The day of the endangered lawyer

Thursday the 24th January 2013 marked a day of protest across Europe on behalf of the plight of lawyers. This time in Spain. But it could have been almost anywhere. It went unnoticed and unremarked in all the UK mainstream media, and yet it is an increasingly threatening and oppressive situation which deserves universal attention. It is not about money. It is about liberty. The liberty of defenders and that of those they represent.

It is easy to overlook and take for granted the huge risks faced by those who are courageous enough to speak for and defend people who are regarded as subversive and hostile to the State in which they live.

Do not imagine it only happens in ex-satellite Russian States and banana republics. Pat Finucane and Rosemary Nelson paid with their lives in the North of Ireland. Both cases involved agencies of the British State. In Pat Finucane’s case that has been emphatically accepted by a series of reviews ending with an apology by the Prime Minister last year. The full truth and full accountability is still denied.

The instant protest concerns the shocking arrest and ill-treatment of Basque lawyers by the Spanish Government. Here in London and in the Hague, Berlin, Amsterdam, Paris, Rome, Milan, Athens and Madrid people have gathered in solidarity to demand that the Spanish Government abides by international and European law and the rule of law and ceases this attack on justice.

In Spain the Basque peace process continues, with ETA having laid down arms, and with an agreement in place to pursue the cause of self-determination through peaceful means. However, the Spanish Government continues its own war on terror, banning Basque organisations, closing down newspapers, harassing activists and by these and other means, criminalising the Basque population.

Over the last two decades in Spain, more than 20 defence lawyers representing alleged members or supporters of ETA have themselves been subjected to incommunicado detention and ill-treatment, accused of terrorist crimes connected to ETA or insulting the Spanish State.

The arrests of these lawyers were often accompanied by high profile media campaigns justifying the charges made, while the lawyers themselves were kept for days in isolation and interrogated. Many of those detained were held far from the Basque country, making visits from friends and family very difficult. Their clients were deprived of the right to be represented by a person of their choosing.

Following sometimes lengthy periods of pre-trial detention the lawyers have either been acquitted or the
charges dropped, with considerable damage having been done to the rule of law and all involved.

Julen Arzuaga’s offices were searched and he was put on trial for involvement with ETA, only to have all charges dropped in 2008, when it was acknowledged he was carrying out legitimate legal work. Aiert Larrarte was charged with defaming the security services of the State after giving evidence of his client’s torture at a press conference in April 2006, only to be acquitted in May 2009.

Iñaki Góioaga was arrested at gunpoint, his offices searched with no warrant produced, and held incommunicado. Without access to lawyers he was interrogated, insulted and threatened. He gave evidence before the court without representation. Afterwards the prosecution sought a 25-year sentence of imprisonment for crimes linked to ETA. He was acquitted in October 2012.

It is fundamental to any fair legal system for a lawyer to be able to represent his or her client without fear of reprisal. Without an unfettered defence a fair trial is impossible.

In the Basque country lawyers were targeted because of their involvement with politically sensitive cases. It is clear that in the eyes of the Spanish State Basque lawyers should be subject to the same suspicion as their clients: that being Basques, they must be part of the struggle, and if part of the struggle, they must be (at least) sympathetic to ETA. This cannot be allowed to pass un criticised. It is illegal. These acts are a violation of human rights, under the European Convention of Human Rights Article 6, Paragraph 2 and the United Nations Basic Principles on the Role of Lawyers which sets out that ‘All persons are entitled to call upon the assistance of a lawyer of their choice’ and ‘Lawyers shall not be identified with their clients or their clients’ causes as a result of discharging their functions’.

The harassment of lawyers who defend those on terrorism charges is a manifestation of the injustice of the ‘exceptional measures’ ushered in by sweeping anti-terrorism legislation. It undermines the advancement of a peaceful resolution to the long-running conflict in Spain.

This is but a microcosm of what is happening throughout the world. Not just to lawyers but anyone who defends human rights be it in Turkey, Colombia, Yemen or the Philippines.

It is part of a relentless denigration of human rights themselves where they are seen to stand in the way of power and territory.

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