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ETA, the Algerian FLN, and the Strategy of Political Defence between Europe and the Third World, 1950s–1970s

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Abstract

In recent years, most research on the long '68 has underlined the importance of connections between the First World and the Third World. This article takes one of these intertwined histories into account: the one that ties ETA to the Algerian FLN. More specifically, it focuses on the strategy of political defence used in some of the trials against ETA members and their inspiration in previous FLN processes. The research pays particular attention to the Burgos Trial of December 1970, which was one of the most notable events in Europe's long '68. In Spain, the protests against this court martial marked a turning point in the pathway of the Franco regime. At the same time, the trial inspired an exceptional expression of international solidarity. The article stresses the key role played during the Burgos Trial – and before – by several left-wing lawyers from Spain and France. Their collective experiences and personal trajectories show the relevance of transnational interconnections and illustrate the different genealogies of the idea of political defence, based mainly on communist and anticolonial struggles. Despite pointing out the importance of these exchanges, the research also emphasizes some of their limits and contradictions, something that previous studies have insufficiently addressed.

In December 1970, the Franco regime court-martialled sixteen Basques accused of belonging to Euskadi ta Askatasuna (ETA, Basque Fatherland and Freedom). With this trial, the dictatorship sought to end the rise in activism that the armed organization had led since 1967 and that had resulted in the deaths of four individuals – two policemen, a taxi driver, and one ETA member – between 1968 and 1969. The wave of protests in Spain and abroad sparked

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by the so-called Burgos Trial pushed Franco to commute the death sentences given to six of the accused. Several years later, one of the defendants recalled the words of a journalist from the French newspaper *Libération* regarding that historic moment:

He told me that, for him, the Burgos Trial had been the equivalent of what the war in Spain in the 1930s had been for so many French and Americans: a case where the rebellion of a people continued to be, in large part, a romantic adventure. The Basque Country was a land where things happened with irresistible clarity, practically as in the films of [John] Ford.¹

This reporter's testimony reflects the significant international impact of the protests that sought to save the lives of the Basque independentists tried in 1970. Although those protests did not reach the level of the events that took place in France in May and June 1968, it is no exaggeration to say that the Burgos Trial was one of the most important episodes in Europe's long '68. What drove these protests? What inspired the ETA members' successful defence strategy? To answer these questions, we must first see '68 as a prolonged process of mobilization rather than a series of events that happened to coincide in the late 1960s.² Second, we must see it as a series of events that had a significant political and socio-economic dimension, and that therefore extended far beyond the cultural sphere.³ Finally, we must see it as an international phenomenon.

This final consideration has been increasingly frequent in studies on '68, along with the importance assigned to global or world history over the last few decades.⁴ The interest in this perspective is a symptom of a trend that is worth celebrating: the desire to abandon the methodological nationalism that has tainted much of Western historiography – as well as other human and social sciences – for so long. Nevertheless, the importance that is now placed on global history also has certain risks. The foremost is most likely the danger of confusing the rejection of methodological nationalism with the negation of the impact that the nation-state continues to have, and the even greater impact that it had in the mid-twentieth century. To cite the words of Frederick Cooper in a provocative article criticizing the use of the concept of 'globalization', 'the clandestine migrant cannot afford the illusion that states and institutions matter less than "flows"'. It may be wise to reject the constraints of nations or continents, but not if this causes us to assume that the only possible frame of reference is the planet as a whole.⁵

¹ Mario Onaindia, 'Algo nuevo', in *Burgos. Juicio a un pueblo* (San Sebastian, 1978), p. 7.

² The idea has been suggested by, among others, Geneviève Dreyfus-Armand et al., eds., *Les années 1968. Le temps de la contestation* (Paris, 2000).

³ One of the historians to have underlined this point of view is Gerd-Rainer Horn, *The spirit of '68: rebellion in western Europe and North America, 1956–1976* (New York, NY, 2007).

⁴ See, among many others, the recent Chen Jian et al., eds., *The Routledge handbook of the global sixties: between protest and nation-building* (London, 2018).

⁵ Frederick Cooper, 'What is the concept of globalization good for? An African historian's perspective', *African Affairs*, 100 (2001), pp. 189–213, at pp. 194, 190.

In reality, when referring to global history, academics often invoke the space that ties postcolonial nations with their former metropolises.⁶ The long shadow of the state – and the empire – continues to linger over transnational connections.

Taking these perils into account, but without abandoning a transnational perspective, this article explores the interactions between Europe and the Third World in the long '68. Even though this is an increasingly fertile area of study, the relationship has not always been described effectively. As an example, in one of his seminal works, David C. Rapoport, one of the most frequently cited academics in the field of political violence, affirms that the armed organizations in what he calls the 'New Left wave' 'saw themselves as vanguards for the Third World masses'. At the same time, he defines the Vietnam War as 'the major political event stimulating' this wave.⁷ These quotations include some of the most common clichés when it comes to addressing the relationship between the Third World and the First World in the 1960s, commonplaces which are closely related to the temporal limitation of '68 to the year 1968 or to the end of the 1960s.

If we broaden our chronological scope, things become more complex. First of all, the importance of (America's) Vietnam War is diluted by France's prior war in Indochina and its war in Algeria, the two main points of reference for both Western activists and anticolonial struggles. It is no coincidence that in *The wretched of the Earth* (1961) Frantz Fanon placed particular emphasis on two dates in the national liberation struggles of the Third World: the battle of Dien Bien Phu in 1954 and the Philippeville (Skikda) massacre the following year.⁸ Furthermore, a broader perspective that takes into account medium- or long-term processes reveals the oversimplification of the unidirectional relationship established by Rapoport between First World and Third World revolutionaries. In fact, the main – although not the only – direction of this connection was the opposite: from south to north. This is made apparent by several studies published in the last few years.⁹ In the words of one of the authors who helped to put this matter into focus, Arif Dirlik, 'as idea and reality the Third World was conspicuously present in the events of 1968, not only in the many different areas encompassed by the term "Third World" but also and more importantly in the First (and Second) Worlds'.¹⁰

Transnational interconnections between the First World and the Third World were extremely common in the long '68. Of course, they were not

⁶ Marcel van der Linden, 'The promise and challenges of global labor history', *International Labor and Working-Class History*, 82 (2012), pp. 57–76, at p. 61.

⁷ David C. Rapoport, 'The four waves of modern terrorism', in Audrey Kurth Cronin and James M. Ludes, eds., *Attacking terrorism: elements of a grand strategy* (Washington, DC, 2004), pp. 46–73, at p. 56.

⁸ Frantz Fanon, *The wretched of the Earth* (New York, NY, 1963; orig. edn 1961), pp. 89–90.

⁹ Quinn Slobodian, *Foreign front: Third World politics in sixties West Germany* (Durham, NC, 2012); Christoph Kalter, *The discovery of the Third World: decolonization and the rise of the new left in France, c. 1950–1976* (Cambridge, 2016).

¹⁰ Arif Dirlik, 'The Third World', in Carole Fink, Philipp Gassert, and Detlef Junker, eds., *1968: the world transformed* (Washington, DC, 1998), pp. 295–317, at p. 295.

something new in history: historians have followed other ‘intertwined histories’ involving distant territories in remote periods.¹¹ However, the technological changes resulting from the so-called Second Industrial Revolution and, later on, the rapid expansion of commercial aviation and the broad reach of means of mass communication following the Second World War helped to facilitate them. The research summarized below takes one of these interactions into account: the connection between the Algerian National Liberation Front (FLN) and ETA. More specifically, it focuses on the strategy of political defence used in the trials of FLN and ETA members. Nevertheless, the article also tries to underline the limitations and contradictions in these transnational exchanges. Despite the visible similarities, it is best not to ignore the particularities: one of the risks of the global perspective noted by some of the authors focusing on the Third World’s influence on the protests of the 1960s is the tendency to exaggerate the similarities between different countries or geographic contexts.¹²

The article begins with the origin of ETA’s theoretical fascination with the FLN, which later evolved into disenchantment as a result of first-hand contact with an independent Algeria. The second section addresses the political defence strategy used in trials against FLN members. It pays particular attention to the sources of influence of this strategy: the preceding anticolonial struggles and communist tradition; and it stresses the connections with other Third World scenarios promoted by French lawyers expressing their solidarity with anticolonialism. Lawyers are also protagonists of much of the third section, which concentrates on the use of political defence under Franco. The climax of this practice in the Burgos Trial is the focus of the final section, which clarifies the origins of the defence strategy used at the time by ETA. Here, lawyers emerge as a key figure once again. Although they were subject to the decisions of their defendants, their actions would be fundamental to the establishment of ties both in Spain and abroad.

Considering the importance of these attorneys, one of the main sources used in this research is a series of interviews with two of the lawyers from the Burgos Trial, in combination with an interview with one of the accused. The first two are especially useful for reconstructing the legal strategy applied during the court martial of December 1970, the influences behind it, and the connections established with lawyers from outside the Basque Country – both Spaniards and foreigners. Other written testimonies by lawyers and ETA militants have also been of great use, as have several memoirs and political texts by lawyers and intellectuals from France and the Third World. As for the reconstruction of the history of ETA and the steps taken by the Franco regime to deal with it, this article uses largely unpublished government and police documents held in archives in Madrid and the Basque Country, along with publications by ETA itself. Finally, international press has been

¹¹ Cooper, ‘What is the concept?’, p. 200.

¹² Dirlik, ‘Third World’, p. 297; Samantha Christiansen and Zachary A. Scarlett, ‘Introduction’, in Samantha Christiansen and Zachary A. Scarlett, eds., *The Third World in the global 1960s* (New York, NY, 2013), pp. 1–20, at pp. 6–7.

essential in judging the transnational reach of many of the events analysed. In the consultation of these documents, the collection of the Ibero-Amerikanisches Institut in Berlin has been particularly useful.

In the summer of 1968, nine years after ETA was founded, it suddenly appeared on the international stage. News organizations from around the world began to report regularly on the armed organization, Basque nationalism, and the repression that the Franco dictatorship applied to the Basque Country, with maps of this territory soon appearing in the international press.¹³ In the eyes of many, the Basque Country had become Europe's Cuba.¹⁴ For the Basque armed organization, however, Cuba's example was much less important than the anticolonial struggles of Asian and African peoples, particularly the Algerian War. This conflict had a decisive influence on ETA's identification with Third Worldism and its perception of the Basque Country as a colonized land.

ETA's 'colonial mirage' appeared long before 1968.¹⁵ In the early 1960s, the organization's publications already referred to the anticolonial struggles of India, Algeria, Tunisia, Israel, and the Congo.¹⁶ Little by little, the identification with these lands began to take root in certain sectors of Basque nationalism. One of the first characterizations to roughly follow these lines was Federico Krutwig's work *Vasconia* (1963). Krutwig was a Basque with German roots who had been living in Biarritz (in the French Basque Country) since 1961. From that time, he began to interact with circles of Basque exiles in France. Although he was not yet an ETA member, he saw the organization as the main manifestation of a new pro-Basque movement that stood in contrast with the old, pre-war nationalism and its inactive leaders-in-exile. As a result, *Vasconia* became one of the main theoretical sources for the first phase of ETA.¹⁷ In a rather simplistic way, the book presented the Basque Country as a territory colonized and plundered by France and Spain. With a foundation based on a *sui generis* form of Marxism, it discussed the unavoidable need for a revolutionary war to achieve independence and create a new society of federated communities inspired by, among others, Israeli *kibbutzim*.¹⁸

Using the ideas expressed in *Vasconia* (in some sections, nearly literally), in 1963 ETA prepared a text initially entitled *La guerra revolucionaria*, which would be edited in France the following year under the title *La insurrección en Euzkadi*.

¹³ For instance: *New York Times*, 29 June 1968, 12 Aug. 1968, 16 Aug. 1968.

¹⁴ *Zeit*, 16 Aug. 1968, Berlin, Ibero-Amerikanisches Institut (IAI), Sondersammlungen, Zeitungsausschnittsammlung, Span, ha, 1971.

¹⁵ I have borrowed this label from Gurutz Jáuregui, *Ideología y estrategia política de ETA. Análisis de su evolución entre 1959 y 1968* (Madrid, 1981), p. 419.

¹⁶ 'Referéndum para esclavos', *Zutik*, Apr. 1961; 'Libro blanco', [1960], in *Documentos Y* (18 vols., San Sebastian, 1979–81), 1, pp. 202–21; E. Irurizar, 'Peor carácter y mejor organización', *Zutik*, Apr. 1962; Zabala, 'Gernika y el futuro', *Zutik*, Apr. 1962.

¹⁷ Federico Krutwig, *Años de peregrinación y lucha* (Tafalla, 2014), pp. 67–71.

¹⁸ Fernando Sarrailh de Ihartza [Federico Krutwig], *Vasconia* (Buenos Aires, 1973; orig. edn 1963).

This pamphlet expanded on the idea of revolutionary war and emphasized anticolonial and Third-Worldist examples (Israel, Cyprus, Malacca, Tunisia, Indochina, China, Cuba), with particular emphasis on one acronym: Algeria's FLN.¹⁹ *Vasconia* and *La insurrección en Euzkadi* marked the 'starting point and crystallization of a new global conception within ETA'.²⁰ This colonial association – above all, the identification with the Algerian FLN – was the element that sparked the final shift towards armed struggle in Basque nationalism. If, as Fanon stated, 'decolonization is always a violent phenomenon', the characterization of the Basque Country as a colonized territory also meant the adoption of violence as a means of achieving independence.²¹

One factor that clearly contributed to ETA's interest in the Third World was the presence of many Basque exiles in France: the contact with the world of French politics and intellectuals, where the matter of colonialism – particularly the Algerian War – was significant, was key.²² We know that some ETA members read the works of Menachem Begin and Habib Bourguiba that were edited in France, along with the volume of the collection 'Que sais-je?' dedicated to *La guerre révolutionnaire*, written by Claude Delmas and published in 1959.²³ The theory of revolutionary war found in *Vasconia* was primarily inspired by the counter-insurgency manual *Modern warfare*, written by the French army officer Roger Trinquier and based on his experience in the wars in Indochina and Algeria.²⁴ French titles were common in the libraries of ETA activists, and many of them were aware of the abundant and much-discussed essays inspired by the FLN and the Algerian War.²⁵ Delmas's and Trinquier's treatises were included in the bibliography of *La insurrección en Euzkadi*, together with other French books on revolutionary war and Algeria, such as *L'Algérie hors la loi*, by Colette and Francis Jeanson, or *Histoire du FLN*, by Jacques C. Duchemin.²⁶ ETA members had to be aware of cases like the torture suffered by Djamil Bouhired, Henri Alleg, and Djamil Boupacha, or the murder of Maurice Audin. Many books on these and similar matters were translated into Spanish or Catalan.²⁷ Pieces by figureheads of anticolonialism such as Fanon and Memmi were also translated into Basque.²⁸

¹⁹ *La insurrección en Euzkadi* (Bayonne, 1964), in *Documentos Y*, III, pp. 21–71.

²⁰ Francisco Letamendia, *Historia del nacionalismo vasco y de ETA* (3 vols., San Sebastian, 1994), I, p. 280.

²¹ Fanon, *Wretched of the Earth*, p. 35.

²² Letamendia, *Historia del nacionalismo vasco*, I, p. 265.

²³ Jáuregui, *Ideología y estrategia política de ETA*, p. 199; Krutwig, *Años de peregrinación*, p. 80.

²⁴ Sarraïll de Ihartza, *Vasconia*, pp. 329ff. The book by Trinquier was originally published in French in 1961.

²⁵ José Luis Alvarez Enparantza, *Euskal Herria en el horizonte* (Tafalla, 1997), pp. 276–82; Mario Onaindia, *El precio de la libertad. Memorias (1948–1977)* (Madrid, 2001), p. 217.

²⁶ *La insurrección en Euzkadi*, p. 69.

²⁷ Jacques C. Duchemin, *Historia del Frente de Liberación Nacional* (Barcelona, 1963); Simone de Beauvoir and Gisèle Halimi, *Djamila Boupacha. Proceso a la tortura* (Barcelona, 1964); Robert Merle, *Ahmed Ben Bella* (Barcelona, 1966); Henri Alleg, *Perquè hem vençut la tortura* (Barcelona, 1968); Jacques Vergès, *Estrategia judicial en los procesos políticos* (Barcelona, 1970).

²⁸ This was the case for Fanon's articles collected in *Toward the African revolution* (first published in French in 1964): Frantz Fanon, *Afrikan iraultzaren alde* (San Sebastian, 1970). There is also a

It was not long before some of these exiles came into direct contact with the reality in Algeria. The repression exercised by the French authorities against four ETA founders in 1964 and early 1965 drove two of them – Eneko Irigarai and Julen Madariaga – to move to Algeria. According to the Spanish political police, once there they contacted representatives of other revolutionary movements, such as Antonio Cubillo, an independentist leader of the Canary Islands who had been authorized by Ben Bella to move to Algiers in 1963.²⁹ As a result of his stay there, Cubillo gave the nationalism of the Canaries an Africanist tinge.³⁰ In Algeria, the ETA members also expanded their knowledge of the FLN, whose organizational structure they attempted to imitate.³¹ This was the start of direct relations between ETA and an independent Algeria.

However, the transition from written theory to practice was accompanied by a notable disenchantment. Madariaga, who remained in the country from March 1965 to October 1966, made this clear. Although Algiers gave him employment and housing, requests for weapons and a radio station capable of transmitting across the whole of the Basque Country were ignored. He achieved only the promise of military training from the Algerians, a promise that would not be fulfilled until later on.³² Krutwig, who landed in Algiers later as an ETA delegate, expressed his disappointment even more bluntly. Despite the official recognition of the organization by the Algerian government and the international fame that ETA had acquired, Krutwig stressed that the assistance provided was insignificant. As a result, he came to a clear conclusion: ‘It all made me realize that we should not waste any time in the Third World, and that the internationalism of its inhabitants was, above all, very self-centred.’ His conclusions even take on a somewhat racist tone: his time in Algiers ‘was useless’, as the Algerians ‘with their Muslim mentality ... were first and foremost revolutionaries in word only’.³³ Besides his clear cultural disdain, it is important to note that Krutwig landed in Algiers after Boumédiène’s coup (June 1965), a significant turning point that marked ‘the end of decolonization’s most idealistic and optimistic phase’.³⁴

But to what degree was anticolonialism inherently internationalist? The ideas of one of its main theorists, Albert Memmi, suggest that it was not

Spanish translation of the book dating from 1966. As for Memmi, the ETA leader Alvarez Enparantza translated *The colonizer and the colonized* some years later: *Kolonizatzauren ezagugarria* (Oñati, 1974).

²⁹ *Boletín Informativo*, 22, 19 June 1965, Madrid, p. 8, Madrid, Archivo Histórico Nacional (AHN), Fondos Contemporáneos, M.° Interior – Policía, H, 53108.

³⁰ Miguel Ángel Cabrera Acosta and Zebensui López Trujillo, ‘Antonio Cubillo: de la oposición al franquismo al independentismo africanista canario’, in Xosé M. Núñez Seixas and Fernando Molina, eds., *Los heterodoxos de la patria. Biografías de nacionalistas atípicos en la España del siglo XX* (Granada, 2011), pp. 221–41, at pp. 234–5.

³¹ *Boletín Especial*, 13, 15 Oct. 1965, Madrid, p. 11, AHN, Fondos Contemporáneos, M.° Interior – Policía, H, 53109.

³² Antoni Batista, *Madariaga. De las armas a la palabra* (Barcelona, 2007), pp. 111–15.

³³ Krutwig, *Años de peregrinación*, pp. 207, 231.

³⁴ Jeffrey James Byrne, *Mecca of revolution: Algeria, decolonization, and the Third World order* (New York, NY, 2016), p. 286.

necessarily internationalist. In his famous work *The colonizer and the colonized*, he wrote:

Thus he [the colonized] will be nationalistic but not, of course, internationalistic. Naturally, by so doing, he runs the risk of falling into exclusionism and chauvinism ... But to expect the colonized to open his mind to the world and be a humanist and internationalist would seem to be ludicrous thoughtlessness.³⁵

Furthermore, even if Fanon railed against the 'nauseating mimicry' of the creation of states and institutions in the image of those in Europe, history forged ahead.³⁶ In the end, in total opposition to the prophecies about the loss of importance of state sovereignty in the late twentieth century, 'the net result of decolonization was a dramatically more state-centric world order than had been true of even the very late colonial post-World War II years'.³⁷

In keeping with Memmi, it cannot be said that all the members of the first manifestation of ETA prioritized internationalism or social concerns. According to one of its founders, José Luis Alvarez Enparantza a.k.a. Txillardegi, Ekin (the core group of activists that ETA was born out of) was not originally meant to be more leftist than the Basque Nationalist Party (PNV): 'We were ... against such political divisions, and in favour of national unity ... We believed that these political divisions were a luxury that only free countries could enjoy.'³⁸ In a text from early 1965, Txillardegi warned against the 'pseudo-progressivism' that kept some Basques from shaking off their 'nationalist timidity': 'In the name of internationalism (?) we cannot be expected to renounce our nation.'³⁹ Along the same lines, a contemporary ETA member stated: 'I think we need to be sincere. We sought the freedom of our nation. To say that we had any additional social intentions, as many have claimed, is not true.'⁴⁰

II

Although the practical, material aid that an independent Algeria provided to ETA was minimal, its example continued to be significant – and not only because of the colonial association and guerrilla tactics. From the second half of the 1960s onwards, another angle of the Algerian model for Basque independentists that has scarcely been considered before became important too: the legal strategy used in political trials.

In Algeria, the years 1957 and 1958 marked a turning point in this regard. In 1958, the FLN French Federation set up a group of lawyers working for the

³⁵ Albert Memmi, *The colonizer and the colonized* (London, 2003; orig. edn 1957), p. 179.

³⁶ Fanon, *Wretched of the Earth*, pp. 311, 315.

³⁷ Byrne, *Mecca of revolution*, p. 9.

³⁸ Alvarez Enparantza, *Euskal Herria*, p. 177.

³⁹ José Luis Alvarez Enparantza, 'Seudo-progresistas', *Zutik*, 28, Apr. 1965, p. 11.

⁴⁰ Miren Alcedo, *Militar en ETA. Historias de vida y muerte* (San Sebastian, 1996), p. 342.

organization. One of the foundations of their professional endeavours was the complete denial of the jurisdiction of French courts, a principle that the FLN had established in December 1956.⁴¹ The first important case with these characteristics was the trial of Djamilia Bohired in 1957.⁴² Several years later, multiple lawyers involved in legal cases against FLN militants systematized the principles of their method – known as ‘revolutionary political defence’ or ‘anticolonial political defence’ – in a book titled *Défense politique* (1961): ‘forgetting your own needs, promoting the cause you are fighting for, appealing to the masses rather than to any judge’. According to this idea, the essential goal of political defence was the recognition of Algerian prisoners as combatants.⁴³ After the Algerian War, one of these lawyers, Jacques Vergès, further addressed this theory in *De la stratégie judiciaire* (1968). In its pages, he proposed the conception of justice as a battlefield and, in contrast with trials in which legal order is respected, he promoted a rupture strategy: a collective defence for all the accused, in which the entire established order is contested. To this end, any reference to colonial law sought to reveal its imposture – such trials were nothing but a platform for contesting the political system.⁴⁴

It is important to note that the rupture strategy promoted by FLN lawyers was not an original contribution of Algeria or of the Third World. In his book, Vergès reviewed a series of political court cases throughout history, from the trial of Socrates to the one that took place in 1948 in Antananarivo (Madagascar) against the leaders of the Democratic Movement for Malagasy Rejuvenation. He depicted Lenin as a turning point, marking the end of the ‘tradition of revolutionaries who died without experiencing victory because the time had not yet arrived’.⁴⁵ The origin of the legal defence popularized in Algeria must therefore be sought in communist tradition. One of Lenin’s letters, from January 1905, had already been cited in *Défense politique*. In that letter, Lenin offered a group of imprisoned comrades advice for the coming trials of members of the Russian Social Democratic Labour Party.⁴⁶ In the Bolshevik leader’s opinion, if there was a chance to rock the boat during the legal process, it was worth doing so; however, its purpose should be ‘to show up the unlawfulness of the trial’.⁴⁷

The moment when this strategy was consolidated was the 1933 Leipzig trial against the Bulgarian Georgi Dimitrov, whom the Nazi regime had accused of being connected to the burning of the Reichstag. In 1938, Dimitrov’s defence lawyer, Marcel Willard, published a book on his experience during the trial

⁴¹ Sylvie Thénault, ‘Défendre les nationalistes algériens en lutte pour l’indépendance: la “défense de rupture” en question’, *Mouvement Social*, 240 (2012), pp. 121–35, at pp. 127–8; Jacques Vergès, *De la stratégie judiciaire* (Paris, 2021; orig. edn 1968), pp. 188–9.

⁴² Georges Arnaud [Henri Girard] and Jacques Vergès, *Pour Djamilia Bouhired* (Paris, 1957).

⁴³ Abdessamad Benabdallah et al., *Défense politique* (Paris, 1961), pp. 30, 32, 43–4.

⁴⁴ Vergès, *De la stratégie judiciaire*.

⁴⁵ *Ibid.*, p. 182.

⁴⁶ Benabdallah et al., *Défense politique*, p. 53.

⁴⁷ V. I. Lenin, ‘A letter to Y.D. Stasova and to the other comrades in prison in Moscow’ [19 Jan. 1905], in *idem*, *Collected works* (45 vols., Moscow, 1960–70), viii, p. 66.

that would often be referred to in the reflections of the lawyers of Algerian independentists.⁴⁸ In it, he developed the ‘golden rule’ of ‘political defence’ or ‘revolutionary defence’: it must be subservient to ‘the interests of the labouring masses’. Using Lenin’s reflections from 1905 as a point of reference, Willard promoted the idea that the defendant should not address the judge, but rather the masses.⁴⁹ Following in the footsteps of the communist tradition, the FLN saw the French Resistance as the most recent precedent for its members’ defence strategy. According to *Défense politique*, ‘the trials against Algerians resemble all the trials against members of the Resistance, as they are all aware of forming part of an army whose status is provisionally contested’.⁵⁰

The connection between the Resistance and Algerian anticolonial activism was not solely symbolic; it was based on collective experiences and personal trajectories. These trajectories bring us back to the ‘colonial genealogy’ of the legal strategy of political defence, which complements its ‘communist genealogy’.⁵¹ Left-wing lawyers from metropolitan France and African political activists had echoed one another since the end of the Second World War – and even before.⁵² One of the momentous episodes of this relationship can be found in 1948 in Antananarivo, in the aforementioned trial against Malagasy activists. At the activists’ request, a group of layers from metropolitan France led by Pierre Stibbe – the author of *Justice pour les Malgaches* (1954) – travelled to Madagascar to serve as the defence for the accused. With reason, this trial has been referred to as the ‘founding of a never-before-seen politicization of colonial matters through the political use of law and justice both inside and outside the courtroom’. Antananarivo was the start of ‘a series of colonial trials that were highly publicized in the metropolis’.⁵³

Another key event took place in Ivory Coast. The repression exhibited against the members of the Ivorian branch of the African Democratic Rally led to the creation, under the aegis of the communist Henri Douzon, of a new group of anticolonialist lawyers, many of whom had already taken part in the Antananarivo trial. The communist Pierre Kaldor was a particularly noteworthy member: he had served as the general secretary of French Popular Relief, an entity that funded much of the group’s activities. In the 1930s, Kaldor had collaborated with Marcel Willard, and the latter even took part in the most significant trial against members of the African Democratic Rally, which took place in Grand-Bassam in 1950. From then on and throughout the following decade, many of these

⁴⁸ Benabdallah et al., *Défense politique*, pp. 29, 80–3; Vergès, *De la stratégie judiciaire*, pp. 104–14.

⁴⁹ Marcel Willard, *La défense accusée* (3rd edn, Paris, 1955; orig. edn 1938), pp. 22, 30.

⁵⁰ Benabdallah et al., *Défense politique*, p. 31.

⁵¹ Thénault, ‘Défendre les nationalistes algériens’, p. 122.

⁵² Meredith Terretta, ‘Cause lawyering et anticolonialisme: activisme politique et État de droit dans l’Afrique française, 1946–1960’, *Politique Africaine*, 138 (2015), pp. 25–48, at p. 25; Alain Ruscio, *Les communistes et l’Algérie. Des origines à la guerre d’indépendance, 1920–1962* (Paris, 2019), p. 455.

⁵³ Vanessa Codaccioni, *Punir les opposants. PCF et procès politiques (1947–1962)* (Paris, 2013), p. 348.

lawyers also took part in trials in Cameroon. In the face of the irregularities of colonial legal systems and the limitations imposed on local attorneys, the French lawyers who took part in these experiences began to politicize their work as criminal defence, with a special focus on denouncing before the public the repression exerted by metropolitan France. As a result, colonial courtrooms were transformed into forums for political expression.⁵⁴

Algeria was the setting for the climax of this politico-professional practice. Several lawyers recruited by Pierre Stibbe served in Algeria, beginning with the first trials against the Special Organization, the armed branch of the Movement for the Triumph of Democratic Liberties. From 1955 onwards, the co-ordination of these defence lawyers was the work of French Popular Relief. Nonetheless, communist collaboration with the Algerian cause was not free of tensions, as can be seen in the trajectory of Jacques Vergès. Born in Réunion to an Indochinese mother and a French father, and a member of both the French Resistance and, from 1945, the French Communist Party, Vergès broke with the organization as a result of the trial against Djamilia Bouhired in 1957. Upon his return to France, he would abandon communist activism to create his own law firm; soon after, he became part of the group of lawyers associated with the FLN. From then on, his work as a defence lawyer for Algerian independentists was focused on delegitimizing the methods of communist attorneys, which he felt were too subject to legal aspects and unable to create spectacular trials.⁵⁵ By contrast, Gisèle Halimi – another important figure among the lawyers involved in political trials – criticized the constant alterations of order in the courtroom promoted by Vergès, which she felt prevented the effective propagandistic use of trials through the testimony of the accused, the witnesses, and the defence.⁵⁶

These divergences suggest that the rupture strategy should be analysed in greater depth than has been the case in the past. As Vergès himself acknowledged, the conceptualization of the idea of ‘rupture defence’ came about after the Algerian War.⁵⁷ At the time, the dominant idea was ‘political defence’, in opposition to merely legal defence. However, the border between the two was not as clear as it might appear. The selection of one of these defence strategies depended on the circumstances, and the two could even be combined in a single trial.⁵⁸

⁵⁴ See Thénault, ‘Défendre les nationalistes algériens’; Terretta, ‘Cause lawyering’; Codaccioni, *Punir les opposants*, pp. 346–63; Sharon Elbaz, ‘Les avocats métropolitains dans les procès du Rassemblement démocratique africain (1949–1952): un banc d’essai pour les “collectifs d’avocats” en guerre d’Algérie?’, *Bulletin de l’Institut d’Histoire du Temps Présent*, 80 (2002), pp. 44–60.

⁵⁵ Codaccioni, *Punir les opposants*, pp. 364–83. On the rupture between Vergès and the French Communist Party, see also Ruscio, *Communistes et l’Algérie*, pp. 460–7.

⁵⁶ Thénault, ‘Défendre les nationalistes algériens’, p. 129.

⁵⁷ Jacques Vergès, *Le salaud lumineux. Conversations avec Jean-Louis Remilleux* (Paris, 1991), p. 124.

⁵⁸ Thénault, ‘Défendre les nationalistes algériens’, pp. 128–30, 135.

III

As in Algeria and other French colonies, in Francoist Spain lawyers opposed to the regime made significant political contributions. Particularly from the 1950s onwards, multiple law professionals focused their efforts on the defence of fundamental rights. Their law offices became an essential source of support for anti-Francoists and a meeting place for dissidents with a range of ideologies.⁵⁹ Furthermore, the participation of Spanish attorneys in international organizations contributed to these associations' interest in the situation in Spain. In this regard, a particularly notable moment was the publication of the International Commission of Jurists' 1962 report on the Franco regime.⁶⁰ One of the individuals who took part in the preparation of this report was the Spanish socialist Antonio Carasol, who is representative of the international connections promoted by lawyers committed to the defence of human rights. That same year he testified in defence of the Italian anarchists put on trial in November for the kidnapping of the Spanish vice-consul in Milan. This action aimed to draw attention to the prosecution's request that the death penalty be used against the Catalan anarchist Jordi Conill, who had been arrested by the Francoist police the previous month.⁶¹

The importance of some jurists was also made visible in trials against members of the opposition, which on several occasions were transformed into opportunities for protest. A few examples can be found as far back as the 1940s, such as the 1945 court martial of the communists Santiago Álvarez and Sebastián Zapirain. Nevertheless, it was in the following decade that the desire to convert the courts martial of anti-Franco activists into political trials was consolidated. Cases like those of the communists Leoncio Peña (November 1958), Miguel Núñez (December 1958), and Simón Sánchez Montero (September 1959) were used so that the cross-examination of the accused could serve as an opportunity to declare the political goals of the Communist Party and draw international attention.⁶² In the second of these trials, it is worth noting the presence of the French communist Henri Douzon as an observer representing the International Association of Democratic Lawyers.⁶³ Douzon, whose role in the network of French anticolonialist attorneys we have already noted, would leave his account of this and other courts martial in Francoist Spain in an article in *La Nouvelle Critique*.⁶⁴

'Political defence' was also employed in some courts martial in the early 1960s, such as the trials of the communists Ramón Ormazábal (September 1962), Pere Ardiaca and Antoni Gutiérrez Díaz (March 1963), and Julián

⁵⁹ Claudia Cabrero et al., *Abogados contra el franquismo. Memoria de un compromiso político* (Barcelona, 2013), pp. 7–67.

⁶⁰ *El imperio de la ley en España* (Geneva, 1962).

⁶¹ Emanuele Treglia, 'Por la libertad de España: la solidaridad italiana con el antifranquismo (1962–1977)', in Javier Muñoz Soro and Emanuele Treglia, eds., *Patria, pan ... amore e fantasia. La España franquista y sus relaciones con Italia (1945–1975)* (Granada, 2017), pp. 163–91, at pp. 168–9.

⁶² *Los comunistas españoles ante los consejos de guerra* (n.p., n.d.), p. 6.

⁶³ Miguel Núñez, *La revolución y el deseo. Memorias* (Barcelona, 2002), pp. 122–3.

⁶⁴ Henri Douzon, 'La justice franquiste', *Nouvelle Critique*, 104 (Mar. 1959), pp. 110–15.

Grimau (April 1963), with speeches that communist propaganda called ‘great rallies against the dictatorship and in favour of democracy’.⁶⁵ However, not all such trials used the same defence strategy. While Ormazábal offered an extremely confrontational speech, Grimau was noted for his ‘hardly emphatic seriousness, quite different from the exalted tone of some other comrades and any extreme version of the *Dimitrov syndrome*’.⁶⁶ Grimau’s case became particularly emblematic. His death sentence and later execution sparked large-scale international protests, which the Franco regime used a great deal of propaganda to counter.⁶⁷ It served as the great precedent for the Burgos Trial.

In December 1963, the Tribunal de Orden Público (Court of Public Order, a special court that was part of the ordinary judiciary) was created to relieve the military courts of the persecution of anti-Francoists. However, at the end of the decade the dictatorship reversed course. The rise and, in some cases, radicalization of activists opposing the dictatorship in the mid to late 1960s, as well as the start of regular armed attacks by ETA in 1967, led to a fierce response from the state. 1968 was a clear turning point in this regard. First, a state of emergency was declared in Gipuzkoa province; next, an executive order once again gave military courts greater power in the persecution of political crimes, leading to a significant increase in courts martial against civilians.⁶⁸

In this context, public denunciations of the repression became a central part of anti-Francoist activism, even more than they were before. Emphasizing the violation of the rights of arrestees and prisoners allowed different sectors of the opposition to combine forces without their ideological differences being a significant obstacle.⁶⁹ As the *New York Times* noted regarding the Basque Country, ‘repressive actions serve to increase unity in [the] region’.⁷⁰ One of the goals of the anti-repression denunciations was to capture international public attention. In this, the role of networks of lawyers committed to the defence of rights and liberties was key. Organized principally into bar associations, these attorneys played a particularly significant role after the measures applied in the summer of 1968, which had happened to be declared the international year of human rights.⁷¹ Beyond Spain’s borders, in late August the International Commission of Jurists showed its ‘concern regarding the breadth and brutality’ of the repression applied in Gipuzkoa after the declaration of a

⁶⁵ Gregorio López Raimundo, *¡No quiero hablar! El deber de los comunistas frente a la policía y los tribunales franquistas* (Barcelona, 1963), p. 11.

⁶⁶ Francisco Erice, *Militancia clandestina y represión. La dictadura franquista contra la subversión comunista (1956-1963)* (Gijón, 2017), p. 187.

⁶⁷ Javier Muñoz Soro, ‘El “caso Grimau”: propaganda y contrapropaganda del régimen franquista en Italia (1962-1964)’, *Ayer*, 91 (2013), pp. 169-93.

⁶⁸ Pau Casanellas, *Morir matando. El franquismo ante la práctica armada, 1968-1977* (Madrid, 2014), pp. 36-9.

⁶⁹ Pau Casanellas, ‘Joint efforts in the fight against Franco: protest and repression during the Spanish long ‘68’, *Contemporary European History*, 31 (2022), pp. 271-85.

⁷⁰ *New York Times*, 4 Nov. 1968.

⁷¹ Pere Ysàs, *Disidencia y subversión. La lucha del régimen franquista por su supervivencia, 1960-1975* (Barcelona, 2004), pp. 70-2.

state of emergency.⁷² The International Association of Democratic Lawyers also publicly stated on multiple occasions its opposition to the violation of human rights in Spain.

As for ETA itself, the gradual arrest of its members beginning in 1968 and the multiple detentions it suffered in April 1969 forced the organization to centre many of its efforts on the anti-repressive front. To promote mobilizations against the courts martial that some of the accused would soon be subjected to, in the first few months of 1969 ETA distributed a succinct, short-lived bulletin entitled simply *Juicios* – ‘trials’. It gave visibility to the names of some of the ETA members awaiting trial, denounced the sentences that had already been applied by courts martial for simply attending meetings or being in possession of propaganda, and warned of the probable application of death sentences in the near future. To reduce the harshness of future sentences, it called for massive mobilizations in all possible spheres, with the hope that, as had already happened in some cases, this would force the courts to apply sentences that were significantly more lenient than what the prosecution was requesting.⁷³ The third and final edition of the bulletin delved deeper into this final matter. Although it acknowledged the importance of raising international public awareness, the document emphasized the need for a ‘powerful domestic public mobilization’.⁷⁴

Two of the courts martial applied during this period achieved symbolic importance as a result of the public response to the death sentences announced. The first was that of Iñaki Sarasketa, an ETA activist whom the dictatorship accused of killing a member of the Guardia Civil on 7 June 1968 near Amasa-Villabona (Gipuzkoa), after which his fellow ETA member Txabi Etxebarrieta was killed by other policemen. Subjected to a rapid court martial just one week later and sentenced to fifty-eight years in prison, Sarasketa would be tried again in late June owing to alleged formal defects in the first trial.⁷⁵ The mobilizations caused by the death sentence handed down in this second trial pushed Franco to lessen his sentence to imprisonment. The second case was that of Andoni Arrizabalaga, one of the ETA members arrested in April 1969. He was accused of being behind a bomb attack on a municipal police car in Ondarroa (Biscay). When a court martial sentenced him to death on 27 October of the same year, it sparked another wave of protests, particularly in Gipuzkoa. This led to several days of near-total immobilization in Ondarroa – the birthplace of the three defendants in the trial – with the shutting down of factories, bars, and stores and the halting of all fishing activities.⁷⁶ As had happened in Sarasketa’s case, and in anticipation of the Burgos Trial of December 1970, the regime back-pedalled: on 31 October, Franco commuted Arrizabalaga’s death sentence.

⁷² *Monde*, 22 Aug. 1968.

⁷³ *Juicios. Hoja informativa*, 1 and 2, [1969], Leoia, Archivo del Gobierno Civil de Vizcaya (AGCV), 11.

⁷⁴ *Juicios. Hoja informativa*, 3, [1969], AGCV, 11.

⁷⁵ *Vanguardia Española*, 28 June 1968.

⁷⁶ Pierre Celhay [Miguel Castells], *Consejos de guerra en España. Fascismo contra Euskadi* (Paris, 1976), pp. 153–4.

IV

While Sarasketa's trial had been held in San Sebastian, the court martial that sentenced Arrizabalaga to death was held in Burgos, the seat of Spain's Fourth Military Region – an area that included the Basque provinces. This would be the rule from then on: courts martial against ETA members were held in cities surrounding the Basque Country, such as Burgos, Santander, or Logroño.⁷⁷ By doing so, the dictatorship hoped to avoid protests in the area around the courthouse. Nevertheless, this was not always successful: in Arrizabalaga's trial, for example, two buses full of inhabitants of Ondarroa travelled to Burgos on the day of the hearing.⁷⁸ At the same time as the rise in street protests, a new way of showing opposition to the courts martial that ETA activists faced began to appear inside the courtroom: the radical, immediate rupturing of the trial. Often, it was enough for the accused to express themselves in Basque. As an example, in his recollection of the trial Arrizabalaga stated: 'I followed our prior decision to make the trial political, and I told my lawyer that there was no need for him to prepare for it. As soon as I started speaking Basque in my response to the first question, they expelled me from the courtroom.'⁷⁹

However, the most important court martial against ETA, the one held in Burgos in December 1970, did not follow the same *modus operandi*. The fact that the trial was declared open to the public allowed society at large to serve 'as a *judge of judges*', meaning that the sixteen defendants prepared a slightly different strategy to take advantage of the international repercussion the sessions would have.⁸⁰ As one recalled,

those military men were caught totally off guard; they thought we would do the same thing they had seen at all the other trials in Burgos ... Everything our comrades said was meant to disrupt the trial ... Then they would be expelled, and that was it ... But we had planned for it, and it wasn't the same with us ... things like the global audience we were going to have made us change plans. We'd prepared it all months before; we worked on it with our lawyers, too. We had to change roles: instead of the accused, we were going to be the accuser. We wanted to denounce the whole nature of the regime and all the repression – cultural and otherwise – that was going on in the Basque Country before the world.⁸¹

This strategy was the idea of the defendants – in the beginning, specifically of Mario Onaindia and Xabier Larena.⁸² However, the lawyers played a key role in preparing the trial, in particular Miguel Castells, Juan María Bandrés, and José

⁷⁷ Kepa Salaberri [Miguel Castells and Francisco Letamendia], *El proceso de Euskadi en Burgos. El sumarísimo 31/69* (Paris, 1971), pp. 87–90; Celhay, *Consejos de guerra*, p. 8.

⁷⁸ *Boletín de Información*, 30 Oct. 1969, Bilbao, AGCV, 10.

⁷⁹ *País*, 6 Apr. 1977.

⁸⁰ Juan Luis Ibarra, 'Sumarísimo 31/69: tres claves de sentido para comprender su significado histórico', *Grand Place*, 14 (Dec. 2020), pp. 55–66, at p. 66.

⁸¹ Excerpt of an interview included in Alcedo, *Militar en ETA*, pp. 227–8.

⁸² Interview with Teo Uriarte, 29 Jun. 2023; Onaindia, *Precio de la libertad*, p. 457.

Antonio Etxebarrieta. The last of these was the brother of Txabi (the first ETA member killed by the regime and, like him, a member of the organization) and ‘was key’:⁸³ although he did not have a great deal of professional experience as a jurist, he was ‘the defendants’ trusted lawyer’ and served as a connection between the defence and the accused.⁸⁴ In the internationalization of the trial and its symbolic connection with the FLN’s cause, the central figure was Miguel Castells. In response to the defendants’ request that a French lawyer who had served in political trials be invited to attend as an observer, Castells wrote letters to four individuals: Gisèle Halimi, Jacques Vergès, Henri Leclerc, and Maurice Courrégé.⁸⁵ This was no random selection: all had represented Algerian independentists at one point or another. In the end, the defendants decided that Halimi should be present at the trial; she would appear as a delegate of the International Federation for Human Rights. While doing so, she stayed with Castells’s parents.⁸⁶

As a subscriber to *Le Monde*, Castells was up to date on events in France and Algeria, as well as news and publications related to political defence. On a drive to Hendaye and Saint-Jean-de-Luz (on the French side of the border), he had been able to access a bibliography on this and other topics.⁸⁷ In a book published in 1977, Castells himself provided a few clues about what influenced the lawyers while they were preparing for the Burgos Trial. Throughout the volume, he refers to the political defence first proposed by Dimitrov and taken up by Jacques Vergès and the FLN lawyers, citing their works *Défense politique* and *De la stratégie judiciaire*. Another source he cites is the work on Djamilia Boupacha by Simone de Beauvoir and Gisèle Halimi, who insisted that the use of rupture defence had saved Boupacha’s life. Besides the example of the Algerian independentists, the Basque lawyer focused on the actions of French organizations from the revolutionary left such as the Ligue Communiste Révolutionnaire and the Gauche Prolétarienne.⁸⁸ In the case of the latter, the activists put on trial combined different strategies. On some occasions they opted for subverting the process while using imaginative formulas for disturbing the judicial ritual (for example, singing the anthem *La jeune garde* to get expelled from the courtroom). In important trials against the organization’s leadership, on the other hand, they opted for more prudent strategies focusing on the declarations of the accused, who served as mouthpieces for political expression that included harsh criticism of the judicial system.⁸⁹ This was the case of the trials against Alain Geismar in the criminal justice system

⁸³ Interview with Francisco Letamendia, 23 Jun. 2023.

⁸⁴ Interview with Miguel Castells, 11 May 2023.

⁸⁵ Miguel Castells, ‘Prólogo a esta edición’, in Miguel Castells and Francisco Letamendia, *El proceso de Euskadi en Burgos* (Tafalla, 2020), pp. 11–22, at p. 15.

⁸⁶ Interview with Castells.

⁸⁷ *Ibid.*

⁸⁸ Miguel Castells, *Los procesos políticos. De la cárcel a la amnistía* (Madrid, 1977), pp. 92–7, 102–3, 107–8; Simone de Beauvoir and Gisèle Halimi, *Djamilia Boupacha* (Paris, 1962).

⁸⁹ Vanessa Codaccioni, ‘Justice populaire et mimétisme judiciaire: les maoïstes dans et hors la Cour de sûreté de l’État’, *Droit et Société*, 89 (2015), pp. 17–33; Henri Leclerc, *Un combat pour la justice* (Paris, 1994), ch. 4.

(October 1970) and the State Security Court (November 1970 and July 1971). As Geismar himself stated at the first of these three trials, the goal was to 'develop the project the masses are provided with'.⁹⁰

The option chosen by the defence in the Burgos Trial was similar to this proposal, even though it included a disruptive end in keeping with rupture strategy. The main goal was to transform the court sessions into a 'propaganda platform' that would impact international public opinion⁹¹ by taking advantage of the presence of multiple international observers. The strategy was clearly defined: each of the accused would refer to a particular political aspect and the trial would not be ruptured until the final testimony, which happened to be that of Mario Onaindia. Once he was called to testify, Onaindia defined himself as a Marxist-Leninist and an internationalist, and called for the 'national liberation of the Basque people' and a 'classless society'. He ended his testimony with the cry 'gora Euskadi askatuta' ('long live a free Basque Country'). Next, all the accused began to sing 'Eusko gudariak', a song that some viewed as the Basque national anthem. During the resulting chaos, some of the accused renounced their lawyers, shouting 'Renuncio a la defensa!'⁹² The rupture was complete.

The choice to waive the right to counsel was purely symbolic: it was meant to illustrate the rupture of the existing order in the courtroom. In reality, the lawyers' role had been key in the application of the legal strategy. In their testimony during the Burgos Trial, the accused focused on announcing the political demands of ETA, Basque nationalism, anti-Francoism, and world revolution, while their defence lawyers were responsible for making the lack of rights resulting from the court martial clear. As Miguel Castells and Francisco Letamendia – another of the defence lawyers – would later write: 'In a political trial, the lawyer's only purpose is to provide the illusion of legal guarantees. Still, therein lies his strength ... The lawyer cannot defend, but he can make it visible that he cannot defend.'⁹³

The accused had decided that the maximum number of defence lawyers should participate – in other words, one for every defendant. This would make it easier for the attorneys to contribute to the confrontation with the court. The accused had also decided that their defence should include three lawyers from outside the Basque Country: one Catalan, one Galician, and one from elsewhere in Spain.⁹⁴ Although there was no time to contact anyone from Galicia, the Madrid native Gregorio Peces-Barba (at the time, a Christian democrat) did take part, as did the Catalan communist Josep Solé Barberà. Their participation was intended to serve as a connection between revolutionary Basque nationalism and other sectors opposed to the

⁹⁰ *Minutes du procès d'Alain Geismar* (Paris, 1970), p. 198.

⁹¹ These were the words they used after the trial in a public letter. 'Lettre des "Seize"', in Gisèle Halimi, *Le procès de Burgos* (Paris, 1971), p. 145.

⁹² 'Grabación de las sesiones del juicio...' [1970], [Burgos], Salamanca, Centro Documental de la Memoria Histórica, Fuentes Orales, Proyecto de Historia Oral El Exilio Español en la Argentina, SI.2890.

⁹³ Salaberri, *Proceso de Euskadi en Burgos*, p. 85.

⁹⁴ Castells, 'Prólogo', pp. 14–15.

dictatorship. These lawyers would be essential in providing this connection, since the anti-Franco jurists ‘knew each other well’. Peces-Barba and Castells, for instance, knew one another as a result of their collaboration with the magazine *Cuadernos para el Diálogo*.⁹⁵ As for Solé Barberà, ever since his participation as an adviser to the defence at the 1958 court martial of Miguel Núñez he had been an emblematic figure among opposition circles. As proof of the collaboration promoted by the Burgos Trial, Solé Barberà would help two of Francisco Letamendia’s brothers – both anti-Franco activists – by hiding them.⁹⁶ An additional figure representing the connections resulting from the Burgos Trial as well as the different genealogies in the use of political defence was the communist lawyer Antonio Giménez Pericás. Although he did not take part in the trial (his client, an ETA member, had escaped from prison), he was part of the team of legal advisers to the defence. He had been condemned himself in 1962, in the court martial against Ramón Ormazábal, during which he had publicly and symbolically requested to join the Communist Party.⁹⁷

While what went on in the courtroom was important, the trial was nevertheless ‘a masquerade’, as noted by Jacqueline Portelle (present as a representative of the International Association of Democratic Lawyers).⁹⁸ Given the strategy used by the defence, what happened *outside* the courtroom was much more important. In this second setting, both the denunciation of the lack of legal guarantees and the call for human rights – particularly after nine death sentences were handed down for six of the accused – provided plenty of shared ground for those opposing Francoism. The words of the abbot of Montserrat (a monastery that housed a meeting of more than three hundred intellectual and cultural figures who opposed the trial⁹⁹) demonstrate the potential of this perspective: ‘The minister of the interior asked me over the phone why I was with the opposition. I told him I was not with the opposition; I was in favour of human rights.’¹⁰⁰

Some displays of solidarity went even further. In the prologue of the book that Halimi published on the Burgos Trial, Jean-Paul Sartre noted that, if the process had upset the conscience of individuals both in Spain and abroad, it was not because it had made the absurd ferocity of Francoism evident. Rather, it had revealed the existence of the Basque people. For Sartre, although it was not an example of the typical economic relationship between the metropolis and its colonies, the Basque Country could be considered a colonized land and the Basque language could be seen as a victim of cultural genocide.¹⁰¹ Even though it was the result of a schematic approach, anticolonial drums

⁹⁵ Interview with Castells.

⁹⁶ Interview with Letamendia.

⁹⁷ Interview with Uriarte; José Ángel Etxaniz Ortúñez and José Antonio Pérez Pérez, ‘Antonio Giménez Pericás’, in José Gómez Alén and Rubén Vega García, eds., *Materiales para el estudio de la abogacía antifranquista*, 1 (Madrid, 2010), pp. 169–99, at pp. 191–2.

⁹⁸ *Monde*, 6 Dec. 1970, cited in Salaberri, *Proceso de Euskadi en Burgos*, p. 172.

⁹⁹ *Welt*, 15 Dec. 1970, IAI, Sondersammlungen, Zeitungsausschnittsammlung, Span, ha, 1971.

¹⁰⁰ *Monde*, 23 Dec. 1970, IAI, Sondersammlungen, Zeitungsausschnittsammlung, Span, ñd, 1970.

¹⁰¹ Jean-Paul Sartre, ‘Préface’, in Halimi, *Procès de Burgos*, pp. i–xxx, at pp. vii, xi–xxi.

were once again beating in the heart of Europe. The response of Western governments was more subdued; in most cases, they requested clemency at most. This was also the response of Pope Paul VI, who had earlier refused to receive a delegation of family members of the accused.¹⁰²

Beyond the public stances of governments, associations, and important figures, the fates of the accused depended largely on what was happening in the streets. The protests that took place before, during, and after the trial were unexpectedly large and virulent. Internationally, there were protests – some of which were notably influential – in many European and some American cities. These were generally organized by labour unions and left-wing organizations – one notable example was the boycott of Spanish vessels by Italian and French dockworkers.¹⁰³ Large demonstrations took place in several cities, especially in France and Italy. In Milan, one young man was killed by police attempting to break up a student protest. And violent attacks against Spanish interests occurred in cities including Rome, Naples, Lyon, Bordeaux, Frankfurt, and Rosario.¹⁰⁴

Within Spain, the demonstrations were even more significant. Rallies against the Burgos Trial put the regime in the most delicate situation it had faced since its international isolation at the end of the Second World War. The protests were of unprecedented size, particularly in the Basque Country, pushing Franco to declare a state of emergency in Gipuzkoa in early December and across Spain ten days later. The evaluation of the civil governor of Gipuzkoa after the fact was clear: ‘there had not been such a difficult, concerning situation since the War of Liberation [of 1936–9]’. Among other complications, for the first time protestors had built ‘barricades from which they attacked our forces’, an event that drove agents to use firearms.¹⁰⁵ According to a witness in Amorebieta (Biscay), ‘overwhelmed, the Guardia Civil had to shut themselves in their barracks’.¹⁰⁶ Police officials recognized that ‘protests made up of more than 1,000 individuals had to be broken up in some localities by police forces with no more than eight officers’.¹⁰⁷ One of the places where officers were overwhelmed was Eibar (Gipuzkoa), the home town of the defendants Enrique Guesalaga and Mario Onaindia. At a protest on 4 December, the metalworker and Maoist Roberto Pérez Jáuregui was shot by the Guardia Civil; he died four days later. A police document on the events clearly stated that the order to fire directly upon ‘the aggressors’ had come from the chief in charge of the force.¹⁰⁸

¹⁰² Halimi, *Procès de Burgos*, pp. 44, 69.

¹⁰³ Treglia, ‘Por la libertad’, pp. 176–8.

¹⁰⁴ *Welt*, 30 Dec. 1970, IAI, Sondersammlungen, Zeitungsausschnittsammlung, X. See a number of other news pieces on these events in Salaberri, *Proceso de Euskadi en Burgos*, pp. 161, 241, 250, 258, 259–60, 270–2, 306–9.

¹⁰⁵ Gobierno Civil de Guipúzcoa, ‘Memoria de la provincia correspondiente al año 1970’, 30 Mar. 1971, San Sebastian, Oñati, Archivo Histórico Provincial de Gipuzkoa (AHPG), Gobierno Civil, 3676.

¹⁰⁶ Jon Idigoras, *El hijo de Juanita Gerrikabeitia* (Tafalla, 2000), p. 211.

¹⁰⁷ 551 Comandancia Guardia Civil, ‘Informe sobre hechos subversivos ocurridos en la provincia durante el pasado mes de diciembre y actuación de la fuerza del Cuerpo’, 1 Feb. 1971, San Sebastian, AHPG, Gobierno Civil, 3676.

¹⁰⁸ 551 Comandancia Guardia Civil, ‘Manifestación tumultuaria en Eibar con agresión a las fuerzas del Cuerpo’, 5 Dec. 1970, San Sebastian, AHPG, Gobierno Civil, 2839.

The significance of the protests confirmed the effectiveness of the strategy used in court by the defence. On 30 December, the regime announced that it was commuting the death sentences. To a certain degree, the model proposed by Vergès had succeeded: the defence's strategy caused the defendant to be sentenced to death, but the attention drawn to the trial prevented the sentence from being carried out.¹⁰⁹ The key to success was the broad support shown by the protests, particularly in the Basque Country. It was no coincidence that the propaganda distributed by Basque anti-Francoist organizations at the time was full of calls for unity.¹¹⁰ One of the branches of ETA – an organization that had been internally divided since the summer of 1970 – even signed a joint manifesto with the Communist Party, although the latter was totally opposed to armed struggle.¹¹¹ Still, this trend towards unity was not free of contradictions. Beyond the Basque Country, there were broad protests in territories like Catalonia, where there was a particular sympathy for Basque nationalism. To a lesser degree, there were also protests in large urban centres where anti-Francoism was strongly rooted. But the defence of the accused in Burgos did not always foster unity. In Rome, for instance, an open meeting on the trial convened by the Italian Communist Party led to verbal arguments between communists and Basque nationalists.¹¹² And, in an internal meeting held some time afterwards, one communist involved in the labour movement in Madrid noted 'the difficulties that ... we faced regarding the Burgos Trial; it was hard work. People didn't get it. They asked who these people were.'¹¹³ Solidarity had its limits.

V

As a result of the defendants' success in the Burgos Trial, courts martial against ETA members in the following years were full of examples of disregard for the authorities, with many opting for total rupture. In May 1971, two defendants being tried for the altercations they had caused in a previous court martial (where they had already been sentenced) refused to testify in their own defence by instead shouting slogans in Basque; this led to them being immediately expelled from the courtroom.¹¹⁴ In July 1972, the political police noted that the trial against another individual had 'taken on a totally political tone' due to 'the defiant attitudes of both the accused and the defence lawyer, which forced the presiding judge to constantly call the two to order'.¹¹⁵

¹⁰⁹ This is how Vergès explained his defence strategy in an interview with Thénault, 'Défendre les nationalistes algériens', p. 129.

¹¹⁰ ETA, '31/69 sumarísimos...', n.d., AGCV, 13; Partido Comunista de Euzkadi, 'A todos los vascos', Oct. 1970, AGCV, 13.

¹¹¹ ETA and Partido Comunista de Euzkadi, 'Llamamiento al Pueblo Vasco', [1970], in *Documentos Y*, ix, pp. 481–2.

¹¹² Krutwig, *Años de peregrinación*, pp. 187–8.

¹¹³ [Reunión del CE del PCE con militantes comunistas en el movimiento obrero], [Jan. 1973], pp. 13–14, Madrid, Archivo Histórico del Partido Comunista de España, Movimiento Obrero, 91, 2. I am grateful to Emanuele Treglia for having sent me this document.

¹¹⁴ *Monde*, 13 May 1971, IAI, Sondersammlungen, Zeitungsausschnittsammlung, Span, ha, 1971.

¹¹⁵ *Boletín Informativo Regional*, 23 July 1972, Bilbao, AGCV, 1.

In June 1974, a defendant was expelled from the courtroom after insulting the members of the tribunal; when he was once again called to testify, 'he attempted to hurl his crutch at the presiding judge, leading to him being expelled once again'.¹¹⁶ In a trial of the same ETA member in November, the accused asked not to be present. However, 'when called and asked if he had anything to say in his defence, he thanked the court and asked that at the next meeting they not "organize such a circus" and that they instead inform him of his sentence by telegram'.¹¹⁷ Also in November 1974, soon after the trial was convened, another ETA member managed to grab the presiding judge's stamp and hurl it against the portrait of Franco that dominated the courtroom; all the accused were then expelled.¹¹⁸

Nonetheless, trials against ETA did not always follow the same score: the courts martial where two of the five anti-Francoists executed on 27 September 1975 were sentenced to death cannot be counted among those using rupture strategy or even those using political defence.¹¹⁹ Even though ETA had favoured this path since the end of the 1960s, it was not a monolithic commitment. Something similar can be said of the trials against members of the Algerian FLN, members of French revolutionary organizations, or Spanish communists. It all suggests that the legal strategy used by these political actors between the 1950s and 1970s was more complex than the conceptualization presented by Jacques Vergès, its greatest promotor. As noted above, the very idea of 'rupture strategy' was a formula created a posteriori. Although it was based on the ideas of lawyers defending FLN members, this theorization used a common pattern to unify experiences that, despite their common traits, had been notably diverse in terms of both the methods used to delegitimize courts and their results. Regarding the results, the success of a political defence depended largely on the scale of the protests that could be provoked outside the courtroom. Without this element, it was more a form of self-affirmation and ideological coherency than an effective tool to achieve a political objective. In fact, important trials where political defence had an international impact – such as the Burgos Trial – were the exception: it was difficult to achieve the large-scale mobilization of resources required for a successful anti-repressive campaign. On the other hand, it is also true that these important moments would not have been possible without the experience acquired in earlier trials.

While the idea of 'rupture defence' is not totally accurate when describing what happened during all the trials against members of the FLN or ETA, its symbolic power was very significant. Vergès insisted that 'through so many highly visible trials, the ideas of the revolution took on human shapes and faces and provided the multitudes in Africa, Asia and Latin America – and even the Western left – with the heroes of our time: people stronger than

¹¹⁶ *Boletín Informativo Regional*, 15 June 1974, Bilbao, AGCV, 2.

¹¹⁷ *Boletín Informativo Regional*, 23 Nov. 1974, Bilbao, AGCV, 3.

¹¹⁸ Celhay, *Consejos de guerra*, p. 171; *Diario de Burgos*, 20 Nov. 1974.

¹¹⁹ Celhay, *Consejos de guerra*, p. 307.

death and torture'.¹²⁰ Still, the paths of this influence were not always as evident or direct as Vergès presupposed. In the case of ETA, the reception of ideas of political defence had diverse origins. On the one hand, in Spain there were the recent examples of several courts martial against communists, some of whose lawyers participated, in one way or another, in the Burgos Trial. On the other hand, and more importantly, there was the myth of trials against FLN members and the (generally romanticized) theories that their defence had created as a result.

In the second case, the potential of reaching the press and publications edited in France was essential. Likewise, the impact of the Burgos Trial and the translation of Vergès's work *De la stratégie judiciaire* into Spanish were the primary sources that drove the adoption of rupture strategy in the defence of Argentinian revolutionaries.¹²¹ Therefore, the shared language and cultural ties existing between postcolonial countries and their former metropolises are factors to consider in the circulation of ideas and practices in the context of the long '68.¹²² Another aspect of the echoes between Europe and the Third World found in this historical context is that of anticolonial theories. Although they often became extremely important and internationally known, the application of these ideas in each specific context was not without contradictions. As can be seen in the abovementioned examples of Memmi and some ETA leaders, the global impact of Third Worldism since the 1950s was characterized by a latent tension between nationalism and internationalism.¹²³

Finally, there is one more conclusion we can reach with the research presented in the preceding pages: the limits of transnational transfers, particularly evident in the case of the relationships between states and political organizations. Proof of this is the gulf between ETA's theoretical admiration of the FLN and the Algerian cause, and the deception that resulted from the limited support that the Boumédiène regime provided to the Basque nationalists. Behind their shared revolutionary aspirations, the interests of these movements did not always coincide and were not always easy to reconcile.¹²⁴ As noted by the editors of a valuable contribution to the role of the Third World in the global '68, 'the Western *imagination* of the Third World' was one thing, and 'the Third World as it existed on the ground' was another.¹²⁵

¹²⁰ Vergès, *De la stratégie judiciaire*, p. 195.

¹²¹ David Copello, 'Jacques Vergès, rupture strategy and the Argentinean new left: circulations and adaptations of a judiciary theory', *Global Society*, 33 (2019), pp. 348–64, at p. 354.

¹²² Boris Gobille, 'Introduction: circulations révolutionnaires: une histoire connectée et "à parts égales" des "années 1968"', *Monde(s)*, 11 (2017), pp. 13–36, at p. 35.

¹²³ Some insights into the matter are to be found in the recent collective volume by Thomas C. Field Jr et al., eds., *Latin America and the global Cold War* (Chapel Hill, NC, 2020).

¹²⁴ The relationship between China and European Maoist organizations is a further example of this: Perry Johansson, 'China, Vietnam and the European 1968: a note on chronology and world revolution', *Monde(s)*, 11 (2017), pp. 79–94.

¹²⁵ Christiansen and Scarlett, 'Introduction', p. 8, emphasis in original.

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