürtel* organisation could be measured by the demand that Correa was making of his collaborators to refer to him as ‘Don Vito’, as in the film he would add, referring to *The Godfather*, played by Marlon Brando.

It was only on 6 February 2009 that Judge Garzón opened an investigation for the corruption scheme operating in Madrid, Valencia and the Costa del Sol and which involved money laundering, tax fraud, bribery and influence peddling. One of the five persons detained as a result was a person connected with the City of Boadilla del Monte, administered by the Popular Party. The Judge would only then come to know Francisco Correa, the ringleader of the corruption.

As early as 19 February 2009 two national newspapers reported that Francisco Camps, the President of the Valencia Autonomous Community, governed by the Popular Party, was connected with *Gürtel*. Camps immediately denied the attribution, appearing before media on that very day and proclaiming his “20 years of public life in the service of general interest.”

After the file was passed on to the *Tribunal Superior de Justicia de Madrid* - Superior Court of Justice of Madrid, T.S.J.M., evidence emerged of possible irregular financing of the Popular Party of Madrid, of [the Valencian Popular Party, of the Galician Popular Party](#), of the Popular Party of Castile and León and of the national Popular Party.

Correa is suspected of having accumulated a secret fortune worth at least 50 million Euros (AU\$ 61.5 million), although he has not declared any income to the tax office

since 1999. Much of the *Gürtel* network money is believed to have been salted away abroad, and eight countries and tax havens have been asked to provide details of financial transactions. Switzerland has indicated that Correa and Crespo have 21 million Euros (AU\$ 25.8 million) in bank accounts in the country. Swiss national Arturo Gianfranco Fasana was the man allegedly in charge of transferring money out of Spain.

Those accused of receiving 'black money' from Correa include the former Treasurer of the Popular Party, Luis Bárcenas (almost 1.4 million Euros, AU\$ 1.7 million); the Popular Party Member of European Parliament José Gerardo Galeote (800,000 Euros, AU\$ 985,000); the former organising secretary of the Galician Popular Party Pablo Crespo (540,000 Euros, AU\$ 665,000); a Popular Party parliamentary deputy for Segovia Jesús Merino (220,000 Euros, AU\$ 275,000); a former Member of Parliament for the Madrid Region Benjamín Martín Vasco (340,000 Euros, AU\$ 420,000); and the former Madrid Region sports director Alberto López Viejo (352,000 Euros, AU\$ 433,000).

A number of town mayors and Popular Party personalities have been involved, and have been forced to resign. They included: the Boadilla Mayor, Alfonso Bosch, who received 250,000 Euros (AU\$ 307,000); another mayor from the same town, Arturo González Panero, who received 642,000 Euros (AU\$ 790,000); the director general of Boadilla, Tomás Martín Morales, who received 450,000 Euros (AU\$ 553,000); the Mayor of Arganda del Rey, Ginés López, who received 534,000 Euros (AU\$ 657,000); and the Mayor of Pozuelo, Jesús Sepúlveda, who received 455,000 Euros (AU\$ 560,000).

Other top businessmen implicated in the *Gürtel* scandal include José Ramón Blanco Balín, former vice-president of Repsol YPF, S.A., Spain's second largest company. *Refinería de Petróleos de Escombreras Oil – Yacimientos Petrolíferos Fiscales, Sociedad Anónima* - hence the acronym - is an integrated Spanish oil and gas company with operations in 29 countries. Another participant is Pedro García, director of Channel 9 public television in Valencia. In recorded conversations Correa is alleged to have said: "When police searched the office of Ramón Blanco, I entered into hell; he is my manager, you know."

The leader of the Popular Party, the now Prime Minister Mariano Rajoy, accused the P.S.O.E government of launching a witch-hunt against his party. In turn, José Luis Peñas, the former Popular Party councillor in Majadahonda who first revealed the *Gürtel* network, has accused Rajoy of being “the main person responsible” for the *Gürtel* case and said that he should have denounced what he saw. Instead, Peñas said, “I had to spend two years of my life recording all this and Rajoy has done nothing.”

After a long investigation, following Peñas’s revelations, Judge Garzón moved, with customary alacrity, against Correa and his network in early February 2009. Within days of Judge Garzón starting his investigation Correa, his cousin Antoine Sánchez and his right hand man, Crespo, had been arrested.

The Popular Party would not wait long before lodging a complaint for malfeasance against Judge Garzón; it did so on 25 February 2009. The main ground of complaint was that the Judge had conversations between the suspects and their lawyers unlawfully intercepted.

Pursuant to the complaint the Judge was ordered to hand over his investigations to courts in Madrid and Valencia and free 34 of the 37 suspects. Only Correa and his two partners, Crespo and Sánchez, remained in custody.

The Judge had meanwhile enlarged the investigation to Gerardo Galeote, the Party Member of the European Parliament and Luis Barcenás, the Party Senator and Treasurer, accusing at the same time the Popular Party of violating the secrecy of the investigation.

On 5 March 2009 Judge Garzón passed the investigation to the superior courts of Madrid and Valencia.

Once Judge Garzón was out of the way, the Madrid court promptly announced that the interceptions of gaoled Correa and Crespo were not admissible evidence.

From then on not one single week passed without another eminent person in the Popular Party of Madrid, Valencia and Galicia, under the firm political control of

Manuel Fraga Iribarne, being embroiled in the *Gürtel* net. By the end of March 2009 up to 55 such suspects were under investigation.

Meanwhile Judge Garzón was denounced for malfeasance by Ignacio Peláez, the lawyer for the defence of the entrepreneur José Luis Ulibarri, president of Begar and owner of TV Castile y Leon, on the ground that the Judge had ordered conversations between the lawyer and his detained client to be recorded on suspicion that the lawyer could be involved in disposing of sums stashed away by *Gürtel*. Investigators eventually discovered that Corea had stashed away some 24 million Euros (AU\$ 29.5 million) in Swiss accounts. The charge alleged breach of trust and violation of privacy. Other complaints, on similar ground, against Judge Garzón arrived fast and furious.

Judge Garzón has persistently defended the necessity of his order to wiretap the conversations. He said that the eavesdropping on the lawyers of the accused that he had ordered “were perfectly legal as will be verified when the time comes.” He emphasised that the process had been restrained, that unnecessary parts of the wiretappings had been deleted, that some had been ordered to be deleted by courts, and - above all - that the operation had been carried out “under judicial control and with the agreement of the prosecution.”

The Criminal Chamber of the Supreme Court would agree on 25 February 2010 to receive Ignacio Peláez’s complaint. This would ultimately lead to the opening of the first trial against Judge Garzón on 17 January 2012. During the trial, officers of the financial police corroborated Judge Garzón’s suspicion and the chief prosecutor for the Supreme Court sided with Garzón and asked that he be acquitted because he did not break any laws.

After Judge Garzón had been indicted for violating [lawyer-client privilege](#) by recording conversations between detained suspects and their lawyers, and had been taken off the case, the case was assigned to Judge Antonio Pedreira.

The *Gürtel* scandal spread further. In August 2010 the Popular Party President of the provincial government of Alicante, José Joaquín Ripoll, was arrested over alleged corruption involving tenders for rubbish collection. Media reports claimed that

Ripoll had accumulated assets of more than 3 million Euros (AU\$ 3.7 million) and owned two luxury loft apartments in Alicante city. Businessman Enrique Ortiz, already implicated in the *Gürtel* case, was also called in for questioning. Police sources said eleven arrests had been made and nineteen searches were carried out in total in Alicante, Orihuel and Valencia.

Aznar's former environment minister and regional president, Jaume Matas, was named as official suspect in a huge Balearic Islands corruption case and was ordered to post 3 million Euros (AU\$ 3.7 million) bail in order to avoid being gaoled ahead of his trial.

In the summer of 2011 the main investigation of the *Gürtel* network was deemed to be nearly complete and Judge Pedreira set bail for Correa at 15,000,000 Euros (AU\$ 18.4 million), reportedly the second largest bail deposit in Spanish judicial history.

After months of refusal to set bail, the Judge accepted an application for reconsideration filed by Correa's attorney, Jose Antonio Choclán. In fact, counsel had demanded the release of his client without any financial condition. Choclán, after learning of the resolution, said that he would appeal against the high amount imposed on the grounds that Judge Pedreira had not motivated why such high bail was necessary. However, Judge Pedreira explained that such a high bail was necessary to prevent that Correa escape and given that he had "available a huge amount of money, is the head of the *Gürtel* plot and money available to him was larger than that of any defendant in the case."

Nevertheless, it appeared that Correa was in no way ready to pay the bail, since the largest part of his fortune, estimated to be close to 50 million Euros (AU\$ 61.5 million), is abroad and mostly in blocked accounts. If any money remained in offshore shell companies or under other names, it could not be used to pay the bail deposit because that way new accounts would be discovered which had previously not be known.

In addition to such a high bail, Judge Pedreira imposed on Correa other precautionary measures so that, even if he succeeded in raising the money, he could not leave the country, would have had to appear twice a week before the court, and

would also have be subjected to control measures or other personal electronic tagging to prevent his disappearance. The Judge was confident that, given the advanced state of the investigation, there would have been no risk of obstruction, destruction or concealment of elements of evidence. Correa's cousin was able to leave the gaol after paying a 40,000 Euros (AU\$ 50,000) bail; initially Judge Pedreira had requested bail of 600,000 Euros (AU\$ 745,000). The network's number two, Paul Crespo, however, could not even deposit bail of 600,000 Euros; at the beginning the amount requested was 1.2 million Euros (AU\$ 14.9 million).

Correa's legal team appealed the bail sum, on the ground that it was not based on an objective assessment of their client's wealth. Correa would then remain in prison on [remand](#) until he finally paid a reduced sum in 2012.

By early 2011 it was estimated that the grand *fiesta* of the *Gürtel* case, the corrupt plot headed by Correa, had cost the Spanish Treasury at least 120 million Euros (AU\$ 147.5 million) between 2000 and 2008 as could be estimated from the voluminous documentation which was in the care of Judge Pedreira of the Supreme Court at Madrid. That sum did not include what was estimated as tax evasion: it was only an indication of the public money illicitly obtained from administrations or entities controlled by the Popular Party in the largest corruption scandal and assault on the democratic process.

In two years the case of *Don Vito's gang* had produced over 100,000 pages which depict the dense network created around the fiefdoms of the Popular Party. But still lacking was a comprehensive survey to quantify the amount managed by the group and what effect it had on the public accounts. This involved contracts made by spurious firms, the 'black money' for election campaigns, bribes listed in 'account B', commissions paid overseas and additional losses for public budgets caused by a wide series of operations.

The final figures will necessarily be higher when the full details of each transaction will be known and the fiscal impact of operations paid 'in black' will be accounted for. Already, an estimate prepared by lawyers and the P.S.O.E. places the total amount of public purchasing arranged by the quartet at a minimum of 250 million Euros (AU\$ 307.5 million).

After the electoral defeat of Mariano Rajoy and the Popular Party in 2004, the *Gürtel* operations shifted to the two major regional centres of the Party: the Region of Madrid, where they were able to obtain some 8.7 million Euros (AU\$ 10.7 million) worth of contracts, and that of Valencia, where they collected 9.5 million Euros (AU\$ 11.7 million) for works in and around the capital. Payments for contracts were divided into sums of 12,000 Euros (AU\$ 14,700) to avoid the need to comply with tendering procedures. The proceeds from these mini-contracts were declared in statements to the Tax Office. Compliance with the law was always a matter subject to entering into small contracts not requiring competitive bidding.

Another device used to circumvent the law was that of ‘transferring’ contracts from a ‘shell company’ to another so as to ‘diluting’ fiscal responsibility of any one of them. The process was always the same. A company would succeed in obtaining a contract, which would then be assigned to *Gürtel* - for a fee of course, ranging between 5 and 15 per cent - and then passed on to another company of the group for execution. Often an additional sum would be charged for fictional advertisements, such as *Made in Madrid*, for which there would be ‘a slice’ going to *Gürtel*. All this would increase the cost of the initial contract. In one case, in a contract assigned to *Marketing Quality Management*, another of *Gürtel* ‘shell companies’ involving a public commemoration of the deaths which had been caused by the Madrid terrorist attack of 11 March 2004, the final price was artificially increased by 400 per cent.

The ‘big game’ was still in the payment of ‘black money’ to public officers usually connected with the Popular Party, which at one time reached the sum of 63 million Euros (AU\$ 77.5 million), of which 27 million Euros (AU\$ 33.2 million) were confidently recorded in the ‘account B’ and reported by the fiscal police in December 2010, while 14 million had been distributed to people in *Gürtel* and 13 had been allotted to politicians of the Popular Party and other ‘facilitators’ in obtaining the contracts.

In this ‘game’, well-known companies such as *Teconsa*, *Sufi*, *Hispanic* and others were involved. There were variations in how the ‘black money’ was obtained and/or paid. For instance, *Teconsa* won a contract on the occasion of Benedict XVI visit to Valencia in 2006. Channel 9 awarded the contract for television screens and loudspeakers at the cost of 6.3 million Euros (AU\$ 7.5 million), even though *Teconsa*

knew that it was unable to fulfil the contract. *Teconsa* then sub-contracted for 3.1 million Euros (AU\$ 3.8 million) and pocketed the difference. That difference was charged to the taxpayer through Channel 9. The Supreme Court decided on 8 February 2012 to open a tax fraud case. Judge Pablo Ruz implicated eleven people in the case, including the chairman of *Teconsa*, José Luis Martínez Núñez, and its deputy chairman, José Luis Martínez Parra, along with other members of its board of directors. They were also facing possible charges of falsifying commercial documents.

The judge's decision to open another path in the labyrinth of *Gürtel* came after it was alerted by the tax authorities that it suspected corporate and value-added tax fraud worth 600,000 Euros (AU\$ 744,000) on the profits *Teconsa* made on the contract.

On the same day Judge Ruz also opened yet another *Gürtel* related case in connection with contracts awarded by *Aeropuertos Españoles y Navegación Aérea*, Spanish Airports and Air Navigation, which is the world's largest airport operator, with participation in airports in the United Kingdom, Sweden, Bolivia, Colombia, Cuba, Mexico and the United States.

On the other hand, in the case of Arganda, a land evaluation was inflated to 96 million Euros (AU\$ 118 million) but awarded to *Martinsa*, another company controlled by *Gürtel* for 77 million Euros (AU\$ 94.6 million). The difference was paid to Arganda 'for commission in real estate', and stashed away in Switzerland. There was a lot of money made this way in the hay days which led to that world-wide economic criminal activity which then was ennobled with the words 'the global financial crisis'.

During this time, large sums flowed into the Popular Party chest. Police reports show that a minimum of 4.6 million Euros (AU\$ 5.6 million) landed into the pocket of the Madrid Party in 2003 and 2004, with 3.3 million Euros (AU\$ 4 million) going to the Valencia Party in 2007 and 2008.

Reactions to the scandal - and it was by no means the only one ! - have often divided on party political lines, although it has been argued that the underlying problem is not a party political one, but rather a system which does not require transparency in the award of contracts.

Soon after the *Gürtel* case exploded the Popular Party President of the Autonomous Community of Valencia, Francisco Camps, came under investigation, pursuant to information, supported by his tailor José Tomás, that Crespo paid for many suits delivered to Camps, and estimated to cost 30,000 Euros (AU\$ 36.900). Tomás would later say that “all” the suits for Camps had been paid by Paul Crespo, the Popular Party of Galicia leader and sole director of the *Special Events* company, controlled by Francisco Correa. He also said that Francisco Camps was very worried and was inquiring about the existence of bills in his name.

Investigation brought to light that Camps had been involved in massive corruption scheme for at least the previous ten years with Francisco Correa, the man hired to organise public activities of the Popular Party during the administration of José María Aznar and also to take charge of the events of the President of the Community of Madrid, Esperanza Aguirre. This resulted from a report that the anti-corruption prosecutor handed to Judge Garzón on 18 February 2009. In that report, the prosecution directed the Judge’s attention to Camps as well as three representatives of the Popular Party, the already mentioned Alfonso Bosch, Benjamín Martín Vasco and Alberto López Viejo.

On 14 May 2009 the Supreme Court of Valencia took charge of the case against Camps, the general secretary of the Valencia Popular Party Ricardo Costa, one Víctor Campos and Rafael Betoret.

The Popular Party immediately came to the defence of Camps, and came to support his complaint because, as the Party's general secretary, Maria Dolores de Cospedal said: "At last we will be able to talk on an equal footing and have the right to defence." Some well-known political representatives also defended Camps - for instance the Party Spokeswoman in the House of Representatives, Soraya Sáenz de Santamaría, who invoked the presumption of innocence of the Valencian President. For his part, the President of the Basque Popular Party, **Antonio Basagoiti**, denounced the proceedings as a "hunt against Camps", which - he said - was to be attributed to the Party's electoral success in the Valencia Community.

On 15 May charges were brought against Alvaro Perez, chairman of *Orange Market* and close friend of President Camps. The company managed by Perez was a subsidiary of *Special Events* of Francisco Correa and it was said that it had been commissioned to provide suits worth 12,000 Euros (AU\$ 14,900) to Camps and other senior members of the Valencian Popular Party.

On 16 May Camps appeared publicly at a meeting of the Popular Party in Valencia. He did not explicitly mention his involvement in the 'suit-case', but simply predicted a victory for the Popular Party in the forthcoming European elections. On the same occasion Costa also spoke, thanking the many expressions of support they received in the street.

Camps appeared before the Court on 20 May, and declared himself "very calm and happy for being able to give [his] opinion on everything that has happened in recent months." His statement before the Court lasted 45 minutes. Once outside, the President received a large show of support. But in the end, the Court found sufficient evidence of possible bribery and decided that the President should go to trial. It was then that the judges decided by a majority of votes that they had not found sufficient evidence of the relationship of the suits with the granting of the contracts and dismissed the case. This prompted the Deputy Prime Minister, Vice President of the Government, Maria Teresa Fernandez de la Vega, to announce that the judgment would be appealed by the Attorney General's Office. And this, in turn, attracted the accusation from the leader of the Popular Party that the independence of the prosecution had been undermined.

According to the investigation by Judge Garzón, many, continuing bribes were linked to the award of contracts worth almost 5 million Euros (AU\$ 6.150.000) to Correa's companies in Valencia over a period of four years.

Camps denied the accusation and defended his "20 years of public life in the service of general interest." When in opposition, the Popular Party Leader Mariano Rajoy gave his full support to Camps and declared that Correa "had not given a Euro to the Popular Party."

The case against Camps was transferred to a local court in Valencia which, in August 2009, ruled that Camps had not committed a crime. The Valencia High Court, in a split decision, declared that there was insufficient evidence to prosecute Camps and dropped the case.

On 24 September 2009, in a new twist in the case, the newspapers *El Mundo* and *El País* brought to light a police report detailing the operation of the corrupt plot in Valencia, explaining the double accounting practice in companies involved and the involvement of Ricardo Costa, and Vice President of the Generalitat, Vicente Rambla in the scandal, and documenting the payments of 'black money' as evidenced by the report. Costa had received a watch worth 25,000 Euros (AU\$ 40,000). A tape recording was released in which his briber said: "You know him, he just loves these things. ... He is like a child with new shoes." Two days later, *El País* and media source *SER* would be able to release several police wiretaps, including recording a conversation of the Popular Party assistant secretary for organisation in Valencia, David Serra, with Alvaro Perez, '*El Bigotes*' on 29 December 2008, which refers to the transactions between the Party and one of the companies of Perez, as well as Camps' awareness of them. As Serra said: "He [meaning Camps] knows everything," to which *El Bigotes* added: "Yes, I know."

Costa was removed 'temporarily' by Camps in October 2009 after a tug of war between his proclamation of independence of the Valencian Popular Party and pressure from his party's national leadership. Dismissed also were the Deputy Secretary of Organisation, David Serra, and the Treasurer, Yolanda Garcia.

In May 2010 the Supreme Court was forced to reopen the case against Camps and Costa. The Court ruled that there was enough evidence to bring a case against him.

Meanwhile a case involving the Valencian branch of the network went to court. After a partial dismissal in 2009, the [Supreme Court](#) ordered it to be reopened.

For two years Camps was to claim that he paid for the clothes himself. Camps, who had won re-election by a hefty margin on 22 May 2011, had always denied that he received the suits as a gift, saying that he paid for them out of his own pocket.

At mid-July 2011, following the testimony of Francisco Ferre, the book-keeping employee at the tailor's shop *Forever Young*, who said that he had doctored company accounts to erase the name of Francisco Camps, the Popular Party regional premier of Valencia changed tack in his defence against charges of accepting bribes when allegedly receiving gifts from the *Gürtel* network. At the preliminary hearing into the so-called 'suits case', Camps' lawyer had maintained that his client had not received anything from the *Gürtel* ring. By mid-2011 Camps' defence was ploughing a different furrow, saying that he had accepted suits worth just over 14,000 Euros (AU\$ 17,200), as charged by anti-corruption prosecutors, in his capacity 'as Popular Party leader of the Autonomous Community of Valencia' and 'not as head of the regional government'.

If this legal ploy had succeeded, Camps might have been able to avoid trial over the suits, but his credibility would have been less than threadbare. He had always publicly asserted he paid for the suits, and in spite of wiretaps to the contrary, he firmly denied a friendship with Álvaro Pérez, an alleged ringleader of *Gürtel*.

Nonetheless, Judge José Flors ruled that Camps' two positions were indivisible, and Camps could not distinguish the two posts he held at the same time.

Camps was indicted on 15 July 2011 on charges of accepting 14,000 Euros' worth of clothing items, including dress suits, from businessmen tied to the *Gürtel* network. Judge Flors ruled there was enough evidence to put Camps and three other Valencia Popular Party leaders on trial after examining tax office reports and taking testimony from several witnesses, including a tailor who said the premier had never paid for the suits.

Along with the witness evidence, Judge Flors said that there existed handwritten documents by the *Gürtel* businessmen which made reference to the gifts that Camps may have received.

The then Government spokesman and Public Works Minister José Blanco said that it was “necessary” for the then leader of the opposition Mariano Rajoy to “give explanations and take action” in the Camps case. “Mariano Rajoy cannot look the other way now that Camps will have to take the witness stand.” Blanco said in an interview with *SER* radio.

The Popular Party accused the Socialist government of using the courts to harass Camps and other party leaders in Valencia.

On 20 July 2011, under pressure from the national leader, Camps resigned as Valencian premier and leader of the Valencian Popular Party in order to avoid standing trial while in office. He continued to maintain his innocence although he said that he may have received presents. He said that he was “voluntarily offering this personal sacrifice, so that Mariano Rajoy will be the next prime minister.” However, he unwittingly spoke volumes about his style of government when he said: “We are the best, this is the best place, this is the greatest region in Spain and the best region in Europe, that is why these things have happened.”

Ignoring his monumental provincialism for one moment, “these things” seem to include running the Autonomous Community like a personal fiefdom, where those in power respond above all to corporate and electoral interests. Criticism, or questions about the *Gürtel* corruption case were swatted away with a snigger. Camps’s attitude to the media, or the media deemed ‘unfriendly’, is summed up by the fact he granted his first interview in two years in May 2011, during the local election campaign.

Time and time again, Valencia’s senior Popular Party officials said publicly that whatever the charges Camps was facing, they did not matter because he keeps winning elections.

“Camps will be absolved at the ballot box.” said Carlos Fabra, leader of the Popular Party - and now President of the Autonomous Community in the Valencian province of Castellón, where he himself had faced a battery of corruption allegations

in February 2011. This confusion of political popularity with legality helped keep Camps in his post even when the evidence against him started to look damning. And when Camps delivered yet another massive win for the Popular Party in the May elections, it was a further argument for those who believed that political success equals innocence.

In his February defence of Camps, Fabra also revealed how normal he thinks it is for politicians to receive gifts - even 'gifts'. "There is no one in a senior office in Spain, from the judiciary through to the monarchy, the Senate, Congress, mayors, local councillors ... who does not receive gifts at Christmas." he said.

Camps was reelected as President of Valencia in May 2011, although the case threatened to undermine his political career.

On 25 January 2012 he was found 'not guilty' by a popular jury. By five votes to four the jury declared both the former president of the Valencian Autonomous Community and the former general secretary of the Valencian Popular Party Ricardo Costa innocent of bribery in the *Gürtel* case.

Similar kinds of *shenanigans* went on in Galicia, under the government firmly controlled by Manuel Fraga Iribarne, with involvement particular in the construction and associate industries. According to a police report which was made public by the media in September 2009, more than 52 per cent of the expenses incurred by the Popular Party in Galicia had come from secret accounts of companies involved in the *Gürtel* case and paid with 'black money' between 1996 and 1999, under the direction of the Secretary Paul Crespo.

During the regional and local elections of May 2011 both majority parties - the then governing Socialists and the conservatives of the Popular Party - constantly criticised each other for their respective cases of corruption. Yet both - and to a lesser extent, some other parties as well - would include in their lists individuals facing corruption charges.

Some of the Popular Party candidates to the 22 May polls were involved in major scandals such as the *Gürtel* case, while some Socialists were mostly being investigated for minor cases in small and midsize municipalities.

The newspaper *El País* analysed the parties' lists in seven regions of Spain - those with the highest concentration of corruption cases currently in the courts - and focused on judicial proceedings relating to real-estate corruption and other crimes connected to land use where political favours were suspected. If other types of crimes were considered, more than 80 election candidates were under investigation - more than half from the Popular Party and nearly 35 per cent from the P.S.O.E. Taking all regions into account, that figure rose to more than 100 suspect individuals.

Judging from past experience, the 2007 elections seemed to prove that voters did not punish corrupt candidates; as a matter of fact, many of those who faced charges actually obtained more votes than ever. Neither did the elections of 2011.

The most striking case of disregard for corrupt practices was the Valencian Autonomous Community, where Camps was running for re-election despite being involved in the the *Gürtel* network. During the electoral campaign, the national leader of the Popular Party, Mariano Rajoy, confirmed that Camps would continue to head the Valencia ticket even if he had to appear in court. On the municipal front, the Popular Party had presented 11 candidates suspected of wrongdoing, while the P.S.O.E was putting forward four names.

Andalucia ranked second after Valencia in number of candidates under investigation. There the Socialists led the way with 11 suspect names, followed by five from the Popular Party, two from the United Left and four from smaller parties. The most salient case was that of the mayor of Quesada, Jaén, a Socialist who was running for re-election even though he had been convicted in October 2010 for failing to clamp down on real-estate corruption, and barred from holding office for six years.

Although both the Popular Party and P.S.O.E. have in-house ethics codes to help achieve more transparency in the exercise of public office, neither one expressly promised to refrain from including individuals under investigation in their election lists.

Endemic corruption

¿Por qué hay tanta corrupción en España? Why is there so much corruption in Spain? Asking the question some three years ago in the leading Spanish newspaper *El País* was a Spaniard, Victor Lapuente Giné, Professor of Political Science at the Quality of Government Institute of the University of Gothenburg, Sweden.

The main cause of the scandals is the high number of political appointees at the national, regional and local, who live off the patronage networks depending on a party's victory at elections.

The difficulty is that Spain has not had much experience with elections and the democratic process.

The Second Republic, that of 1931, did not last long. A military rebellion in 1936 began the civil war, which lasted until 1939, while the mass slaughter of republicans continued for at least another eleven and lasted, in a systematic way, until the death of Franco in 1975.

Before the Republic, and for centuries, Spain had been a feudal society, dominated by economic oligarchies, the army and, above all, the Catholic Church. Franco's regime was the essence of National-Catholic continuation of that pre-Republican regime - with at the head a Borbon - in the best tradition of the House, ignorant, corrupt, intriguing and often stupid. Add to that the most reactionary form of Catholicism: in Spain in particular, a politician would say - only half jokingly - that it allows for confession and absolution, so that 'sinning' is not a fatal activity, but something which can be worked around, repeated, and repented, and so forth.

Franco's view of corruption is well-known: he thought of corruption as "the necessary lubrication for the system."

While in modern times central government appears to be largely free of endemic corruption, in the regions it is quite a different story.

In Andalucía, for example, the general view is that some 75 per cent of the Autonomous Community's town halls are in the hands of corrupt mayors.

Many town halls are 'administered' as personal fiefdoms by the mayor, often unelected, and other senior officials. Many of them have achieved power not due to

their qualifications or experience, but because of who they are and whom they know - a system of *clientelism* well-known in predominantly Catholic countries.

If one should add to that a general confusion of the central, regional and local authorities and a judicial system which is seriously understaffed, politically influenced by Francoist appointments and a legal system which is loaded in favour of developers, one well understands why corruption is rife.

Much of Spain's corruption is linked to illegal planning, which is said to be more profitable than drug dealing. On the Costa del Sol there may be competition between the two activities, but the former is likely to win.

It is a simple tale, and sadly all too common. Developers purchase non-urban, rural land for knock-down prices, then pay corrupt town hall mayors to reclassify the land as available to develop. All elements of corruption are there: often unlawful acquisition of land, hence property fraud, followed by unfair demolitions, 'illegal urbanisations' - a diabolic combination of corrupt promoters, politicians and *shysterish* lawyers.

Bribes are paid to the relevant officials and the buyers, who may include town hall officials or their friends or relatives, make lots of money by selling on the land once it has been reclassified or by developing it and selling the properties. Often officials will receive properties in the development as 'payment' for services. Related transactions may include paying cash and/or 'gifts' of cars and other valuable assets to officials and their relatives to secure planning permissions, building and opening licences, municipal contracts *et cetera*.

The 'ethical standard' about such 'gifts' seems to have been established by Carlos Fabra, leader of the Popular Party - and now President of the Autonomous Community in the Valencian province of Castellón, who, speaking in defence of Francisco Camps in February 2011, revealed how normal he thought it is for politicians to receive them.

This leaves developers to build whatever they like, wherever they choose, regardless of anyone or anything else.

The question is, why are so many mayors and councillors tempted to the dark side, considering the possible environmental and criminal consequences ? The answer is difficult, unless one resorts to the usual non-explanation: human nature. “When people see a massive amount of money, they cannot help but steal it. It is human nature.” And at this point, enter the ‘soul merchants’.

A typical example of that way of life is that of the mayor of Marbella, Gregorio Jesús Gil y Gil, who served in that position between 1991 and 2002, and was also known for his 16-year stint as president of Spanish football club *Atlético Madrid*.

Gil started out with good intentions. Marbella was a mess in the 1980s. Property was not selling. The place was a den filled with drugs and prostitutes. In 1991 Gil started his own political party, the *Grupo Independiente Liberal*, GIL as his political vehicle. There was nothing ‘liberal’ about GIL or Gil: he was a crook, who ran into financial trouble even during the Franco regime, was sent to gaol and was eventually released by personal order of Franco, after paying a sum of money. In April 2002 he again was put on trial, was banned for 28 years from holding public office, forced to stand down as mayor, and briefly imprisoned. Gil became famous and controversial for his extreme Right-wing political views, summed up in a unique brand of foulmouthed, low-brow populism punctuated by sexist, homophobic, racist and xenophobic remarks and, occasionally, by Francoist nostalgia. His friends, while mayor, were mostly British, Italian, and Russian gangsters. The Costa del Sol had become a haven for former Nazis and, most famously, the Nazi-collaborator Léon Degrelle. Gil was still facing several court cases at the time of his death in 2004.

Marbella was precisely the necessary environment for the growth of all forms of corruption.

A trial which involved two former mayors, 15 town councillors and the well-known German ‘aristocrat’ Alexandra Grafín von Bismark, charged of money-laundering, began in Marbella at the end of September 2010. The trial came at the end of *Operación Malaya*, Operation Malaya, the name given to an ongoing Spanish anti-corruption campaign in Marbella. The Operation began in 2006 and it was being carried out by the *Policía Nacional* under the direction of Judge Miguel Ángel Torres. The Operation had the objective of exposing a network involved in concealing

numerous illicit activities, such as bribery, embezzlement, and influence peddling, carried out by members of the Marbella City Council, civil servants, businessmen, and prominent lawyers, among others - over one hundred of them. They were accused of taking backhanders totalling up to 2.4 billion Euros (AU\$ 3 billion). The trial was essentially about graft and un-authorized 'urban developments'. They were based on a system of 'cash-for-votes' at town hall meetings. They produced bribes for some 670 million Euros (AU\$ 833 million) over a three year period.

The *capo* of the operation was one Juan Antonio Roca, who ran Marbella from his private offices for more than a decade, and was facing fines of some 800 million Euros (AU\$ 995 million) and 35 years in gaol.

"Roca partially financed his business dealings with money obtained from businessmen on trial in this case and ... given in exchange for favourable town hall decisions, mainly in the planning area." state prosecutors said.

A network of 70 companies had been set up to launder money through farms, hotels and real estate. In the process Roca had bought three palaces in Madrid and converted them into hotels.

A local magistrate had been found guilty in 2008 of taking money from Roca in exchange for a court order banning the airing of a TV programme which revealed the extent of his wealth.

When Roca was finally arrested in 2006, the police found 600,000 Euros (AU\$ 745,000) in cash and assets worth hundreds of millions, from office buildings and hotels throughout Spain, to residential properties, art, luxury cars, race horses and even a helicopter. It has since emerged that he used tax havens such as Andorra, the Cayman Islands, the Isle of Man, Liechtenstein and the Virgin Island to stash away bribes and also proceeds from the sale of land and properties.

After the arrests of Roca and others, administrators were appointed to run the town hall. They found it was staffed by friends and relatives of former councillors. They discovered that nearly 18,000 homes had been built without proper planning permission. Permits had since been issued for most, although 500 might be bulldozed.

Two former mayors, Julián Muñoz - a former waiter and Marisol Yagüe - a small-time folk singer whom 'businessman' Roca 'appointed' as mayor, were accused of having been on Roca's payroll, which extended across parties and covered more than half of the town's councillors. They were paid for each vote where they approved planning permits or contracts to run municipal services, such as the auto-bus station or the town's road breakdown services. Planning laws were widely flouted and what was once a popular beach resort was covered with concrete.

"Roca is a man with total control over the town hall, the councillors are subordinate to him. He is the person who all developers go to in order to see their wishes satisfied." concluded the investigating magistrate. "Over 15 years he went from being unemployed to amassing tens of millions of Euros."

A small figure in the corruption network was Isabel García Marcos, a one-time Socialist councillor and ferocious critic of corruption in Marbella, who subsequently became one of Juan Antonio Roca's favourite councillors. "I do not sign a piece of paper, or even read one, if I don't get money." she was caught saying on one phone tap recording. No one protested; no one was indicted; no one was sent to trial for it.

Prosecutors claimed that Roca took a one-third cut of bribes he handled. Building developers handed him more than 30 million Euros (AU\$ 37.3 million) over two years, according to court documents.

Senior municipal public servants, including the head of police, were also among the defendants, accused of receiving regular payouts.

Evidence was produced, which showed details of regular pay-outs to councillors in multiples of 6,000 Euros (AU\$ 7,460). Envelopes full of cash had been handed out holding up to 84,000 Euros (AU\$ 104,000) each.

Roca, who had been Gil's right-hand man, was at time of the trial serving a six-year sentence for a corruption case dating back to his mentor's time.

Operation Malaya has opened the door to subsequent investigations into possible cases of urban corruption in Spain. Many of the cases now coming to light involve

looting of public agencies which were flush with tax receipts and European Union aid during the boom.

There has already been consideration of what might be done to prevent similar webs of corruption in the future. It is widely acknowledged that the planning process in Spain could be improved to make the allocation of land for development more transparent. The background to the case is the high level of construction projects on the Costa del Sol in recent years.

Another large corruption case concerned Manuel Chaves, the ex-President of Andalucia, then third Vice President of Spain and President of the P.S.O.E., who has been directly implicated in the *ERE fraudulent* case, the Andalusian pension scandal.

The scandal revolved around regional companies which paid out millions in pensions to people who never actually worked for them, under the supposed orders of the government ministers in Seville. It involved the unlawful payment of some 647 million Euros (AU\$ 807 million) of fraudulent mass redundancies.

The former Director General of Works was called before a judge investigating the scandal to testify, as he was directly implicated in authorising such pensions. He told the judge that the pensions were paid with the full knowledge of ministers in Seville, and that Chaves, whilst president, told him 'to fix' a political problem before holding a mass rally in Cadiz where workers were demonstrating about being laid off from a state owned naval yard. The Director General then apparently authorised a series of payments - since declared illegal - to appease those workers. When asked if this meant Chaves told him to pay off those workers with false pensions, the former Director General replied "yes". He later told the judge that he was "relaxed" about the case, because "nothing I did, I did under my own responsibility, and I have paperwork to prove that what I did was under orders." The case continues.

Until recently there was hardly any public discussion of corruption, even though it was clear that the country and its institutions were drowning in it. It is now believed that corruption moves more money in Spain than illegal drugs.

Corruption is endemic across all political parties and it is greed and power which drove it rather than any particular political ideology. Lack of accountability and transparency, poor planning regulations and failures in the judicial system are compounding, if not encouraging, large scale corruption.

In 2011 the Ministry of Justice was investigating more than 700 cases of high-level corruption involving politicians from both major parties in all of the country's 50 provinces. This includes 264 cases involving Socialists, 200 involving Conservatives, and hundreds more involving smaller regional parties. Still, such figures should be read with some caution: the Popular Party and/or its associates presently administer the majority of the 17 Autonomous Communities, 2 Autonomous Cities and 50 Provinces of Spain.

According to the Corruption Perceptions Index, a yearly report published by Transparency International, which shows that during the past seven years Spain has gone from being 22 to being 31 in a scale of increasing corruption in the world, there are some 1,000 corruption investigations now under way across the country, most involving charges that public officials took advantage of the economic boom to enrich themselves.

The 2011 Corruption Perceptions Index measures the perceived levels of public sector corruption in 183 countries and territories around the world. No region or country in the world is immune to the damages of corruption. The vast majority of the 183 countries and territories assessed score below five on a scale of 10 = very clean to 0 = highly corrupt.

In first place, least corrupt with 9.5 out of 10, is New Zealand, followed by Denmark, Finland, Sweden, Singapore, Norway and the Netherlands - in that order, and about at the same level. Then come Australia, Switzerland, Canada, Luxembourg, Hong Kong, Iceland, Germany and Japan at decreasing point 8 on the scale. With the United Kingdom, Belgium, Ireland, Chile, Qatar, the United States, France and Uruguay at different levels of point 7, Spain comes after the United Arab Emirates, Estonia and Cyprus, at point 6.2, just one place ahead of Botswana and neighbouring Portugal, with Afghanistan (180), Myanmar (181), North Korea (182) and Somalia (183) at the bottom.

Spaniards themselves are aware of the problem. According to a recent survey, 88 per cent consider corruption to be a serious problem, compared to the European Union average of 74 per cent. Most of those questioned in Spain think corruption has increased over the past three years and 93 per cent consider that corruption seriously affects the national institutions.

The use of backhanders and the abuse of personal power are considered to be especially extended among the national, regional and local politicians. 67 per cent consider the civil servants who issued building permissions to be corrupt, and 40 per cent think the private sector is corrupt. Judges are considered by 41 per cent, Customs officials by 38 per cent and Police by 37 per cent of the population to be corrupt.

Spain is among the European Union states where corruption is less associated with organised crime. Instead, the Spanish see corruption as clearly a political illness, not only nationally but also regionally and locally.

National politicians are considered the most corrupt in Spain, with 78 per cent believing that bribes and power abuses are commonplace. In the case of regional politicians, 68 per cent consider corruption rife, while local politics fares little better with a figure of 67 per cent. Some 83 per cent think that corruption sentences are too lenient.

Oddly only 53 per cent of the Spaniards questioned admitted being affected by corruption in their daily lives, and only 3 per cent said they had been asked for a commission in the last year.

The survey tried to establish the reasons for the corruption and in Spain they are the lack of transparency in public spending at 43 per cent, the inaction of the political class in combating the behaviour at 40 per cent, that those found guilty are given minimal sentences or do not even have to go to court at 33 per cent, and the existence of too intimate links between businessmen and politicians at 28 per cent.

The *Eurobarometer* survey figures show those most concerned in the European Union about corruption are the Greeks: 98 per cent, Portuguese and Cypriots: 97 per

cent, Hungarians and Romanians: 96 per cent, and Bulgarians: 95 per cent. At the other end of the scale only 10 per cent of the Danes consider corruption to be a serious problem.

Out of the Eurozone countries, Spain is ranked fourth.

Three-quarters of Europeans now believe corruption is one of the biggest problems in their country. The European Commission estimates that corruption costs about 120,000 million Euros (AU\$ 150,000 million) per year in the European Union. It is no surprise that, in 2007, the Spanish tax authorities estimated that evasion in the property sector alone totalled 8.6 billion Euros (AU\$ 10.7 billion). It was recently estimated, on the basis of some 28 of the largest corruption cases which had come to court, that bribery, money laundering and tax fraud have cost Spain at least 4.2 billion Euros (AU\$ 5.2 billion) over the past ten years.

Royal Family in the murky waters of crime

Throughout his 36 years of reign, Juan Carlos I de Borbón has faced difficult situations as the attempted *coup* on 23 February 1981 by Lieutenant Colonel Tejero Molina - about which much later on, burning of Spanish flags and pictures endorsed by Catalan independentists, and - personally - the divorce of his daughter the *Infanta* Elena. And even he has also become protagonist of embarrassing situations as when caught hunting in Russia bears which had previously been drugged to facilitate the capture.

Still, neither he nor any member of the Royal Family had faced the courts. Now his son-in-law might be placed in the dock if, as it seems, he is finally charged and tried in a case which is being investigated by the anti-corruption Prosecutor's Office. In that case the person known as the Duke of Palma for having married the youngest daughter of the king, but commonly known as Iñaki Urdangarín, is investigated for misuse of public funds, embezzlement, fraudulent management, forgery of documents and related matters for a total loss estimated at some AU\$ 20 million.

Urdangarín, like every other Spaniard, is entitled to the presumption of innocence. A presentation of the facts, as they are summarily known and seem to have occurred, is necessary and will follow.

The news shocked Spanish society. It has not been refuted by the Royal House, which usually has argued that it gives no information on the private lives of its members. But it did shake the *Palacio de la Zarzuela*, the royal residence, and the king has already taken out precautions to distance himself from Urdangarín. Early in February 2012 it emerged that the king had sent an adviser in 2006 to try to persuade the duke to drop his business interests in Spain.

Sometime after, Urdangarín resigned as a director of the Nóos Institute for strategic studies and moved with his wife and their four children to the United States to take up a post with the Spanish telecoms firm *Telefonica*. His comfortable exile was the start of a fall from grace which culminated in December 2011 with a Palace announcement that the duke had been suspended from official engagements.

He earned an unprecedented rebuke from the highest Palace official and confidant of the king, Rafael Spottorno, who told Spanish media that the duke's behaviour seemed "less than exemplary." Spottorno even left open the possibility that the princess herself might disappear from public view, commenting on her situation only with the words "we shall see."

The king himself made a thinly veiled reference to the case when he said in his Christmas speech that "any reprehensible act should be tried and punished in accordance with law."

Since 2007 prosecutors have been investigating the non-profit Nóos Institute, that Urdangarín headed from 2004 to 2006.

Urdangarín and his business partner Diego Torres are said to have used the Institute to organise events related to sports and tourism, diverting millions of Euros of public and private funds into their own companies.

Torres had already been named an official suspect in the case, and Urdangarín was expected to follow before the end of 2011. That would make him the first member of

the Royal Family to be indicted in a criminal case. The *Infanta Cristina* was involved with the Nóos Institute and with one of her husband's companies, but she was apparently not aware of the details of his financial dealings, the daily *El País* quoted investigators as saying.

The couple's decision to move to the United States in 2009 was now being linked with the corruption case.

The king and prince Felipe were reportedly shocked, and taking a distance from Urdangarín.

Urdangarín recently returned to Spain to prepare his defence. He said that he deplored the "serious damage" that constant media coverage of his "private activities" was doing to the Royal Family. "He is worried, distressed and a little bit angry over what is coming out in the media." Urdangarín's lawyer said on 11 December 2011, maintaining that his client was innocent.

The Royal Palace, meanwhile, was taking measures to prevent the scandal from snowballing into a more general questioning of the monarchy. Spottorno announced that the Palace would start publishing accounts on how it spends its annual budget of about 9.6 million Euros (AU\$11 million).

The budget is relatively modest compared to those of some other European monarchies, but republican far-left and regionalist parties had long been calling for more transparency on how the king divides it up.

Early in December, the Palace also informed that it would reduce the official activities of Cristina and her older sister Elena, as had been planned before the Urdangarín affair broke. The princesses, who work for charitable foundations, would thus stop receiving allowances from the Royal budget.

The budget was frozen in 2009, and was even cut by 5 per cent in 2010 as the Royal family's contribution to austerity policies combating Spain's economic crisis. Criticism of the Royal Family, however, continued mounting in Spain. The country has a strong republican tradition, and the popularity of the monarchy is based mainly

on Juan Carlos' alleged personal contribution to thwarting the *coup* attempt of 23 February 1981.

If Urdangarin were to be made an official corruption suspect, “only a premature abdication (by the king) could stop the debate on the monarchy or the republic which has been postponed so many times.” wrote Juan Carlos Escudier in the daily *Público*.

While the case was proceeding, neither Urdangarín nor his wife *Infanta* Cristina intended to take part in any public event as representatives of the Royal family. Urdangarín has already apologised for the scandal: “[regretting] the serious harm to the image of my family and the House of his Majesty the King, which has nothing to do with my private activities.”

Queen Sofía has seen fit to lend her support; not long ago she travelled to Washington, D.C. where her daughter and son-in-law have been living for the past three years - a gesture which has been interpreted as implicit support for Urdangarín. The king however, has not appeared publicly with Urdangarín, nor has he made any statement on the subject. Those who surround him say that the monarch is very concerned about the situation. He believes that his presence is still appreciated by the majority of Spaniards, but he is aware that the young institution of the monarchy is increasingly less valued, especially among young people, and that his son Felipe is not so respected.

According to the tax office, between 2003 and 2007, Urdangarín obtained more than 16 million Euros (AU\$ 20 million), most of them from public administration, through the Nóos Institute. Taking advantage of his connection with the monarchy, he was able to make Nóos obtain public and private funds and had distracted them to a network of companies which were under the control of himself and of his partner, Diego Torres. Some transactions were deliberately ‘inflated’, particularly those with the autonomous Government of the Balearic Islands, headed by the Popular Party’s Jaume Matas, and the Autonomous Community of Valencia, headed by the already seen Francisco Camps.

Many persons are supposed to be involved in such transactions, and connected with the *Gürtel* network. As Torres admitted before the investigating judge, the Nóos

Institute was responsible for organising sporting events, forums on tourism and sport, and consulting; and it charged for the services provided through other companies such as *Aizoon S.L.*, a consulting and property developing company.

According to the anti-corruption Prosecutor, the Nóos Institute obtained exceptional benefits from the real cost of such services. For example, it won almost 1.5 million Euros (AU\$ 1.9 million) of the 2.3 million Euros (AU\$ 1.8 million) charged to the Government to organise two conferences on tourism and sport which lasted five days in Palma de Mallorca.

Investigators argue that the core of decision-making in Nóos was by Urdangarín, Diego Torres, his wife and two of his brothers-in-law, who were also in charge of the legal and financial departments of the Institute. Diego Torres has already been charged with forgery of documents, abuse of his power, fraudulent management and misuse of public funds. It seems, however, that the *Infanta* Cristina, who has been a member of the board of directors of Nóos since 2006, will not be charged because the investigators believe that she was not aware of the financial aspects of the operations.

Neither of the major political parties wanted to comment on the story until the courts decide the case. Only the Valencian branch of *Izquierda Unida*, United Left, a political coalition which was organised in 1986 to bring together several political Left groups, has openly called for a public response from Urdangarín in a letter in which it call on him “to cooperate with justice providing all documentation and information required and, above all, to return public funds which had been given” and ended up in companies linked to him and his wife Cristina.

On that occasion they renewed their calls for transparency in public money received by the king. It is known that during the past year the treasury paid the equivalent of 9.6 million Euros (AU\$ 11 million) to the Royal House for the support of the king and his family. The king, as it is provided by the Constitution of 1978, “distributes such sum freely.” He gave certain sums to his son Felipe and others to the *Infantas* Cristina and Elena.

Some political parties, such as *Izquierda Unida* and *Esquerra Republicana de Catalunya*, Republican Left of Catalonia, have devoted years calling for the Congress

of Deputies to investigate how such allowances are spent - not in an “opaque but transparent” way. So far, however, Spain’s two main parties - Socialists and conservatives - have rejected all attempts by smaller parties to question the monarchy. “I believe that institutionally, the king will know how to handle this situation.” then Prime Minister José Luis Rodríguez Zapatero would say on 11 December 2011.

There was one further matter which specifically referred to the Urdangaríns.

In early 2008 the *Infanta* Cristina and her husband purchased a luxurious house in the best neighbourhood of Barcelona: Pedralbes. They paid for it 8 million Euros (AU\$ 9.9 million) and spent over 1 million Euros (AU\$ 1.2 million) in alterations. To sum it all up: within a few years of abandoning his sports career in 2000, and after attending a prestigious business school, Urdangarín and his wife had become the owners of an 8 million + Euros (AU\$ 9.9 million +) house in Barcelona. He had set up various companies and became president of the non-profit foundation, the Nóos Institute. The Institute boasted that its patrons included Urdangarín, his wife, an accountant described as an “assessor to the royal household” and professors from two of the world's top business schools, the *Instituto de Estudios Superiores de la Empresa*, Institute of Higher Business Studies of the University of Navarra and the *ESADE* Business School, both in Barcelona. Nóos landed multimillion-euro contracts to organise events for regional governments in the Balearic Islands and Valencia. But public prosecutors in Palma, the capital of the Balearics, said there was evidence the Institute was a front, charging hugely inflated fees and siphoning money off to Urdangarín’s private companies. A 1.2 million Euros (AU\$ 1.25 million) contract with the Government of the Balearic Islands was, according to what the prosecutors told investigating magistrate José Castro, “totally disproportionate to the task ... based exclusively on a fictitious budget which did not analyse a single cost.” Evidence - it was said - pointed to the foundation being used exclusively to channel money to other companies, many in the names of Urdangarín or his business partners. “That was the sole aim.” said the prosecutors. At least 3.2 million Euros (AU\$ 39.7 million) out of 5 million Euros (AU\$ 6.2 million) paid was passed on from Nóos to Urdangarín’s companies, according to *Público*.

The newspaper *El Mundo*, one of the few which has dared to publish the information considered “scandalous” of the Royal Family to spend all that money. It wondered how it was possible that the *Infanta* Cristina, who worked at the La Caixa Foundation for a salary of some 1,800 Euros a month (AU\$ 2,250) per month, and her husband, Iñaki, who collected 600,000 Euros (AU\$ 750,000) per season when playing handball in Football Club Barcelona, and in addition received about 90,000 Euros (AU\$ 112,000) a year as a consultant of the company *Octagon Esedos S.L.*, had been able to purchase such an expensive house.

“Where does the money for this come from?”, queried the newspapers, which went on claiming that that “the two salaries of the couple do not seem sufficient to allow such new house.”

The controversy was exacerbated when it became known that Urdangarín, since 2001, had been serving as director of the Area of planning and development of the sports consultancy *Octagon Esedos*. This company had as clients the Government of Castile y León, the Councils of Madrid and Barcelona, the City Council of Santander and public bodies; and he also advised Olympic football and tennis, and organisations connected with motor racing and motorcycling. That position was considered incompatible with his role as Vice President of the Spanish Olympic Committee, because its statute specifies that the Vice President cannot also be a member of the board of directors of any Sport organisation. Urdangarín receives no salary from the Committee.

After *Octagon Esedos*, which in 2001 had a turnover of 9 million Euros (AU\$ 11.2 million), Urdangarín set up the consultancy *Nóos*, followed in 2003 by the real estate *Aizoon S.L.* In just a few years the son-in-law of the king increased its wealth by buying six apartments in the centre of Barcelona.

In the summer of 2009 Urdangarín, his wife and their four children moved to live in Washington, D.C.. The news surprised because it was difficult for the *Infanta* Cristina to do her work from there. Urdangarín had been offered the position of Chairman of the Committee on Public Affairs of *Telefónica* for the United States and Latin America.

Some other events are important and permit a kind of chronology.

In 2004 Urdangarín contacted one José Luis Ballester, nicknamed 'Pepote', director of sports of the Government of Jaume Matas, President of the Popular Party of the Balearic Islands, Chairman of the Balearic Government, and friend of prince Felipe. Urdangarín offered his services to Matas and to his Councillors of Tourism and Presidency to organise a Sports Forum. Two such Forums were held in 2005 and 2006, at a cost of 2.3 billion Euros (AU\$ 28.5 billion).

In February 2006 the P.S.O.E. questioned the 1.2 million Euros (AU\$ 14.9 million) paid to Nóos under the first agreement. Fifteen days later, Urdangarín left the Presidency of Nóos.

In March 2006 Nóos sent a message to Ballester. Urdangarín was mentioned as a mediator.

In July 2010 Judge Castro opened the investigation of the Forums/conventions promoted by Nóos. The Prosecutor supposed that Nóos had distracted 2.3 million (AU\$ 2.8 million).

In July 2011 Diego Torres, a co-accused Nóos partner, told the investigating judge that Urdangarín had charged "for services rendered" under the signature of *Aizoon S.L.*. 'Pepote' was involved.

On 13 November 2011 Judge Castro investigated the business of Urdangarín and questioned the "exorbitant prices" of the forums. A report of the Financial Police estimated Nóos' profits to be around 16 million Euros (AU\$ 19.8 million). Some of that money had been banked in London.

On 29 November 2011 the judge addressed "the seriousness" of the situation and the relative responsibilities, as they clearly appeared from the records. In particular, there was doubt as to the final destination of the funds.

In December 2011 the Prosecutor's Office interrogated in Valencia the former organisers of artistic and scientific activities which took place during the three occasions of the Valencia Summit organised by Nóos.

It seemed that the Royal Family had been dragged in a growing scandal of financial fraud for which Urdangarín was responsible.

Urdangarín and his business partners became the subject of daily rumours about a fraud investigation involving millions of Euros of public money. Police had raided the offices of Urdangarín's private companies and of the Nóos Institute and seized many documents.

El País newspaper reported early in December that prosecutors believed that Urdangarín would be named as a formal suspect in the case within two months. That could be a first step towards formal charges being proffered.

Information from the Royal Palace, meanwhile, added fuel to the scandal by suggesting that the king intended to reduce the size of the official Royal Family by excluding from it both his son-in-law and daughter.

On 8 December the Palace press office appeared to have received a royal ticking off and publicly backtracked, saying "it deeply regretted having contributed to the fact that some media outlets reported this erroneously."

Urdangarín himself proclaimed his innocence from Washington. "When I know the details of the investigations being carried out ... I will be able to comment on their contents," he had said in November. "My professional behaviour has always been correct."

Queen Sofia, meanwhile, publicly showed her support for her beleaguered daughter and son-in-law, allowing the latest edition of *Hola* magazine to publish pictures of her visiting them at their home in the United States.

Speculation in Spanish newspapers included predictions that Urdangarín would have dropped his title so he could continue as a businessman or that Cristina would renounce her position as seventh in the line to the throne.

The scandal arrived at a time when the Royal Family was losing support among ordinary Spaniards. A regular poll by the state-run Centre for Sociological Investigation showed that, for the first time since polling started 18 years ago, trust

in the Royals has fallen below the halfway mark. Spaniards were placing greater trust in the press.

When the king delivered his Christmas Speech on 25 December, the tone of the speech was that, in Spain, everyone is equal under the law. In an obvious reference to the case, said: “When untoward conduct arises which is not in keeping with the law and ethics, society naturally reacts. Fortunately we live by the rule of law and any unworthy act must be judged and penalised.” According to the Constitution of 1978 he is more equal - he is above the law and prosecution.

A Spanish blogger wondered: *“La corrupción en España no es, como algunos afirman, una concatenación de casos aislados, sino toda una epidemia nacional alimentada desde los cuarteles del poder y los sectores más poderosos, como si hubieran querido esquilmar la sociedad y exprimirla hasta destruirla.”* Corruption in Spain is not, as some claim, a number of isolated cases, but an entire national epidemic fed from the headquarters of power and by the most powerful, as if they wanted to gouge and squeeze society so as to destroy it.

It was highly doubtful that much of this would change with the new Government of Rajoy. At least, in political circles, one could be forgiven for saying that one knows where one stands with the conservatives in matters of the wallet - while it has always fallen to the Socialists to surprise the populace when it comes to the temporary relinquishment of their duty as ‘men of the people’.

Early December 2011 newspapers headlines suggested that Urdangarín may have been a lot worse than “not exemplary.” *El País*, for example, accused him of taking up to 300,000 Euros (AU\$ 380,000) from the Government of the Balearic Islands to set up a ‘fictional’ office to promote the activities of a cycling team sponsored by the region’s government.

A full-page opinion piece in *El Mundo*, meanwhile, called on the courts to treat Urdangarín - whose royal status allows him to give evidence by writing instead of in person - in exactly the same fashion as any other Spaniard.

“The story is always the same.” wrote Elisa de la Nuez, a lawyer. “Public bodies hand over large sums of money with virtually no control to the foundation presided over by

Mr. Urdangarín on the basis of his person and family connections motivated by the fact that to do business in Spain it is important whom you know rather than what you know.”

On 11 December Urdangarín broke several weeks of silence about the case. “Given the number of articles and comment pieces appearing in the media about my professional life, I wish to make clear that I deeply regret the serious harm being done to my family and the royal family, which have nothing whatsoever to do with my private activities.” he said from his home in Washington.

He had previously proclaimed his innocence and said he was sure he would clear his name.

Newspapers had, however, reported that prosecutors were convinced that the investigating magistrate would soon officially name him as a suspect in the case. Charges, if presented, would be decided at a later date.

Urdangarín’s lawyer, Mario Pascual Vives, said that the king's son-in-law was “worried, upset, indignant ... and fully convinced of his innocence.”

Spottorno said that the Royal Palace would provide a breakdown of the way it spends the more than 9.6 million Euros (AU\$ 11 million) it receives from Spanish taxpayers every year. This would have appeared on the Royal Family’s website within weeks. He did not, however, reveal how much detail would be given.

By the end of 2011 the Royal Family rendered public their finances for the first time. Juan Carlos is paid 292,752 Euros (AU\$ 363,400) annually by the State to be king. He pays 40 per cent tax on his income. He receives 140,519 Euros (AU\$ 174,360) as salary and the rest is for expenses. Crown Prince Felipe receives 146,376 Euros (AU\$ 181,611). Queen Sofia and the princesses receive 375,000 Euros (AU\$ 465,300) between them. The total budget for the Royal Family was 8.4 million Euros (less than AU\$ 11 million) in 2011. The Royal household has a staff of about 500, and just over 4 million Euros (about AU\$ 5 million) out of the 11 million total was spent on them.

The release of Royal budget figures on 28 December was “in the spirit of transparency and modern times”, the Palace informed, although the timing of the

announcement, coming as the Duke of Palma was investigated, indicated that the opening up of the finances of the Royal household to the public was undertaken as ‘damage control’.

Not necessarily in strict connection with Urdangarín case, but following the events of another scandal, the *Palma Arena* case, the Government of the Popular Party led by Jaume Matas, President and Environment Minister fell. The case is part of a broader corruption investigation involving the regional government of the Balearic Islands, where the Nóos Institute is based. On 20 March 2012 Matas, who had been Environment Minister in the José María Aznar from 2000 to 2003, was sentenced to six years’ gaol for corruption: falsifying official documents, embezzlement and trafficking of influence.

Soon after, and completely unrelated, it was announced that José Blanco, the Public Works Minister of the former Zapatero Socialist government, was being investigated for influence-peddling and corruption in the north-western region of Galicia. He was suspected of taking bribes for providing public subsidies.

In the meantime the trial of Francisco Camps was continuing. And, still in Valencia, an audit of a wastewater-treatment agency had found more than 22 million Euros (AU\$ 27.3 million) had disappeared from its accounts; agency executives charged ‘Armani’ suits and luxury watches to their expense accounts and jetted around the globe, staying in five-star hotels at which they sometimes were accompanied by women described as ‘Romanian translators.’

While in early February one of the main defendants in the scandal, Diego Torres, Urdangarín’s former business partner, and his wife Ana Maria Tejeiro, decided to make use of their constitutional right and refused answering the judge’s and the prosecutor’s questions, Urdangarín was scheduled to appear in court on 25 February 2012.

Such reports came at an awkward time for Prime Minister Mariano Rajoy’s new government, which is asking citizens to bear more than 19 billion Euros (AU\$ 23.6 billion) in ‘austerity’ tax increases and spending cuts, while promising a crackdown on tax evasion. Rallies against the planned austerity measures had drawn tens of

thousands of protesters in several cities on 26 January. The number of corruption trial was scheduled to increase in 2014.

The contradiction between Crown-connected persons and politicians taking advantage of public money, while the same were asking the public to deal with huge austerity measures, was destined to getting worse with time.

Hearings in the Urdangarín case began at mid-February at a court in Palma on the island of Majorca and could culminate on 25 February 2012 with the appearance of Urdangarín. The Palma court heard allegations of false accounting and tax evasion by the Nóos Institute, and smaller companies under its umbrella as business associates of Urdangarín, themselves under suspicion, were called to testify.

State prosecutors had been investigating suspected forgery, perversion of the course of justice, fraud and embezzlement of public funds, according to the search warrant issued for the Nóos Institute in 2011. Prosecutors believe up to 5.8 million Euros (AU\$ 7.2 million) could have been misappropriated and had uncovered evidence of funds being stashed away in offshore accounts in Belize, Luxembourg and Britain.

The details of the allegations against Urdangarín have not been made public but, on his appearance in court on 25 February 2012, he would have been questioned about his knowledge of and involvement in the fraud. As public relations nightmares go, it could not get much uglier: the king's son-in-law was to be questioned over alleged corruption while everyday people brave austerity measures, tax hikes, staggering unemployment and bleak prospects for the future.

The statements, leaked to the press, painted a picture of unsavoury business practices. Employees hired to work in the luxurious private home of the duke and the princess mansion in Barcelona's upmarket Pedralbes district claimed to have been given contracts worth more than their actual wages through companies under investigation. Other testimonies suggested there were dozens of 'ghost employees' appearing on the books to justify lucrative consultancy contracts.

Even *Infanta* Cristina, who has half of the shares of *Aizoon S.L.*, one of the companies under investigation, did not escape scrutiny. A Right-wing group, *Manos Limpias*, Clean Hands was pushing for the court also to question the princess. But

Judge Castro, accepting the judgment of chief prosecutor Pedro Horrach that *Infanta* Cristina knew nothing about her husband's dealings at the non-profit Instituto Nóos, had stopped short of summoning her to give evidence. However, calls were growing for her to be indicted alongside her husband.

“It seems that much of the responsibility was with her husband, but he pulled her into the businesses, and she is not a stupid person.” José Ramon Soriano, a Supreme Court judge not involved in the case, said. “If she formed part of the companies involved, then of course she would know something.”

Urdangarín has said little beyond statements through his lawyer that he has “acted entirely properly” and “expects to be fully exonerated.”

The exact amount of money involved was not yet known.

But, according to the newspaper *El Mundo*, Urdangarín and his former business partner Diego Torres may have misappropriated around 17 million Euros (AU\$ 21.1 million). “There is such an accumulation of evidence that under normal conditions [the writer thought] that he would run a serious risk of receiving a long prison sentence.”

“If he made mistakes, as all citizens do, I would call them administrative mistakes.” Urdangarín's lawyer Mario Pascual Vives said, adding that his client would face his court appearance with “courage, firmness and the desire to be able to explain himself.”

Urdangarín made clear during his roughly nine hours of closed-door testimony on 25 February that his wife had nothing to do with his business dealings, his lawyer said. “He continues to state this and I understand that this was made clear.” Vives told reporters outside the courthouse on 26 February.

About 500 protesters, many wearing cardboard crowns, whistled and jeered when the duke arrived at the courthouse on 25 February and his car was struck by an egg thrown by a woman from behind police barriers. “Mind your wallet, Urdangarín is coming.” some yelled, while others waved banners reading “Iñaki, you owe us money” and “So much nobility and the people live in poverty.” One woman turned

up wearing a black and white striped prison uniform with a sign which read: “Iñaki, see you in your new mansion.” “The king should be here as well if he knew what was going on.” said a poster.

Because it had recently be known that Juan Carlos has sought to distance himself from the affair, the Palace confirmed reports that the king in 2006 had ordered Urdangarín to sever any connection with the Nóos Institute, and one of the signs on display read: “Juan Carlos, if you knew why did you keep quiet?”

The majority of Spaniards - 61.1 per cent of them, believe the duke is guilty, according to a *Sigma Dos* poll made public on 25 February by private television *Telecinco*. Only 7.4 per cent feel he is innocent with the rest undecided. The poll also found that a significant number of Spaniards, 43.7 per cent, believe the scandal posed a risk to the survival of the monarchy.

Once the judge has finished questioning all the witnesses and suspects in the case, he would decide whether the prosecution has adequate evidence to file charges and charge the suspects, or drop the case. The judge has not indicated when he will conclude his questioning.

Antoni Gutiérrez-Rubí, a communications consultant and contributor to the main Spanish newspapers, commented that “the king had faced the situation in a straightforward and direct way, but also, in a way, timidly. I think many people in Spain may suspect that the king was aware of his son-in-law’s activities, or was aware of the life his daughter had with her husband. I think somehow, he fell short. He lacked the determination, the courage, to apologise publicly, to express regret or remorse that the people could think that a member of the royal family, even if it was his son-in-law, could have abused privileges, or behaved in a way that was not very ethical, not very responsible.”

And again: “If Urdangarín is convicted, the *Infanta* will probably have to give up her royal rights. She would have no choice. She would have to give up her husband or give up her royal rights. There could hardly be another way out. It would be incomprehensible, unjustifiable, that the *Infanta* not assume personally the consequences of a possible ruling against her husband. Then, the royal family, the

king in this case, would have to apologise publicly for abuse by a member of his family of the royal institutional name and what it represents - profiting from it in an illegal way - and there might be, of course, penal consequences.”

On 26 February Urdangarín answered questions posed by Judge José Castro regarding his involvement in the so-called *Palma Arena* case of alleged diversion of public moneys from public entities to the Nóos Institute. *Aizoon S.L.* invoices were shown to Urdangarín and he acknowledged that he, as the firm’s administrator and in charge of its management, certified them as being legally correct, judicial officials said. One of the invoices, for 600 Euros (AU\$ 750), was issued for the payment of expenses of a personal household employee for Urdangarín, an expenditure that the Duke of Palma ‘justified’ by saying that he needed to save himself as much time as possible and the only way to do so was to pay for an assistant to care for his children and take care of his home.

Judge Castro reserved a significant part of his questioning on the seized correspondence among several people implicated in the plot, many of them in the Tejeiro law firm, led by Miguel Tejeiro, who was the accountant for the foundation and brother-in-law to Urdangarín former partner. Urdangarín said he did not know anything about the letters and some of the lawyers in court appeared bothered by the questions, since Urdangarín was neither the sender nor the receiver of any of them, the judicial officials said.

In his court testimony, Urdangarín denied all the accusations against him regarding irregularities in the management of Nóos and associated firms, adding that he did not know that there was any plot afoot to divert funds to overseas ‘tax havens’.

The embezzlement plot involved *Aizoon*, *Nóos*, *Nóos Strategy Consulting*, the Tejeiro law firm, *Virtual Strategies*, *Intuit*, *Shiraimasu* and De Goes Centre for Stakeholder Management, all linked to Torres and his relatives.

On 26 February Urdangarín also spoke about the circumstances surrounding his 2006 departure from the Institute, on the recommendation of the Royal Palace, saying that two conditions were imposed upon him: that he cease his professional

activities with public entities and that he abandon his business dealings with Torres, whose own testimony remains to be given.

Throughout the development of the case, and in the many occasions of media attention to it, frequent reference was made to some supposed gratitude that Spaniards owe to the king for a peaceful transition to democracy and his role during the failed military coup of 23 February 1981. On the assumption that his support of the young democratic regime was crucial at the time, he has remained largely popular in Spain.

Still, even before many of the allegations against duke Iñaki Urdangarín were reported in the Spanish media, an opinion poll carried out in October 2011 showed that the Royal Family's approval rating had dropped to 4.8 out of 10. It was the first time the institution had scored less than five. Revelations about the duke's fraudulent earnings, which allowed him to buy his family a luxury villa in Barcelona, have not gone down well in Spain, where more than five million people are unemployed and the government has announced drastic spending cuts.

No bail was imposed on Urdangarin for the time being. He and Cristina were now expected to return to the United States, where they live with their four children.

The court in Mallorca will hear from other defendants and witnesses in the coming weeks.

As for Juan Carlos, things are not what they seem and what they are made to look. This is not the place to refute propaganda. Here are the facts: Juan Carlos is a 1938 issue of Bourbon + Bourbon; he was 'educated' by the Jesuits and by the military. He was over 31 when Franco designated him 'Prince Juan Carlos de Borbón'. He had publicly sworn loyalty to the 'principles of Franco's National Movement'; he often performed official ceremonies alongside the dictator; during Franco's temporary incapacity in 1974 and 1975 he acted as Head of State. He did all that with little outward hesitation - another case of 'mental reservation' learnt from the Jesuits? He was proclaimed king two days after Franco's death in 1975. Many years later, he said: "*No consiento que se able mal de Franco in mi presencia.*" Not a bad word about Franco in my presence !

For most of his life he was very close to his instructor and confidant General Alfonso Armada, whom the king had appointed as deputy chief of the defence staff just 11 days before the *coup* attempt. Perhaps only Juan Carlos and Armada know the true story of the attempted *coup* of 23 February 1981. Lieutenant Colonel Tejero Molina was a puppet when he invaded the Congress and pre-announced the arrival of ‘a relevant authority’. It never arrived. Scholars of repute have speculated that Juan Carlos was party to a plot over/within the plot, but pulled out at the last minute and chose to ‘defend democracy and the Constitution’ by dramatically appearing on television almost a day after Tejero’s invasion. There is a strong and credible hypothesis that Armada was the ‘authority’ who did not materialise. Why? Nobody knows - yet. Yet? Why?

Very recently the German Foreign Ministry has declassified several diplomatic documents under its 30-year data disclosure law. On 6 February 2012 *Der Spiegel* published *communiqué* 524, sent by Lothar Lahn, in 1981 Germany’s Ambassador to Spain, revealing the “understanding if not even sympathy” of Juan Carlos for the 23 February 1981 attempted *coup d’état*.

It is only the beginning, and one will have to wait until 2031, when records from Spanish sources and from the United States embassy in Madrid will become publicly available.

In the *communiqué*, Ambassador Lahn explained how Juan Carlos “did not express indignation or revulsion towards the actors.” Instead, he blamed former Prime Minister Adolfo Suárez, who - he said - “despised the Army” because Suárez had failed to “take into account the demands of the military.” Juan Carlos told Lahn: “they started acting on their own initiative.”

The figure of the king may become once again central to holding together the network of half-truths, lies and cover-ups about corruption, the *pacto del olvido*, a limited, neo-Francoist, neo-Liberal, ‘democracy’ - and who knows what else, the vindictiveness of a callous judiciary?

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