

Spanish judge resumes torture case against six senior Bush lawyers

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The Spanish newspaper *Público* [reported exclusively on Saturday](#) that Judge Baltasar Garzón is pressing ahead with a case against six senior Bush administration lawyers for implementing torture at Guantánamo.

Back in March, [Judge Garzón announced](#) that he was planning to investigate the six prime architects of the Bush administration's torture policies — former Attorney General Alberto Gonzales; John Yoo, a former lawyer in the Justice Department's Office of Legal Counsel, who played a major role in the preparation of [the OLC's notorious "torture memos"](#); Douglas Feith, the former undersecretary of defense for policy; William J. Haynes II, the Defense Department's former general counsel; Jay S. Bybee, Yoo's superior in the OLC, who signed off on the August 2002 "torture memos"; and David Addington, former Vice President [Dick Cheney's](#) Chief of Staff.

In April, on the advice of the Spanish Attorney General Cándido Conde-Pumpido, who believes that an American tribunal should judge the case (or dismiss it) before a Spanish court even thinks about becoming involved, prosecutors recommended that Judge Garzón should drop his investigation. As [CNN reported](#), Mr. Conde-Pumpido told reporters that Judge Garzón's plans threatened to turn the court "into a toy in the hands of people who are trying to do a political action."

On Saturday, however, *Público* reported that Judge Garzón had accepted a lawsuit presented by a number of Spanish organizations — the Asociación Pro Dignidad de los Presos y Presas de España (Organization for the Dignity of Spanish Prisoners), Asociación Libre de Abogados (Free Lawyers Association), the Asociación Pro Derechos Humanos de España (Association for Human Rights in Spain) and Izquierda Unida (a left-wing political party) — and three former Guantánamo prisoners (the British residents [Jamil El-Banna](#) and [Omar Deghayes](#), and [Sami El-Laithi](#), an Egyptian freed in 2005, who was paralyzed during an incident involving guards at Guantánamo).

The newspaper reported that all these groups and individuals would take part in any trial, which is somewhat ironic, as, although Judge Garzón has been involved in high-profile cases that have delighted human rights advocates — [his pursuit of General Pinochet](#), for example — he has been severely criticized for his heavy-handed approach to terrorism-related cases in Spain (as in the cases of [Mohammed Farsi](#) and [Farid Hilali](#), amongst others), and, in fact, [aggressively pursued an extradition request](#) for both Jamil El-Banna and Omar Deghayes on their return from Guantánamo to the UK in December 2007, in connection with spurious and long-refuted claims about activities related to terrorism, which he was only persuaded to drop in March 2008.

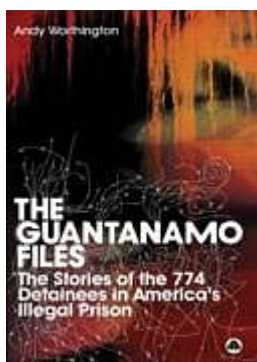
It is, at present, uncertain whether another attempt to stifle Judge Garzón will derail him from his pursuit of the Bush administration's lawyers, as he is not known for letting adversaries stand in his way. At the end of June, the Spanish Parliament [pointedly passed legislation](#) aimed at "ending the practice of letting its magistrates seek war-crime indictments against officials from any foreign country, including the United States," on the basis that no Spanish Court should be able to judge officials of foreign countries except when the victims are Spanish or the crimes were committed in Spain.

However, on Sunday, when *Público* [spoke to Philippe Sands](#), the British lawyer, and author of *Torture Team*, which provided much of the first-hand evidence for Garzón's case, Sands explicitly stated that there was "no legal barrier" to prevent Judge Garzón's prosecution from proceeding. He explained that he believed the recent decision by US Attorney General [Eric Holder](#) to [appoint a special investigator](#) to investigate cases of torture by the CIA is related to the Spanish lawsuit and the importance it has acquired because of its instigation by Judge Garzón. Sands told *Público*, "The recent decision by Eric Holder emphasizes how appropriate the Spanish investigation is. Many commentators believe that this decision has had a significant and direct impact in the United States, reminding people that there is an obligation to investigate torture."

He added, "Judge Garzón's actions have acted like a catalyst, and are supported by many people in the United States, including some members of Congress. He has reminded everybody that a blind eye cannot be turned to these actions and that there are people who are not going to let that happen." He also explained that Eric Holder's gesture is only a first step, "limited to cases in which interrogators may have exceeded the limits formally approved by lawyers in the Justice Department's Office of Legal Counsel," that the architects of the "legal decisions that purported to justify the use of torture are not in immediate danger in the United States," and that there is, therefore, "no legal barrier to the continuation of the Spanish investigation."

He concluded by stating that it was "important" that Judge Garzón proceeds with the case in Spain, because, although Eric Holder "has confirmed the importance of the Convention Against Torture, he has taken only a first step that "does not really address the actions of those who were truly responsible for its violation."

Note: I wish to extend my thanks to Carlos Sardiña Galache for alerting me to the latest developments in this important story, which was not mentioned in the English-speaking press, and for translating crucial passages.



Andy Worthington is the author of [The Guantánamo Files: The Stories of the 774 Detainees in America's Illegal Prison](#) (published by Pluto Press, distributed by Macmillan in the US, and available from Amazon — click on the following for the [US](#) and the [UK](#)). To receive new

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