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**Cultural heritage misplacement in Francoist Spain:
A pending democratic and social issue through the Pazo de Meirás case
study**

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A handwritten signature in black ink, appearing to be the name "Alba Calderón Castro". The signature is stylized and cursive, with a large initial "A" and "C".

Annex Three: Declaration sheet



MA Programme Euroculture Declaration

I, Alba Calderón Castro hereby declare that this thesis, entitled "Cultural heritage misplacement in Francoist Spain: A pending democratic and social issue through the Pazo de Meirás case study", submitted as partial requirement for the MA Programme Euroculture, is my own original work and expressed in my own words. Any use made within this text of works of other authors in any form (e.g., ideas, figures, texts, tables, etc.) are properly acknowledged in the text as well as in the bibliography.

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The two items above do not apply to this project.

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ABSTRACT

For millennia, cultural heritage pieces taken away from their original owners and given to new ones in a manner similar to looting or plunder have existed and, therefore, the subject has been studied by multiple experts from numerous perspectives. It is quite different, however, to study the more nuanced topic of cultural heritage misplacement within one single community and that is what this paper does: explore the repercussions that the non-return of cultural heritage taken away during the Civil War and subsequent dictatorship has on the democratic and social levels in the context of 2023 Spain.

Previous research showed that experts have focused on the politics, cultural policy and misappropriation, but few have tried to blend them together in one study. Nevertheless, there was a clear gap in the literature regarding the approaches adopted thus far as no researchers had combined the different disciplines interacting with cultural heritage such as political science or sociology. This paper aimed at creating a supportive argument for pre-existing investigations such as Arturo Colorado Castellary's on the ongoing situation of non-returned pieces of Spanish cultural heritage by studying the democratic and social implications of the non-return in present day.

The analytical part of the study was done through a content analysis methodology where the performed coding on the collected data—interviews, tweets, legislative papers and academic journals—revealed the reappearance of certain words and topics, exposing a democratic system still linked to the past fascist dictatorship from the 20th century in Spain both in terms of legislation and social perception. These findings acquired a considerable significance on the research field because no previous study on Spanish cultural heritage had focused particularly on the social level or its connection to democraticness.

Key words: cultural heritage, Spain, misplacement, Francoism, democraticness, social repercussions.

PREFACE

“Mira delante de ti la suerte de los que fueron; mira delante de ti la suerte de los que serán”¹²

Emilia Pardo Bazán references here a perceived change with the passing of time for the different generations and the history that people are trying to avoid repeating. It feels rather ironic to begin this preface with a quote from the former owner of the Pazo de Meirás, which we will follow closely in the thesis later on, as it encapsulates the feelings that I am trying to display in this paper, a people that has been wronged before and that is trying to overcome those events.

The topics of cultural heritage and history have been an interest of mine for years and, as I got to explore it during my studies, I wanted to go back to my roots and centre around cultural heritage in Spain and, more specifically, Galicia—making the quote by the Galician novelist even more appropriate.

I would like to thank my supervisors Dr. Lars Klein and doc. Mgr. Martin Elbel, M.A., Ph.D., who have been an unending source of knowledge and helped me navigate the programme as well as my research. I would also like to thank my mother, my father and all my family for never holding me back and always supporting me. For creating a safe space where I could learn, ask, be curious. For raising me in such a culturally enriching environment, for showing me the traditions, the art, the music and the language of my people and helping me appreciate them. Gracias. To Miriam, Raquel, Raúl, Andrea, Ane, Maureen, Pauline, Andrea and everyone else that has been there all this time. Thank you.

¹ Emilia Pardo Bazán, “La Paloma,” essay, in *Cuentos Antiguos* (Alicante, Spain: Biblioteca Virtual Miguel de Cervantes, 2001), https://www.cervantesvirtual.com/obra-visor/cuentos-antiguos--0/html/fce36fb6-82b1-11df-acc7-002185ce6064_2.html#I_1_.

² “Look before you, the luck of those who were, look before you, the luck of those who will be.” All translations from Spanish or Galician to English in this paper have been done by the thesis’ author unless stated otherwise.

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INTRODUCTION

Cultural heritage encapsulates a series of tangible and intangible legacies that constitute the identity of a nation, people or family. Anything that can be associated with history and culture such as books, buildings, art, fashion or customs, for instance, is susceptible to being labelled cultural heritage.

The topic of cultural heritage has been widely discussed in recent times, particularly after the independence of so many countries subjugated as colonies of European nations and the spread of globalisation, making information and, specially, constitutional rights much more accessible. The idea of its return lies in that certain cultural heritage would have been taken away from its original owners at some point and given to the oppressors as a sort of celebration of victory by, as Genghis Khan once proclaimed, robbing them of their wealth³. While this subject has been quite controversial from the beginning, with people supporting claims on both ends of the spectrum on whether they should be returned or not, there is a specific subtopic much less investigated: cultural heritage taken from its owners and given to new ones from the same country, without external actors interceding. The focus of this research originates from combining this lesser studied discipline with a democratic government that is still trying to overcome the horrors of a civil conflict and a dictatorship in the last hundred years, as it is the case of Spain.

While the Francoist regime ended in 1975 with the dictator's death and Spain quickly became a democracy after the events, the democratic transition did not return the country to its pre-1936 political and social position, at least not in cultural heritage ownership. During the war and the dictatorship, some heritage pieces were relocated for safekeeping reasons and then given to different aristocratic members and supporters of the regime as gratitude for their loyalty to Franco and his values. Unfortunately, this meant that the original owners were stripped off their rights to keep the pieces, which provokes a conflict in the present day due to them not having been returned yet to them, their families or the State. This seems to be a

³ Henry H. Howorth, *History of the Mongols, from the 9th to the 19th Century. The Mongols Proper and the Kalmyks* (New York, USA: Cosimo, 2008).

topic with much to offer but, it being so recent, not that many publications have studied it and so the thesis aims at deepening the knowledge about it.

Although as an academic paper the objective throughout the thesis is to remain as unbiased as possible without adding personal opinions, it is necessary to start the study somewhere and, therefore, a stance is required. It is because of this that this study will question the governmental measures taken in both the fascist and the currently democratic periods in Spain surrounding the issue of cultural heritage management and it will centre around papers, comments and opinions in favour of the return of said cultural heritage and other reparative procedures.

The purpose of this study is to explore the limitations of the democratic transformation in terms of cultural heritage ownership in Spain and lack of effective legislation on the issue. Its significance lies in the fact that, while Spain is regarded as a successful democracy and acknowledged as so by the rest of the international political sphere, there are still some pending issues tying the country and, by extension, its people, to a dictatorial unjust past that should be addressed. When the exploration of this topic started, the research question was quite malleable in that no specific approach or aspects had been chosen. However, as the investigation continued, two particular perspectives became prominent and started shaping the research, democraticness and society. It is because of those aspects that as the thesis progressed, it began answering the following question: on the basis that Spanish cultural heritage was misplaced during the Civil War and consequent dictatorship and a good part of it was never returned to its initial owners, what are the democratic and social implications of the lack of restitution in the 21st century?

Structurally, the thesis will consist of two clearly distinctive parts. Firstly, there will be a theoretical and a conceptual framework where both the history and legislative processes that happened in Spain and Europe from 1936 onwards in relation to heritage misplacement will be explained. And, after that, this thesis will continue with an analysis of a curated collection of documents related to a particular case study on the Pazo de Meirás (Galician castle, property of the Franco family since the beginning of the dictatorship) in order to give an

answer to the research question concerning both the social and democratic implications on the issue of restoration. The proposed documents will be two expert interviews, a series of fifteen tweets published from 2019 to 2023, an academic journal and a legislative declaration about the castle. The objective is to perform some content analysis methodology through coding, studying the words and concepts used by the experts and researchers. The combination of these analysis findings and the theoretical study will be helpful for extrapolating the results to get a reasonable answer to the research question.

LITERATURE REVIEW

Before jumping directly into the theoretical framework of the thesis, it is essential to retrieve some information to understand the state of the issue. For that, a thematic division will be created out of the four most relevant topics that are to be addressed in the study: Spanish politics in the 20th and 21st centuries, cultural policy, Spanish cultural heritage misappropriation and the scholarly progress relating particularly to the case study that will be used to exemplify this dissertation, the Pazo de Meirás.

Spanish politics in the 20th and 21st centuries

The Spanish Civil War and its consequences seems to be a topic sparking the interest of plenty of authors and researchers as both national and international experts have focused their investigation on it. In Spain, one of the first names to stand out is Enrique Moradiellos, a prominent figure in the study of Contemporary history, professor at the University of Extremadura and awardee of the Arturo Barea award for cultural research in 2012 and the National History Award in 2017⁴. Moradiellos' work constitutes a great resource for the study of the Spanish war and his books *1936: Los mitos de la Guerra Civil (1936: myths from the Civil War)*⁵ and *Historia Mínima de la Guerra Civil Española (Minimal History of the Spanish Civil War)*⁶ provide a clear overview of the conflict framing it as an example of social violence and also exploring the attitudes across Europe towards this war.

Another outstanding figure in the field is Ángel Viñas, historian and professor at the Complutense University of Madrid⁷ who specialises in the Second Republic and the Francoist regime. Viñas is also the author of *En el combate por la Historia: la República, la Guerra Civil, el franquismo (In the fight for History: the Republic, the Civil War, the Francoist regime)*⁸, a compilation of essays by Spanish historians trying to create a non-biased timeline

⁴ Ediciones Complutense, "Enrique Moradiellos," Universidad Complutense de Madrid, accessed May 3, 2023, <https://www.ucm.es/ediciones-complutense/enrique-moradiellos>.

⁵ Enrique Moradiellos, *1936: Los Mitos de La Guerra Civil* (Barcelona, España: Península, 2008).

⁶ Enrique Moradiellos, *Historia Mínima de La Guerra Civil Española* (Madrid, España: Turner, 2019).

⁷ Ángel Viñas, "Sobre Mi," Ángel Vias, accessed May 3, 2023, https://www.angelvinas.es/?page_id=6.

⁸ Ángel Viñas, ed., *En El Combate Por La Historia: La República, La Guerra Civil, El Franquismo* (Barcelona, España: Pasado & Presente, 2020).

of the war and the dictatorship. His other book *La Soledad de la República: el abandono de las democracias y el viraje hacia la Unión Soviética (Solitude in the Republic: the democracies' abandonment and the turn in favor of the Soviet Union)*⁹ analyses the political stances that the different international organisations and national governments adopted during the Spanish war.

In the international context, two main historians have written essential publications on the topic. Pierre Vilar, one of the most prolific researchers on the history of Spain¹⁰, wrote *La Guerre d'Espagne 1936-1939 (Spain's War 1936-1939)*¹¹, where he studied the past and current beliefs among the Spanish and foreign populations in regards to the conflict. The other high-profile expert that must be mentioned is Paul Preston, , who wrote *The Coming of the Spanish Civil War: Reform, Reaction and Revolution in the Second Republic 1931-1936*¹², a study on the post-war political and social disturbance, and *A People Betrayed: A history of Corruption, Political Incompetence and Social Division in Modern Spain 1874 – 2018*¹³, where he investigates the political corruption and access to power by Franco, supported by the illicit enrichment of officials through plunder. This approach will be used to inspire this study as it is one of the very few combining political attitudes, with legislation and emotional responses from the population.

Cultural policy

Cultural policy or the protection of culture, under which cultural heritage lies, by the government through legislation, programmes or rules, is a distinct factor that will be addressed during this thesis. There are two major publications in the last decades on the

⁹ Ángel Viñas, *La Soledad de La República: El Abandono de Las Democracias y El Viraje Hacia La Unión Soviética* (Barcelona, España: Crítica, 2010).

¹⁰ Atelier Pierre Vidal, “Vida,” Atelier Pierre Vidal, accessed May 3, 2023, <http://www.atelierpierrevilar.net/es/vida>.

¹¹ Pierre Vilar, *La Guerre d'Espagne (1936-1939)* (Paris, France: Presses Universitaires de France, 2002).

¹² Paul Preston, *The Coming of the Spanish Civil War: Reform, Reaction, and Revolution in the Second Republic* (London, United Kingdom: Routledge, 1994).

¹³ Paul Preston, *A People Betrayed: A History of Corruption, Political Incompetence and Social Division in Modern Spain* (New York, USA: Liveright Publishing Corporation, a division of W. W. Norton & Company, 2020).

subject, both with the same title: *Cultural Policy* by Toby Miller and George Yúdice¹⁴ in 2002 and *Cultural Policy* by David Bell and Kate Oakley¹⁵ in 2014. The first book has become a staple in cultural studies, as it offers “the first comprehensive and international work on cultural policy”¹⁶ including a particularly illuminating introduction where the authors explain the history and theory behind the topic. The second one adopts a more reflective and critical perspective, deconstructing the meaning of the word and presenting the diverse debates in the field in the national and international spheres. Another important addition to this literature is the publication of the *Cultural Policy, Criticism and Management Research* e-journal¹⁷, which from 2007 to 2012 included the latest news in the field and in which both Miller and Oakley appear as advisory board members.

Apart from these ground-breaking works, other scholars have published interesting research specifically in the European context such as Cris Shore’s “*In Uno Plures*” (?) *EU Cultural Policy and the Governance of Europe*¹⁸ or *Inventing the 'People's Europe': Critical Approaches to European Community 'Cultural Policy'*¹⁹, two essentials in the subject of cultural policy. These articles provide a sceptical approach to the idea of unanimity in the European Union concerning the matter of culture and Shore even states that “the evidence clearly points to another, more political agenda in which "cultural action" and EU cultural policy provide both instruments and legitimation for increasing European-level intervention into the social”²⁰.

On a national level, it is interesting to mention the work of Beatriz Pérez Galán, anthropologist and professor at the UNED (National University of Distance Education), who

¹⁴ Toby Miller and George Yúdice, *Cultural Policy* (New York, USA: SAGE Publications Ltd, 2002).

¹⁵ David Bell and Kate Oakley, *Cultural Policy* (London, United Kingdom: Routledge/Taylor & Francis Group, 2015).

¹⁶ Perlego, “Cultural Policy by Toby Miller,” Perlego, accessed May 5, 2023, <https://www.perlego.com/book/861345/cultural-policy-pdf>

¹⁷ Zeena Feldman, “Cultural Policy, Criticism and Management Research,” *Cultural Policy, Criticism and Management Research* (City London University), accessed May 5, 2023, <https://culturalpolicyjournal.wordpress.com/>.

¹⁸ Cris Shore, ““In Uno Plures” (?) EU Cultural Policy and the Governance of Europe,” *Cultural Analysis* 5 (2006): 7–26, <https://doi.org/https://www.ocf.berkeley.edu/~culturalanalysis/volume5/pdf/shore.pdf>

¹⁹ Cris Shore, “Inventing the ‘People’s Europe’: Critical Approaches to European Community ‘Cultural Policy,’” *Man* 28, no. 4 (1993): 779–800, <https://doi.org/10.2307/2803997>

²⁰ Shore, “In Uno Plures”, 19.

studies in her article *Los Usos de la Cultura en el Discurso Legislativo sobre Patrimonio Cultural en España (The Uses of Culture in the Legislative Spanish Discourse on Cultural Heritage)*²¹ the number of current legal figures of protection raised in the last two decades in the Spanish legislation.

Spanish cultural heritage misappropriation

One of the more relevant authors in the field of Spanish cultural heritage is Alicia Alted Vigil, history professor at the UNED and expert in post-war exiles²². Alted Vigil published in 1984 her book *Política del Nuevo Estado sobre el Patrimonio Cultural y la Educación durante la Guerra Civil Española (Policy of the New Estate about Cultural Heritage and Education during the Spanish Civil War)*²³, a book where she identified the key elements of the cultural policies in Spain concerning cultural heritage and education during the civil war.

For the basis of this study, it is interesting to mention Beatriz Sánchez Martínez's thesis dissertation as well. Her thesis entitled *Salvaguardia del patrimonio cultural durante la guerra española (Safekeeping of cultural heritage during the Spanish war)*²⁴ is a well-researched study where the main focus resides on the lack of international policies at the time of the conflict and the impact that this had on the handling of cultural heritage during the Spanish war, giving it an exceptional international dimension. Together with hers, Rebecca Saavedra Arias' dissertation on *El Patrimonio Artístico Español durante la Guerra Civil (1936 - 1939): Política e ideología en las «dos Españas» (Spanish Cultural Heritage during*

²¹ Beatriz Pérez Galán, “Los Usos De La Cultura En El Discurso Legislativo Sobre Patrimonio Cultural En España,” *Revista De Antropología Experimental* 11 (2011): 11–30, <http://revista.ujaen.es/huesped/rae/articulos2011/02perez11.pdf>

²² Universidad Nacional de Educación a Distancia, “María Alicia Encarnación Alted Vigil,” Universidad Nacional de Educación a Distancia, accessed April 18, 2023, <https://www.uned.es/universidad/docentes/geografia-historia/maria-alicia-encarnacion-alted-vigil.html>

²³ Alicia Alted Vigil, *Política Del Nuevo Estado Sobre El Patrimonio Cultural y La Educación Durante La Guerra Civil Española* (Madrid, Spain: Centro Nacional de Información Artística, Arqueológica y Etnológica, 1984).

²⁴ Beatriz Sánchez Martínez, “Salvaguardia Del Patrimonio Cultural Durante La Guerra Civil Española. Actuaciones Nacionales e Internacionales: Un Precedente Para La II Guerra Mundial” (dissertation, 2019), <https://repositorio.comillas.edu/rest/bitstreams/211167/retrieve>

the Civil War (1936 - 1939): Politics and ideology in the “two Spains”)²⁵ is a fantastic knowledge foundation for the political implications during the war.

However, it is hard to discuss previous research on Spanish cultural heritage and, specifically, its misappropriation, without acknowledging Arturo Colorado Castellary’s contributions. Colorado Castellary is a devoted Spanish professor of Art and Communication at the Complutense University of Madrid teaching art, heritage and war. He is also a prominent history researcher specialised in the Civil War and the main figure on the topic of Spanish cultural heritage misappropriation²⁶. Colorado Castellary has studied the subject in depth and has published several books on it such as *Éxodo y exilio del arte. La Odisea del Museo del Prado durante la Guerra Civil (Art exodus and exile. Prado Museum’s Odyssey during the Civil War)*²⁷ or *Patrimonio Cultural, Guerra Civil y Posguerra (Cultural Heritage, Civil War and Post-war)*²⁸, both of which establish the plundered and still misplaced heritage and even provide some inventories and classification²⁹. Through his work, Colorado Castellary highlights the pending reparations from the Spanish government to those who lost their heritage during or after the war.

Pazo de Meirás

The analysis of this thesis will be revolving about a specific case study on the legal battle and resolution of the returning of the Pazo de Meirás after decades of it being in possession of the Franco family. The most salient scholar on this particular issue is Emilio Grandío Seoane, Contemporary History professor at the University of Santiago de Compostela who has published several articles and books on this building and its misappropriation after the Civil

²⁵ Rebeca Saavedra Arias, “El Patrimonio Artístico Español Durante La Guerra Civil (1936-1939): Política e Ideología En Las “dos Españas” (dissertation, 2013), <https://repositorio.unican.es/xmlui/bitstream/handle/10902/2430/TesisRSA.pdf?sequence=1>

²⁶ Universidad Complutense de Madrid, “Arturo Colorado Castellary,” Universidad Complutense de Madrid, accessed July 18, 2023, <https://www.ucm.es/patrimonio-cultural-siglo21/colorado-arturo>

²⁷ Arturo Colorado Castellary, *Éxodo y Exilio Del Arte: La Odisea Del Museo Del Prado Durante La Guerra Civil* (Madrid, Spain: Cátedra, 2008).

²⁸ Arturo Colorado Castellary, *Patrimonio Cultural, Guerra Civil Y Posguerra* (Madrid, Spain: Editorial Fragua, 2018).

²⁹ Arturo Colorado Castellary, *Arte, Botín de Guerra: Expolio y Diáspora En La Posguerra Franquista* (Madrid, Spain: Cátedra, 2021).

War by the family. *El pazo de Meirás: un pasado entre las sombras del silencio* (*The Pazo de Meirás: a past in between the shadows of the silence*)³⁰ or *Meirás, un proceso democrático* (*Meirás, a democratic process*)³¹ are two of his most relevant journal articles, where he analyses the importance that the building has for the Galician and Spanish population and how they have been affected by the long process of returning it to the state. The expert has also written an essential chapter in the book *El pasado siempre vuelve* (*The past always comes back*)³², where he explores the legacy and trauma from the Francoist period still left behind in society.

Another colleague of Grandío Seoane, Xosé Manoel Núñez Seixas, also historian and professor at the University of Santiago de Compostela, was the president of the expert committee at the Pazo de Meirás, who acted as consultants for the government, and one of the most vocal supporters of the returning of the building to the state³³. Núñez Seixas published in 2021 a book on cultural heritage misappropriation across Europe entitled *Guaridas del Lobo: memorias de la Europa autoritaria 1945 - 2020* (*Wolf Dens: memories of the authoritarian Europe 1945 - 2020*). There, he explored the aftermath of a dictatorship and how its physical legacy can act as a reminder of the regimes, using the precise case of the Pazo de Meirás to study the situation in Spain. His impressive comparison across countries and focus on social repercussions have been a remarkable influence as it inspired me to add the social-emotional component to this thesis.

Other scholars who have studied the case of the Pazo de Meirás on an academic level are Sebastián-Alberto Longhi-Heredia, José-María Morillas-Alcázar and Ángel Hernando-Gómez, who recently published an article titled *El Pazo de Meirás. Representaciones de un*

³⁰ Grandío Seoane, Emilio. "El Pazo de Meirás: Un Pasado Entre Las Sombras Del Silencio." *Nuestra Historia: Revista de Historia de La FIM* 6 (2018): 207–12. ISSN 2529-9808.

³¹ Emilio Grandío Seoane, "Meirás: Un Proceso Democrático," AREAL. Revista Cultural de Sada, January 18, 2022, <https://areal.gal/2021/01/meiras-un-proceso-democratico.html>

³² Emilio Grandío Seoane, "Sentir el franquismo. El Pazo de Meirás: caminos de futuro en la imagen de una dictadura" in *El pasado siempre vuelve: historia y políticas de memoria pública*, ed. Julio Ponce Alberca and Miguel Ángel Ruíz Carnicer (Zaragoza, Spain: Prensas de la Universidad de Zaragoza, 2021), 181-210.

³³ Mila Méndez, "Xosé Manoel Núñez Seixas, Autor de «Guaridas Del Lobo»: «Os Debates Sobre Meirás Non Son Privativos de España»," *La Voz de Galicia*, April 7, 2021, https://www.lavozdeg Galicia.es/noticia/cultura/2021/04/07/span-langglos-debates-sobre-meiras-non-privativos-espanaspan/0003_202104G7P34991.htm.

*patrimonio en disputa (El Pazo de Meirás. Representations of a heritage in dispute)*³⁴. This publication analyses the journalistic coverage of the case and legal resolution through multiple media with the help of the content analysis methodology, which is why it was chosen to also be used in this research.

While this literature review showcases that there has been much research done on the aforementioned themes separately and a great number of experts have delved into the politics of the war, post-war and democratic periods in Spain as well as cultural heritage, few researchers have taken the social current implications into consideration and combined them with the legal perspective. These studies will provide the basis for the theoretical approach of this research, but the aim here is to reach further in terms of the analysis and address the underlying significance for society and legislation of the lack of complete cultural restitution in 2023.

³⁴ Sebastián Alberto Longhi Heredia, José María Morillas Alcázar, and Ángel Hernando Gómez, “El Pazo de Meirás. Representaciones de Un Patrimonio En Disputa.,” *Ámbitos. Revista Internacional de Comunicación*, no. 56 (2022): 64–85, <https://doi.org/10.12795/ambitos.2022.i56.05>

CIRCUMSTANCES SURROUNDING SPANISH CULTURAL HERITAGE FROM THE CIVIL WAR TO THE DEMOCRATIC ERA

This first chapter of the study consists of a review of the context behind the misplacement of cultural heritage that occurred in Spain from the Civil War up until the democratic era. That is, the historic-political background from 1936 to 2023, the key concepts related to the notion of misplacement and the development and consequences that this phenomenon had in Spain.

Historical overview of the Spanish Civil War, dictatorship and democratic rule

In 1936, Spain was one of the more politically progressive European nations with an established Republic abiding by a recent constitution recognising women's suffrage, freedom of speech and the disestablishment of the Roman Catholic Church among other advancements³⁵. While in other countries in Europe, the economies were still recovering from World War I and the main powers were turning towards fascism with examples in Portugal with Salazar, Italy with Mussolini or Germany with Hitler, Spain seemed to be a special case: the country had remained neutral during the Great War and, although there was a short period of dictatorship headed by Primo de Rivera in the 1920s, the Second Republic appeared to be an isolated case in a sea of totalitarian governments³⁶.

However, the Republic was known for its instability at the time, with constant coup d'état attempts, revolutionary strikes, burning of churches, police violence and the assassination of politicians such as former Minister of Finance and advocate for the Republic, José Calvo Sotelo. In February and March 1936, the General Election took place. This voting process won by the Popular Front, left-wing political coalition, would name the next prime minister, Manuel Azaña. A controversy surrounding the possible irregularities of the process combined

³⁵ Sara Schatz, "Democracy's Breakdown and the Rise of Fascism: The Case of the Spanish Second Republic, 1931–6," *Social History* 26, no. 2 (2001): 145–65, <https://www.jstor.org/stable/4286762>

³⁶ Martin Blinkhorn, *Fascism and the Right in Europe: 1919-1945* (Harlow, England, United Kingdom: Longman, Pearson Education, 2000).

with the already existing tensions led to the plotting of a new military coup d'état that would ultimately bring the Second Republic to an end³⁷.

Due to the abovementioned previous coup attempts, the government devised a plan to avoid any further riots by sending the more problematic military personalities to the periphery, excluding them from the political life in Madrid, Barcelona or Bilbao. This would prove to be insufficient when, after the discussed 1936 elections, they would all ally and organise a coup d'état³⁸ headed by Emilio Mola, José Sanjurjo and Francisco Franco.

Therefore, in July 1936, three actions³⁹ that will lead to what is known as the Spanish Civil War and change the course of Spanish politics take place: a mutiny begins in North Africa, where some of those soldiers had been previously displaced to; José Sanjurjo, right after organising the coup, dies in a plane accident when flying to assume his leadership in Burgos; the German and Italian fascist governments help the National Front—rebels—to travel from Morocco to Spain. Once all of these chess pieces are on the board, the Spanish Civil War starts.

This military conflict would last for three years and it would completely divide the Spanish society into two distinct blocs, the republican side and the nationalist side⁴⁰. The coup d'état could be considered only partially successful because, while it did put the self-proclaimed nationalist side on the map, they did not gain control of the whole country immediately and, even though they had the support of other European fascist governments and most of the Spanish Armed Forces, they could not lay siege to Madrid, Barcelona, Bilbao or Valencia⁴¹, cities considered important political nuclei.

³⁷ Enrique Moradiellos, "Las Elecciones Generales de Febrero de 1936: Una Reconsideración Historiográfica," RdL - Revista de Libros, September 11, 2017, <https://www.revistadelibros.com/las-elecciones-generales-de-febrero-de-1936una-reconsideracion-historiografica/>

³⁸ Rúben Emanuel Leitão Prazeres Serém, "Conspiracy, Coup d'état and Civil War in Seville (1936-1939): History and Myth in Francoist Spain" (dissertation, 2012), http://etheses.lse.ac.uk/622/1/Serem_Conspiracy_coup_d'état.pdf

³⁹ Antony Beevor, *The Battle for Spain: The Spanish Civil War, 1936-1939* (London, United Kingdom: Phoenix, 2007).

⁴⁰ Beevor, *The Battle for Spain*.

⁴¹ Judith Keene, *Fighting for Franco: International Volunteers in Nationalist Spain during the Spanish Civil War, 1936-1939* (London, United Kingdom: Hambledon Continuum, 2007).

For three years military and civilians were rapidly involved in a fight all over the Spanish territory, helped by international armies on both sides. Germany with its Condor legion, Italy with the Corpo Truppe Volontarie, Portugal with the Viriatos, Ireland with Eoin O’Duffy’s followers and some Frenchmen with the Jeanne d’Arc company supported the nationalist bloc⁴². The Soviet Union and Mexico together with French prime minister Leon Blum’s aid and, most of all, the International Brigades (foreigners legion), supported the republican bloc⁴³. Even well-known artists such as Ernest Hemmingway, Pablo Picasso or George Orwell participated in the war and recounted their experience later on discussing the politics of the country:

“As for the newspaper talk about this being a ‘war for democracy’, it was plain eyewash. No one in his senses supposed that there was any hope of democracy, even as we understand it in England or France, in a country so divided and exhausted as Spain would be when the war was over. It would have to be a dictatorship, and it was clear that the chance of a working-class dictatorship had passed. That meant that the general movement would be in the direction of some kind of Fascism. Fascism called, no doubt, by some politer name, and—because this was Spain—more human and less efficient than the German or Italian varieties. The only alternatives were an infinitely worse dictatorship by Franco, or (always a possibility) that the war would end with Spain divided up, either by actual frontiers or into economic zones.”⁴⁴

When the connection between Madrid and Barcelona was broken through an offensive attack on Catalunya, the republican government became incredibly weakened and, by 1st April 1939, general Francisco Franco took office as head of the only political party allowed, the Falange, and the ruler of the new state, the dictatorship⁴⁵. This new political regime, which would be called Francoism, lasted until 1975 when Franco died of old age and his official successor, prince Juan Carlos (descendant of the royal Bourbon dynasty that ruled Spain until 1931) guided the country towards a constitutional monarchy⁴⁶.

⁴² Christopher Othen, *Franco’s International Brigades: Adventurers, Fascists, and Christian Crusaders in the Spanish Civil War* (New York, USA: Columbia University Press, 2013).

⁴³ Keene, *Fighting for Franco*.

⁴⁴ George Orwell, *Homage to Catalonia*, (Sanage Publishing House, 2020), chap. 12, Kindle.

⁴⁵ Antonio Cazorla Sánchez, *Fear and Progress: Ordinary Lives in Franco’s Spain, 1939-1975* (Chichester, United Kingdom: Wiley-Blackwell, 2010).

⁴⁶ Xavier Paniagua, *La Transición Democrática: De La Dictadura a La Democracia En España (1973-1986)* (Madrid, Spain: Anaya, 2009).

This implies that for almost forty years Spain lacked a democracy, the rights of the Spanish population were violated and the decisions taken by Franco and the Falange could not be questioned. Indeed the repression and violence did not last just those first three unstable years of war and subsequent post-war period when approximately 500,000 people died⁴⁷, but they continued to be so for the rest of the dictatorship. Both the ruling government and the Catholic Church exercised their control over the citizens with an iron fist that would only falter when Franco died in 1975 and the future King Juan Carlos I led the nation to a democracy⁴⁸.

There is quite a stark contrast between the political situation of the country in the 1930s, when Spain was an advanced power enjoying social progress, and 1975, when the country had been stagnant and repressed for four decades, and it would seem that the decision to turn towards a parliamentary democracy was a frivolous one. However, one could argue that it was the result of a smart strategy from the king and his counsellors, who had begun noticing some riots and protests in the 1960s and 1970s. Labour movements, student activism, Catalan, Galician and Basque nationalism with some terrorist organisations such as ETA, all demonstrated the rising tensions among the population and the need for a change in the political sphere⁴⁹. A change towards democracy would avoid a possible new warlike conflict.

The country underwent a democratic transition which lasted until 1977, when the dictatorial regime was abandoned and new elections with different political parties took place. The following year, a new Constitution was signed by the king at the Congress of Deputies in the capital⁵⁰ and, except for a failed coup attempt in 1981⁵¹, the democracy has been undefeated since, with both left-wing and right-wing governments.

⁴⁷ Santiago Vega Sombria, *La Política Del Miedo: El Papel de La Represión En El Franquismo* (Barcelona, Spain: Grupo Planeta, 2012).

⁴⁸ Paniagua, *La Transición Democrática*.

⁴⁹ Nicolás Sartorius and Alberto Sabio, *El Final de La Dictadura: La Conquista de La Democracia En España (Noviembre de 1975-Junio de 1977)* (Madrid, Spain: Temas de Hoy, 2007).

⁵⁰ Luis Sánchez Agesta, "La Monarquía Parlamentaria En La Constitución de 1978," *Revista Española de Derecho Constitucional* 18 (1986): 9–20, <https://www.jstor.org/stable/44203103>.

⁵¹ Marcos Novaro and Vicente Palermo, *La Dictadura Militar, 1976-1983: Del Golpe de Estado a La Restauración Democrática* (Buenos Aires, Argentina: Paidós, 2003).

Nonetheless, the legacy of this sensitive period in the 20th century is still very much present in the collective memory of the Spanish population in present-day. One extremely contested example of it is the now overridden Historic Memory Law⁵² approved in 2007 and recognising the victimhood of the crimes from the Civil War and post-war period but it did not approve the opening and identification of the mass graves created from 1936 to 1975. This law was only updated last year⁵³ as it will be examined in the next chapter, which explains the big mystery still surrounding the actual figures of people killed in the time span. If the graves are not opened, it is impossible to calculate how many corpses are in them as there are no reliable reports. Victims and family members of the victims of the reprisals have felt slighted by the fact that the crimes had not undergone as many reparations as they thought necessary in the many years following the democratic transition and so diverse organisations such as Asociación para la Recuperación de la Memoria Histórica (Historic Memory Restoration Association)⁵⁴ and Asociación Foro por la Memoria Democrática (Forum for Democratic Memory Association)⁵⁵ were created with the objective to advocate for a change.

This thesis will therefore explore the mentioned legacy in terms of social and legal implications but, in order to understand the issue and see the full picture, one must comprehend all the concepts surrounding Spanish cultural heritage individually.

Defining the main concepts

The issue that will be explored in depth in this dissertation is that of misplaced cultural heritage in 20th century Spain, but in order to research this topic it is necessary to discern between misplacement, looting and intentional destruction of cultural assets. All of which can emerge during wars and dictatorial regimes as it will be explained below. However, this

⁵² Gobierno de España, Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Ley 52/2007 de 26 de Diciembre, de la Memoria Histórica § (2007), <https://www.boe.es/buscar/act.php?id=BOE-A-2007-22296>.

⁵³ Gobierno de España, Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Ley 20/2022, de 19 de octubre, de Memoria Democrática § (2022), <https://www.boe.es/buscar/pdf/2022/BOE-A-2022-17099-consolidado.pdf>.

⁵⁴ ARMH, “Inicio,” Asociación para la Recuperación de la Memoria Histórica, accessed April 28, 2023, <https://memoriahistorica.org.es/>.

⁵⁵ Foro por la Memoria, “Asociación Foro Por La Memoria Democrática,” Memoria Democrática, accessed May 12, 2023, <https://memoriademocratica.es/>.

section must begin by providing a comprehensive definition of cultural heritage, as that is a key element that will ensure the consequent understanding of those terms.

Cultural heritage

Moving forward with this theoretical framework, it is essential to understand the definition of cultural heritage provided by Janet Blake, associate professor of law at the University of Shahid Beheshti and member of the Cultural Heritage Law Committee of the International Law Association as well as UNESCO international consultant. Blake, as established in the above literature review, is a referent in the field and she explains the issue surrounding the concept of cultural heritage:

“There is a difficulty of interpretation of the core concepts “Cultural heritage” (or “cultural property”) and “cultural heritage of mankind” and as yet no generally agreed definition of the contents of these terms appears to exist [...] The danger therefore exists of creating future international instruments which extend the range of the term without having settled on a clear understanding of its meaning as employed in existing texts”.⁵⁶

Blake arrives at the conclusion that, complex as the term may be, cultural heritage could be defined as an all-encompassing concept. It entails two common elements: it being a form of inheritance that must be safekept and passed onto future generations and a linkage to a group identity as both symbol or expression and element constructing it, which implies an emotional impact. It is in this second aspect that Blake emphasises the weaponizing quality of cultural heritage in an armed conflict, becoming a “double-edged sword which can act both for the good and the bad”.⁵⁷

There is a subdivision within cultural heritage that has not been addressed in this definition so far (Blake mentions one in the same article without providing a clear distinction between the two), and that is tangible and intangible cultural heritage. According to UNESCO, intangible cultural heritage refers to practices, expressions, knowledge or skills that communities recognise as part of their cultural heritage and can include oral traditions,

⁵⁶ Janet Blake, “On Defining the Cultural Heritage,” *International and Comparative Law Quarterly* 49, no. 1 (2000): 61–85, <https://doi.org/10.1017/s002058930006396x>, 62-63.

⁵⁷ Blake, “Cultural Heritage”, 84.

languages, performing arts, rituals, festivities or craftsmanship among others⁵⁸. Tangible cultural heritage, on the other hand, is defined as the physical objects that belong to a group such as monuments or artefacts, groups of buildings or sites “with value from the historical, aesthetic, ethnological or anthropological point of view”⁵⁹. Interestingly enough, Dawson Munjeri, working group leader at UNESCO for the development of the African World Heritage and former executive director of National Museums and Monuments of Zimbabwe, explains the convergence between the two terms by stating that “objects, collections, buildings, etc. become recognized as heritage when they express the value of society and so the tangible can only be understood and interpreted through the intangible. Society and values are thus intrinsically linked”.⁶⁰

Misplacement

Misplacement, not to be confused with displacement, which can also occur when dealing with this topic, is a term referring to the wrongful or inappropriate placement of something⁶¹ or an inappropriate bestowal of something⁶² and will be used in this essay as the umbrella term for all kinds of nefarious actions that can lead to the trafficking, transfer and damage of cultural heritage such as looting, theft⁶³ or destruction. One must acknowledge the choice of wording here as it is not too commonly applied to this field, but it is however relevant for the particular research question here: wrong or inappropriate may make reference to a legal matter, but it also adds an emotional charge to the topic that will be explored in further chapters. It will be used therefore, not just for actions that may have been illicit but also for others that may have been legal at the time, but morally dubious, balancing between the legal positivism and natural law theories⁶⁴. This indicates that what will be considered misplaced

⁵⁸ “Culture for Development Indicators. Methodology Manual,” Diversity of Cultural Expressions (UNESCO, 2014), <https://en.unesco.org/creativity/files/cdis-methodology-manual>, 132-133.

⁵⁹ “Culture for Development Indicators”, 132.

⁶⁰ Dawson Munjeri, “Tangible and Intangible Heritage: From Difference to Convergence,” *Museum International* 56, no. 1-2 (June 24, 2004), 12-20, <https://doi.org/10.1111/j.1350-0775.2004.00453.x>, 13.

⁶¹ Merriam-Webster, “Misplace,” in *Merriam-Webster Dictionary*, accessed May 4, 2023, <https://www.merriam-webster.com/dictionary/misplace>.

⁶² Collins Dictionary, “Misplaced,” in *Collins Dictionary* (Harper Collins Publishers), accessed April 5, 2023, <https://www.collinsdictionary.com/dictionary/english/misplaced>.

⁶³ European Commission, “Combatting Trafficking in Cultural Goods,” Combatting trafficking in cultural goods, accessed April 27, 2023, <https://culture.ec.europa.eu/cultural-heritage/cultural-heritage-in-eu-policies/protection-against-illicit-trafficking>.

⁶⁴ Jack P Ligon, “Legal Positivism, Natural Law & Normativity” (University of Vermont, 2021), <https://scholarworks.uvm.edu/cgi/viewcontent.cgi?article=1455&context=hcoltheses>, 4.

cultural heritage in this thesis, may have been acquired through non-illicit means. On top of that explanation, another secondary reason for choosing the term misplacement, is that for the analysis section of the research, the case study used is a building, which may have been transferred to different owners through nefarious means or not, but can certainly not have been looted or displaced, as that would entail moving it somewhere else and, being the immense construction that it is, cannot be physically possible.

A warlike conflict is the ideal environment for this misplacement to happen. The chaotic political and social climate can lead to a dangerous decrease in the protection of cultural heritage. As UNESCO Chair in Cultural Property Protection and Peace at Newcastle University and Vice-President of Blue Shield International Peter Stone writes,

“[d]uring conflict normal life is frequently put on hold for obvious reasons. Heritage and museum staff may not be able to visit sites or get to their museums. The routine maintenance, management, conservation, and preservation of cultural property is all too frequently interrupted. Historic sites and buildings need constant maintenance and without such care can rapidly fall into ruin.”⁶⁵

Looting

It is precisely Stone who provides an understanding of the concept of looting in history as “examples of victorious armies removing the cultural property of the enemy they have just defeated as the ‘spoils of war’”⁶⁶. However, he also frames it as an endemic problem that is generally controlled by criminal networks but where locals too, in a situation of economic necessity, participate⁶⁷. Looting or plundering is defined as the appropriation of something by force or illegally, usually in war⁶⁸, and we can recount instances of it in Europe in World War II with the confiscations of objects by the German services at the beginning of the

⁶⁵ Peter G. Stone, “The Challenge of Protecting Heritage in Times of Armed Conflict,” *Museum International* 67, no. 1-4 (2015), 40-54, <https://doi.org/10.1111/muse.12079>, 12.

⁶⁶ Stone, “Challenge of Protecting Heritage”, 5.

⁶⁷ Stone, “Challenge of Protecting Heritage”, 11-12.

⁶⁸ Merriam-Webster, “Plunder,” in *Merriam-Webster Dictionary*, accessed April 27, 2023, <https://www.merriam-webster.com/dictionary/plunder>.

Occupation, the *Einsatzstab Reichsleiter Rosenberg* (Staff of Reich leader Alfred Rosenberg) or the *Dienststelle Westen* (Western Service).⁶⁹

Intentional destruction

Unfortunately, due to this mentioned weaponization of cultural heritage, sometimes during armed conflicts the damage is not just a change in ownership or a transfer from one place to another, but something more final: its eradication. UNESCO defined this intentional destruction in a declaration in 2003 as

“an act intended to destroy in whole or in part cultural heritage, thus compromising its integrity, in a manner which constitutes a violation of international law or an unjustifiable offence to the principles of humanity and dictates of public conscience, in the latter case in so far as such acts are not already governed by fundamental principles of international law”.⁷⁰

As one can deduct from these definitions, politically unstable nations—particularly if they are suffering or have just suffered from a war—are threatened by the uncertainty of the future of its cultural heritage and that is what we will see in the next subsection in the specific case of Spain.

The impact of the conflict on Spanish cultural heritage

The tumultuous 20th century in Spain, as has been explained above, involved a war and post-war period deeply characterised by fear and uneasiness and this would bleed directly into how society regarded the government. As one can expect from a dictatorial state, technicalities and practicalities were extremely differing when it came to social and human rights. There were two charters in which the rights of the Spanish citizens were recognised: the Fuero del Trabajo (Municipal Charter of Work) in 1938 and the Fuero de los Españoles

⁶⁹ Ministère de la Culture, “Looted Cultural Property,” Ministère de la Culture, accessed April 27, 2023, <https://www.culture.gouv.fr/en/Know-us/Organisation-du-ministere/The-General-Secretariat/Mission-de-recherche-et-de-restitution-des-biens-culturels-spolies-entre-1933-et-1945/Looted-cultural-property#biens>.

⁷⁰ UNESCO, *Declaration concerning the Intentional Destruction of Cultural Heritage*, (2004), <https://unesdoc.unesco.org/ark:/48223/pf0000133874.~:text=For%20the%20purposes%20of%20this,humanity%20and%20dictates%20of%20public,2>.

(Municipal Charter of the Spanish People) in 1945. Both documents were in their forms similar to constitutions that one could find in post-World War II democratic states, however the process and actual implementation clearly distinguished them due to the violation of what are considered today Human Rights⁷¹. It is in this turbulent climate that a shift can be perceived in the treatment of cultural heritage.

During the conflict, there were two main institutions responsible for the safeguarding of the Spanish cultural heritage, each belonging to a different bloc. On the republican side, the Junta de Incautación y Protección del Tesoro Artístico (Committee of Confiscation and Artistic Treasure Protection) and, on the nationalist side, the Servicio Artístico de Vanguardia (Vanguard Artistic Service). José Álvarez Lopera, former head of the Spanish Paintings Conservation in the Prado Museum and expert in History of Art, explained that the Junta de Incautación y Protección del Tesoro Artístico was created with the objective of protecting artefacts of artistic, historic or scientific nature found in sites occupied by the nationalists and placing them in safe places such as museums, archives centres or state libraries⁷². According to Alicia Alted Vigil, well-known Spanish historian with a research focus on the Civil War and post-war exile, the Servicio Artístico de Vanguardia was formed by nationalists who, at the beginning of the war, would classify and check the status of cultural heritage in places where the national bloc was advancing and take the artwork to safety during the combat⁷³ but, because of financing problems and lack of resources, it disappeared soon after, in 1937⁷⁴.

When the nationalist bloc rose to power and the Francoist regime began, the government created new organisations in charge of safeguarding the cultural heritage, of course always intrinsically tied to the self-proclaimed Nuevo Estado (New State)⁷⁵. The two new main

⁷¹ Josefa Dolores Ruiz Resa, “Los Derechos Humanos En El Franquismo,” *Precedente. Revista Jurídica* 4 (2014): 237–62, <https://doi.org/10.18046/prec.v4.1836>, 241.

⁷² José Álvarez Lopera, “La Junta Del Tesoro Artístico De Madrid y La Protección Del Patrimonio En La Guerra Civil,” in *Arte Protegido. Memoria De La Junta Del Tesoro Artístico Durante La Guerra Civil* (Museo Del Prado, 2003), 29.

⁷³ Alicia Alted Vigil, “Recuperación y protección de los bienes patrimoniales en la zona insurgente: el Servicio de Defensa del Patrimonio Artístico Nacional” in *Memoria De La Junta Del Tesoro Artístico Durante La Guerra Civil* (Museo Del Prado, 2003), 99.

⁷⁴ Alted Vigil, “Recuperación y protección”, 100.

⁷⁵ Alicia Alted Vigil, “Política patrimonial del Gobierno de Franco durante la Guerra Civil” in *Patrimonio, Guerra Civil y Posguerra: Congreso Internacional* (Universidad Complutense, 2010), 51.

bodies responsible for it were the Junta de Cultura Histórica y del Tesoro Artístico (Committee of Historic Culture and Artistic Treasure) and the Servicio de Defensa del Patrimonio Artístico Nacional (National Artistic Heritage Defense Service). The Junta de Cultura Histórica y del Tesoro Artístico was responsible for controlling artwork trade and keeping an inventory of cultural heritage such as buildings, archives or libraries damaged since the establishment of the Second Republic⁷⁶. And the Servicio de Defensa del Patrimonio Artístico Nacional was in charge of the restoration, protection and conservation of the National Artistic Heritage⁷⁷ as well as avoiding the looting of artwork and getting the Spanish cultural heritage abroad back to the country⁷⁸.

All of those organisms suggest that during the Francoist period—particularly once the post-war era stabilised—the government gave great importance to the topic of cultural heritage. This could be related to Blake’s idea of a linkage to a group identity as symbol and constructing element mentioned in the previous section. A fascist autocratic government that in practice isolated its people from external bias and banned nationalist movements in regions such as Catalonia, the Basque Country or Galicia, would certainly benefit from reaffirming a strong and indivisible national identity supported by common elements like its cultural heritage. However, one must not forget that this socio-political and cultural system was built on an armed conflict and forceful imposition of a political party leaving hundreds of thousands of dead bodies behind. It was followed by other consequences on the social sector such as a specific loss or rather change of ownership on cultural heritage that Complutense University of Madrid professor and researcher specialised in art, heritage and war, Arturo Colorado Castellary explores in his life-long investigation⁷⁹.

The cultural misplacement which had started in the interest of safeguarding the heritage suffered a shift when the Francoist government began its rule. A great number of artwork had been stored away in public institutions, churches or museums, but others were given

⁷⁶ Alted Vigil, “Recuperación y protección”, 98.

⁷⁷ Rebeca Saavedra Arias. *Destruir y proteger: El patrimonio histórico-artístico durante la Guerra Civil (1936-1939)* (Santander: Ediciones Universidad Cantabria, 2016), 101.

⁷⁸ Alted Vigil, “Política patrimonial”, 55.

⁷⁹ ResearchGate, “Arturo Colorado Castellary” ResearchGate, March 2023, <https://www.researchgate.net/profile/Arturo-Colorado-Castellary>

away to private owners and were “messily relocated”, which benefited the non-legitimate owners in what could be coined “misappropriation” or “dispossession”⁸⁰ in a manner that Colorado Castellary compared to that of the Nazi looting of Jewish collections or Napoleon’s loot in Spain in the 19th century⁸¹. The expert’s project entitled “Investigación histórica y representación digital accesible: El patrimonio artístico durante la guerra civil y la posguerra” (“Historic research and accessible digital representation: Artistic heritage during the civil war and post-war”) resulted in the tracking of 5,477 artefacts misplaced at the time—the data and statements are from 2017, but he has since continued the investigation, which has resulted in the tracking of a total of 8,710 objects in its last update in 2021⁸²—, with an outstanding 525 of them in Francoist museums having been used as icons of art and creative traditions of the Spanish people. Although most objects were ordered to be returned after the end of the war by the National Ministry of Education, the process was not exactly regulated and many inventories had been lost or damaged. The artefacts, monuments and buildings were thus distributed to whoever claimed them without much criteria but, at the same time, as Colorado Castellary mentions, quite significantly because more frequently than not it ended in the hands of Francoist loyalists, so the ownership of said cultural heritage would not correspond to the one before the war⁸³. He claims that the Franco dictatorship intended to strengthen the museums and institutions in line with the cultural policies of the time as well as rewarding Franco’s supporters⁸⁴.

This section aimed at providing a well-rounded understanding of the historical and political events that led to the specific position of cultural heritage misplacement in Spain. However, it seems revealing of a deeply rooted problem that almost 50 years after the regime, experts and victims or families of the victims of this misappropriation are still trying to classify and return the misplaced cultural heritage that was lost in the 1930s to the original owners. That

⁸⁰ Fernando Olmeda, “El Franquismo Se 'Apropió' De Casi 6.000 Obras Del Patrimonio Artístico,” *Nuevatribuna*, November 18, 2017, <https://www.nuevatribuna.es/articulo/sociedad/franquismo-apropio-casi-6000-obras-arte-patrimonio-espanol/20171118120856145407.html>.

⁸¹ David Barreira, “Las Tretas Del Franquismo Con El Patrimonio: Expolió y Entregó 8.000 Obras a Instituciones y Amigos,” *El Español*, (2021), https://www.elespanol.com/cultura/historia/20210220/tretas-franquismo-patrimonio-expolio-entrego-instituciones-amigos/560195184_0.html.

⁸² Barreira, “Tretas del Franquismo”.

⁸³ Olmeda, “El Franquismo se apropió”.

⁸⁴ Barreira, “Tretas del Franquismo”.

is what will be further explored in the case study of the thesis, but firstly one must consider the legal aspects of the issue, which will be reviewed in the following chapter and will hopefully clarify the reasoning for this apparent stalemate in the democratic period.

LEGAL AND ETHICAL FRAMEWORK FOR CULTURAL HERITAGE PROTECTION

In this second chapter of the thesis, the objective is to create a comprehensive overview of the current situation surrounding both the legislation and ethical frameworks regarding the status of cultural heritage protection. For that, it is crucial to first introduce the essential legal documents on the subject at the Spanish and European levels and then, since this study treats not just the democraticness but also the social perception of the issue, this must be completed by providing an insight on the ethics of cultural protection and guardianship. The ending segment will be a comparison between these mentioned aspects in Spain and Germany to help in the understanding of how different or similar the circumstances of the countries are in the present day.

International and national legal frameworks for cultural heritage protection (legislation and policies)

When analysing cultural heritage protection papers, one should be able to differentiate between a legally binding document and a recommendation and, since the focus of this thesis is Spain, a member of the European Union, distinctions between national and supranational bills are also relevant. Indeed, the Spanish cultural heritage is subject to the Spanish and EU legislations on the topic, whether or not they overlap or complement each other, as well as the suggestions of organisations on both levels.

EU legal framework

The European Commission and the Council of Europe, international bodies of the European Union and Europe respectively, include in their websites⁸⁵⁸⁶ an exhaustive compilation of action plans and resolutions regarding this topic. Although these detailed assortments do not distinguish necessarily between the types of cultural heritage mentioned in the previous

⁸⁵ European Commission, “EU Competences in Cultural Heritage,” Culture and Creativity, accessed March 4, 2023, <https://culture.ec.europa.eu/cultural-heritage/eu-policy-for-cultural-heritage/eu-competences-in-cultural-heritage>.

⁸⁶ Council of Europe, “Most Relevant Documents of the European Union Concerning Cultural Heritage,” Council of Europe, accessed March 14, 2023, <https://www.coe.int/en/web/herein-system/european-union>.

chapter, the most relevant documents affecting the specific case of tangible cultural heritage misplacement in present day, which is the focus of this study, will be extracted chronologically.

The Council of Europe lists the *Treaty of Lisbon*⁸⁷ as the main legislative document amending the *Treaty of the European Union* and the *Treaty establishing the European Community* and it is incredibly appropriate to be the first agreement to mention as it devotes entire articles to the notion of culture⁸⁸ and cultural diversity⁸⁹. In article 6 under “Categories and areas of competence of the Union”, it is decreed that culture is to be a policy area where the European Union will support, coordinate or complement the action of Member States⁹⁰, which would support the idea that the EU adds to each Member State’s own policies.

The term cultural heritage, however, seems to be trickier to codify possibly because of how difficult it is to define, as has been covered in the first chapter. The *Treaty establishing the European Community* provides a notion of culture in line with UNESCO’s characterisation of cultural heritage and mentions in article 128 that cultural heritage is to be a priority field of action and claims that “Action by the Community shall be aimed at encouraging cooperation between Member States and, if necessary, supporting and supplementing their action in [...] conservation and safeguarding of cultural heritage of European significance”⁹¹. Furthermore, the European Parliament together with the Council established a community action programme in the field of cultural heritage called the Raphael programme⁹², the aim of which was precisely this conservation aspect.

⁸⁷ Conference of the Representatives of the Governments of the Member States, Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community 2007/C 306/01 § (2007), <https://www.refworld.org/docid/476258d32.html>.

⁸⁸ Conference of the Representatives of the Governments of the Member States, Treaty of Lisbon, art. 167.

⁸⁹ Conference of the Representatives of the Governments of the Member States, Treaty of Lisbon, art. 3.3.

⁹⁰ Conference of the Representatives of the Governments of the Member States, Treaty of Lisbon, art. 6.

⁹¹ European Union, Consolidated Version of the Treaty Establishing the European Community C 340/03 § (1997), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:11997E/TXT&rid=1>, art. 151 ex. art. 128.

⁹² CORDIS, “Raphael - A Cultural Heritage Programme for Europe,” European Commission, accessed May 29, 2023, <https://cordis.europa.eu/article/id/9322-raphael-a-cultural-heritage-programme-for-europe>.

The European Commission provides certain action plans on its website regarding this topic too. The first important document that one can find there is the Commission's commitment with the cultural heritage protection cause entitled *Towards an integrated approach to cultural heritage for Europe*⁹³. There, it is mentioned the value that cultural heritage poses for the European identity and the Commission expresses the need to protect it by claiming that “[l]ike other such goods it can be vulnerable to over-exploitation and under-funding, which can result in neglect, decay and, in some cases, oblivion. Looking after our heritage is, therefore, our common responsibility.”⁹⁴

In 2018, the European Commission published the *European framework for action on cultural heritage*⁹⁵, a document providing a general handbook on policy implementation strategies which also listed the five basic pillars for action: participation and action for all, smart solutions for a cohesive and sustainable future, safeguarding endangered heritage, mobilising knowledge and research and reinforcing international cooperation⁹⁶.

More recently, the Council of the European Union published its *Council Resolution on the EU Work Plan for Culture 2023-2026*⁹⁷ which mainly focused on the issues derived from the Russian war against Ukraine and the Covid-19 pandemic, but still included matters affecting all the Member States equally such as climate change or digitalisation. In this document, the Council reflects on the role of culture in society and affirms that:

“Culture, including cultural heritage, plays a crucial role in our democracies and in the lives of individuals. Participation in culture and cultural heritage, creativity and the arts has a positive impact on people of all ages and backgrounds; it enhances people's quality of life, and improves the health and overall well-being of individuals and communities. Cultural participation facilitates social and territorial cohesion, while

⁹³ European Commission, *Towards an integrated approach to cultural heritage for Europe* COM(2014) 477 § (2014), <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014DC0477>.

⁹⁴ European Commission, *Towards an integrated approach to cultural heritage for Europe*, 2.

⁹⁵ European Commission, Directorate-General for Education, Youth, Sport and Culture, *European framework for action on cultural heritage* § (2019), <https://op.europa.eu/en/publication-detail/-/publication/5a9c3144-80f1-11e9-9f05-01aa75ed71a1/language-en>.

⁹⁶ European Commission, *European Framework for Action on Cultural Heritage*, 10.

⁹⁷ The Council of the European Union, *Council Resolution on the EU work plan for Culture 2023-2026* C 466/1 § (2022), [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022G1207\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022G1207(01)).

fostering respect for cultural and linguistic diversity and providing a platform for open dialogue within civil societies.”⁹⁸

Indeed, as it will be analysed in a following chapter, cultural heritage is linked to society and something perturbing its preservation will therefore have social implications.

Spanish legal framework⁹⁹

Spain’s constitution, its supreme law charter created in 1978, does not have a designated section for culture. However, certain articles do refer to the role that the government has in the promotion and protection of natural and cultural heritage and its access, as well as the state’s linguistic diversity and media.

In 1985, after the democratic transition, the Spanish Parliament approved the Historical Heritage Law, which defines in its first article the notion of historical heritage—in Spanish they refer to cultural heritage as *patrimonio histórico*, meaning they change the concept from cultural to historical although maintaining the same idea—as such:

“The Spanish Historical Heritage is integrated by the buildings and properties of artistic, historical, paleontological, archaeological, ethnographic, scientific or technical interest. They are also part of this the documental and bibliographic heritage, sites and archaeological areas, as well as natural sites, gardens and parks with artistic, historical or anthropological value”.¹⁰⁰

It is in that precise act that they expand on articles 46, 132 and 149.28 of the Spanish Constitution, which initially mentioned the role of the Spanish state administration as responsible for the protection of cultural heritage illicit export and loot¹⁰¹. In the Historical

⁹⁸ The Council of the European Union, Council Resolution on the EU work plan for Culture 2023-2026, 3.

⁹⁹ Gobierno de España, Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Real Decreto 817/2018, de 6 de julio, por el que se desarrolla la estructura orgánica básica del Ministerio de Cultura y Deporte y se modifica el Real Decreto 595/2018, de 22 de junio, por el que se establece la estructura orgánica básica de los departamentos ministeriales 164 § (2018), <https://www.boe.es/buscar/act.php?id=BOE-A-2018-9465>.

¹⁰⁰ Gobierno de España, Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Ley 16/1985, de 25 de junio, del Patrimonio Histórico Español 155 § (1985), <https://www.boe.es/buscar/act.php?id=BOE-A-1985-12534&p=20211012&tn=1>, art. 1.

¹⁰¹ Gobierno de España, Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Constitución Española 311 § (1978), <https://www.boe.es/buscar/pdf/1978/BOE-A-1978-31229-consolidado.pdf>, art. 149.28.

Heritage Law, the conservation of the heritage is guaranteed, as well as its enrichment and access by the citizens¹⁰². However, it is interesting to notice the three tier list classifying cultural heritage within the Spanish legislation, as different considerations equate to different levels of protection. Indeed, the Historical Heritage Law mentions this categorisation, which divides the cultural heritage of Spain into Spanish Cultural Heritage¹⁰³, Movable Properties¹⁰⁴ and Goods of Cultural Interest¹⁰⁵, each of which deserving more protection than the previous one on account of their reflection of the country's values. A fourth category was also added parallelly in the act under the name Representative Manifestation of Immaterial Cultural Heritage and addressing the intangible cultural heritage.

Besides that, a draft bill¹⁰⁶ modifying this Historical Heritage Law from 1985 as well as the 2015 Intangible Historical Heritage Law was proposed in 2021 by the Spanish Ministry of Culture and Sport. This draft bill to be turned into actual legislation by the end of 2023 exposed the need for an update in the current legislation based on the biased centralisation of the original law as opposed to the nowadays decentralised approach that gives the Autonomous Communities more power to decide on certain matters such as culture or languages and the appearance of new and modern issues that cultural heritage can suffer today and were not considered before. Finally, this draft also mentions the need to adapt and recognise the over fifteen international treaties that Spain has signed and ratified but are not yet expressly included in the national legislation¹⁰⁷.

A Historical Memory Law from 2007 were it was first recognised the existence of the victims from the dictatorship was also updated in 2022¹⁰⁸ to integrate crucial parts regarding the legacy of the dictatorship for society such as the restorative justice for the victims, a term

¹⁰² Gobierno de España, Ley del Patrimonio Histórico Español, art. 2.

¹⁰³ Gobierno de España, Ley del Patrimonio Histórico Español, art. 1.

¹⁰⁴ Gobierno de España, Ley del Patrimonio Histórico Español, art. 26.

¹⁰⁵ Gobierno de España, Ley del Patrimonio Histórico Español, art. 40.2, 60.1 y disposición adicional segunda.

¹⁰⁶ Gobierno de España, Ministerio de Cultura y Deporte, Anteproyecto de Ley por la que se modifican la Ley 16/1985, de 25 de junio, del Patrimonio Histórico Español, y la Ley 10/2015, de 26 de mayo, para la salvaguardia del Patrimonio Histórico Cultural Inmaterial § (2021), <https://www.culturaydeporte.gob.es/dam/jcr:77f6deb6-46c2-4522-9d4b-227faa35c8eb/apl-modifican-lphec-pci.pdf>.

¹⁰⁷ Gobierno de España, Anteproyecto de Ley, 2-3.

¹⁰⁸ Gobierno de España, Ley de Memoria Democrática.

that will be introduced in the following section, which would include cultural heritage ownership, the recognition of victims and disappearances or financial sanctions.

While the Spanish government is the main actor and author of the measures and plans for action destined to improve the state of cultural heritage, there are several institutions that work closely with it to ensure those policies are implemented. Some of those organisations are the Instituto del Patrimonio Cultural de España (Cultural Heritage Institute of Spain)¹⁰⁹, the national museums network or the Instituto Cervantes¹¹⁰.

Other considerations

While the aforementioned EU and Spanish legislations are the main legal instruments used to implement cultural heritage related policies, there are some other international agreements that should be mentioned¹¹¹. These agreements involve the ratification of essential documents for this thesis study case such as the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*¹¹² in 1986, the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*¹¹³ in 2006 and, more importantly, the *Faro Convention* in 2018. These three documents are fundamental for the legislation on cultural heritage protection as they treat different aspects intrinsic to culture. The first one deepens the discussion on ownership, which will be explored in the chronology of the case study, while the second one studies the importance of culture for people. Additionally, the *Faro Convention*¹¹⁴ delves into the issue of cultural heritage as a reflection of society's views, beliefs and traditions, which will also be analysed in the practical sections of this thesis.

¹⁰⁹ Gobierno de España, Ministerio de Cultura y Deporte, Instituto del Patrimonio Cultural de España, accessed May 29, 2023, <https://ipce.culturaydeporte.gob.es/inicio.html>.

¹¹⁰ Spain's embassy in Belgium, "Instituciones Culturales," Instituciones culturales, accessed May 20, 2023, <https://www.spainculture.be/es/instituciones-culturales/>.

¹¹¹ Compendium, "Spain," Compendium of Cultural Policies & Trends, accessed May 18, 2023, <https://www.culturalpolicies.net/database/search-by-country/country-profile/category/?id=38&g1=4>.

¹¹² UNESCO, "Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.," UNESCO, accessed June 24, 2023, <https://en.unesco.org/about-us/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and>.

¹¹³ UNESCO, *The 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions* (Paris, France, 2005), <https://en.unesco.org/creativity/sites/creativity/files/passeport-convention2005-web2.pdf>.

¹¹⁴ Council of Europe, Council of Europe Framework Convention on the Value of Cultural Heritage for Society § (2005), <https://rm.coe.int/1680083746>.

On top of those agreements, it is essential to mention the existence of the 1954 Hague Convention, properly called the Convention for the Protection of Cultural Property in the Event of Armed Conflict¹¹⁵, where, after two world wars and several other conflicts, for the first time UNESCO published an international treaty on cultural property protection that still stands to this day with some supplemented protocols over the years. Although Spain did not sign it at the time of publication, it ratified the convention in 1960 and the following protocols in 1992 and 2001¹¹⁶.

Ethical considerations related to cultural heritage misappropriation

It seems that one of the most vocalised arguments ironically used for and against repatriation and restoration of misappropriated or misplaced cultural heritage derives from ethics. That is, there are strong arguments on both sides of the narrative¹¹⁷ relying on ethical considerations rather than the legislative framework, further strengthening the belief that “the problem of stolen art”—or heritage in general as is the case of this thesis—“must be recognized as a moral issue that can only be solved with morality as its primary basis”.¹¹⁸ Indeed, ethics plays a large role in the field of cultural heritage because, as it has been previously mentioned in its definition, cultural heritage reflects a country’s or people’s values, traditions and more and one must take into account that “[t]he power of ethics and the force of law are situated within a social context”¹¹⁹.

¹¹⁵ UNESCO, *Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention* (The Hague, The Netherlands, 1954), https://en.unesco.org/sites/default/files/1954_Convention_EN_2020.pdf.

¹¹⁶ UNESCO, “States Parties,” UNESCO, March 13, 2023, <https://en.unesco.org/protecting-heritage/convention-and-protocols/states-parties>.

¹¹⁷ Erin L. Thompson, “Cultural Losses and Cultural Gains: Ethical Dilemmas in WWII-Looted Art Repatriation Claims Against Public Institutions,” *Hastings Communications and Entertainment Law Journal* (Comm/Ent) 33, no. 3 (2011): 407–42, https://repository.uclawsf.edu/hastings_comm_ent_law_journal/vol33/iss3/4/, 413.

¹¹⁸ Commission for Art Recovery, “Robert S. Lauder,” Commission for Art Recovery, 2022, <https://web.archive.org/web/20220204205922/http://www.commartrecovery.org/>.

¹¹⁹ Hilary A. Soderland and Ian A. Lilley, “The Fusion of Law and Ethics in Cultural Heritage Management: The 21st Century Confronts Archaeology,” *Journal of Field Archaeology* 40, no. 5 (2015): 508–22, <https://doi.org/10.1179/2042458215Y.0000000024>, 520.

Why should the new owners keep the cultural heritage?

Institutions or current owners will, as one would expect, defend their ownership claiming that they are safeguarding the heritage. A well-known example of this attitude would be the famous British Museum's insistence of keeping the Elgin Marbles once looted from the Greek Parthenon and now in their possession because the transportation would cause, according to them, invaluable damage to the sculptures, which would mean the loss of global cultural heritage. Their stance is that the best way to preserve the pieces is to let them be in the museum, where they are taken care of¹²⁰. And that is exactly one of the strongest points in these institutions' argumentations: that they are prepared to host the cultural heritage while the original owners, even if entitled by the law, should not be responsible for it since they should prioritise universalism or public access to a well-preserved heritage¹²¹. In this case, one might wonder what is more ethically correct: returning the objects to their original owners—be it physical people or nations—and righting the wrongs of the past (looting, colonialism, misplacement, etc.) or preserving it for future generations to admire and study? The current owners argue that the past is the past and cannot be changed and therefore we should focus on safeguarding the heritage for the future, this so-called universalism¹²².

This argument works insofar as the original owner cannot prove the existence of a responsible transportation and the later preservation of the cultural heritage because they will face objections from the current custodians supported not just by this ethical approach but also by the legislation advocating for cultural preservation. However, the overlapping and consequent clash of protection and restoration legislations usually leads to an impasse, which would explain why most of these well-known cases have not been fully resolved yet¹²³. In the Elgin Marbles case, Greece demands the pieces because they are part of the Greek cultural heritage, were looted from the country and the plethora of museums proves that they can indeed take care of this heritage while the United Kingdom expresses concerns regarding transportation and considers the economic value added to the country and the pieces'

¹²⁰ Cristina Zaguirre Colmena, dissertation, *Restitución y Retorno Del Patrimonio Cultural a Sus Países de Origen* (Universitat Autònoma de Barcelona, 2020), https://ddd.uab.cat/pub/tfg/2020/225048/TFG_czaguirrecolmena.pdf, 21.

¹²¹ Zaguirre Colmena, *Restitución y Retorno Del Patrimonio Cultural*, 22.

¹²² Zaguirre Colmena, *Restitución y Retorno Del Patrimonio Cultural*, 22.

¹²³ Zaguirre Colmena, *Restitución y Retorno Del Patrimonio Cultural*, 24-27.

preservation more important than the righting of the past¹²⁴. This has become the prime example of restitution theories for most scholars, affirming that:

“In many of the issues that have arisen in the development of modern notions of cultural property, including law, legitimacy, identity, history versus heritage, stewardship and trusteeship, appropriation and restitution, the Acropolis of Athens and its buildings (including the parts of the buildings removed by Lord Elgin) have provided a framework for understanding the changing issues.”¹²⁵

This large scale international matter, however, is not representative of all the cases of cultural heritage misplacement. In the following chapter the case of the Pazo de Meirás will be explored, a clear example of cultural heritage misplacement in regards to just ownership and not location as, it being a building, lacks the mobility aspect. It is essential then to understand that not all of the instances of no return to the original owners can be justified by this possibility of damage during transportation or a dubious process of possession¹²⁶. Not only do legislation and ethics not clash when this happens, but they complement each other. If the ownership is the only problem and there are laws supporting the return to an initial owner, ethics will play no role on the new owners’ arguments because possible damage and the capability to preserve the heritage for future generations will not become actors in the dispute (there will be no transportation and the resources to preserve the piece will be the same).

Why should the cultural heritage be returned to its original owners?

It has now been proved that ethics can be a powerful asset that can at certain points interfere with the implementation of legal measures. Ethics can, nonetheless, also provide a strong support in the claims of the restoration of an original owner regarding cultural heritage and become a complimentary actor on the misplacement restitutions. Reducing this restitution theory to its most basic level, it could be described as the principle of returning the cultural heritage to its original owner or country after it being misplaced, that is, placed somewhere

¹²⁴ Aubrey Allegretti, “No Plans to Return Parthenon Marbles to Greece, Says Rishi Sunak,” *The Guardian*, March 13, 2023, <https://www.theguardian.com/artanddesign/2023/mar/13/no-plans-to-return-parthenon-elgin-marbles-to-greece-says-rishi-sunak>.

¹²⁵ William St Clair, “Looking at the Acropolis of Athens from Modern Times to Antiquity,” *Cultural Heritage Ethics: Between Theory and Practice*, 2014, 57–102, <https://doi.org/10.11647/obp.0047.05>, 58.

¹²⁶ Zaguire Colmena, *Restitución y Retorno Del Patrimonio Cultural*, 47-48.

or with someone else under dubious circumstances in a political or legal-wise context¹²⁷. Pauno Soirilia writes in his article on *Indeterminacy in the cultural property restitution debate* about four argument categories made by those in favour of the return and by those against it:

“1) arguments relating to the relationship between the cultural objects and the identity of the origin and current holding culture (‘home culture’ arguments); 2) arguments relating to the proper context of the objects; 3) arguments regarding the preservation of the objects, and 4) arguments regarding claims of imperialism and politicisation.”¹²⁸

Those are in fact the usual discussion points used by the countries of origin or original owners to demand the repatriation or restitution of the cultural heritage. By exposing the reality of the piece being a symbol of identity of the original culture, explaining the background of how the new owners eventually came into possession of the heritage and illustrating the context in which that piece was created and then taken, the original owners appeal not only to the legal aspects of the transfer but also to ethical biases. They will in most cases be referred to as “rightful” owners¹²⁹, which would imply that because of their history and relation to that heritage, they are perceived as deserving of being the owners. If society empathises with the cause and considers the events transpired as immoral or unethical, they will support a righting of the wrongs of the past. This is rooted in the home culture arguments developed by John Merryman in his cultural nationalism theory as well as the idea of the lack of a proper context and devaluation when the heritage is outside of its home place¹³⁰.

It is quite common to hear the term restorative justice¹³¹ when this topic is discussed, and that is precisely the perfect combination of both legislation and ethics. This approach refers to repairing the damages of the past, which implies, from the legal perspective, the

¹²⁷ UNESCO, “‘Return & Restitution’ Intergovernmental Committee,” UNESCO, March 29, 2023, <https://en.unesco.org/fightrafficking/icprcp>.

¹²⁸ Pauno Soirila, “Indeterminacy in the Cultural Property Restitution Debate,” *International Journal of Cultural Policy* 28, no. 1 (2021): 1–16, <https://doi.org/10.1080/10286632.2021.1908275>, 6.

¹²⁹ Simon, “The Importance of Returning Cultural Treasures to Their Countries of Origin,” Museum Of African American History And Culture, 2022, <https://www.arnabontempsmuseum.com/the-importance-of-returning-cultural-treasures-to-their-countries-of-origin/>.

¹³⁰ Soirila, “Indeterminacy in the Cultural Property Restitution Debate,” 6-8.

¹³¹ Simon, “The Importance of Returning Cultural Treasures”.

acknowledgement that certain past actions were illegal or dubiously legal, but it is also inspired by ethics in that it entails the acceptance of an unfair¹³² and immoral¹³³ past event. Much like in the previous section, these arguments are slightly different when discussing unmovable cultural heritage. It is not a matter of home culture or an issue of imperialism, but the restorative justice claims still apply since the context and ownership are at stake. With cases such as the Pazo de Meirás, as it will be explained below, the context or historical background and the transfer of ownership will be the only points of contingency. This will mean that the arguments in favour of the non-return of cultural heritage become extremely weak (no preservation in lieu of transportation or universalism reasons to support them).

Comparison of legal and ethical frameworks with Germany

In this subsection of the thesis, there will be a comparison of the legislation and ethical groundworks established above in regards to cultural heritage in Spain, the country that will be used for the specific case study in the analysis, and Germany. The most immediate question that might be raised is the motivation behind choosing to compare Spain with Germany and not any other European nation, or worldwide for that matter. The decision to observe the two nations parallelly implies a certain degree of initial commonality between them that will allow me to highlight their differences as a sort of “what could have happened?” if things had gone slightly differently. Because of that, working with nations in a nearby geographic area and experiencing a similar political stance at the beginning of the process would be an ideal way to demonstrate the varying results in their current state of affairs. Both the German and Spanish states share a deplorable fascist past in the 20th century with a particular tendency to plunder and loot cultural heritage. However, their different growths since that time showcase a stark contrast between them in the present day, which proves to be a compelling duo to compare.

¹³² Government of Canada, Department of Justice, “Restorative Justice,” Government of Canada, Department of Justice, Electronic Communications, December 10, 2021, <https://www.justice.gc.ca/eng/cj-jp/rj-jr/index.html#:~:text=What%20is%20Restorative%20Justice%3F,the%20aftermath%20of%20a%20crime>.

¹³³ Hans Boutellier, “Victimization and Restorative Justice: Moral Backgrounds and Political Consequences,” *National Criminal Justice Reference Service*, 2002, 19–30, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/victimization-and-restorative-justice-moral-backgrounds-and#:~:text=Restorative%20justice%20defines%20crime%20as,the%20vices%20of%20liberal%20society>.

Germany became an extremely popular nation for its plundering during the rise of the Nazi regime, looting cultural heritage belonging mainly to Jewish people. Marc Masurovsky, cofounder of the Holocaust Restitution Project, wrote in a comparative essay¹³⁴ on Nazi plundered art and stolen indigenous objects about the crimes committed against culture and cultural rights during the fascist regime and he differentiates between restitution and reparation justices. Restitution, Masurovsky claimed, was the physical return of the looted art, and reparation, which connoted a financial transaction as a symbolic compensation for damages¹³⁵. After World War II, some of those reparative measures were taken to try and restore the relation between the German people and their victims. Besides the international law compliance and accepted conventions that will be mentioned below, it is interesting to observe the first major difference between the Spanish and German attitudes towards cultural reparation: government mandates. It soon became the norm to try and return the looted art to those who had lost it during the conflict, as DePaul University Center for Art, Museum and Cultural Heritage Law director Patty Gerstenblit says:

“Following World War II, significant efforts were made to return those cultural objects that had survived the war. These efforts were initially the product of government mandate, but restitution efforts continue today largely as the result of private initiative and lawsuits instigated by the descendants and heirs of the original owners. Of greater significance was the use of the conventions, with their recognition as part of customary international law, to prosecute for war crimes some of the Nazi leaders who had been most involved in cultural property looting and destruction.”¹³⁶

Germany also ratified the aforementioned Hague Convention and First Protocol in 1967¹³⁷, contrary to Spain, who ratified the convention seven years earlier but took more than two more decades to ratify the First Protocol. In fact, Germany was the first country to “enact specific implementing legislation for the First Protocol”¹³⁸, prohibiting the import of cultural

¹³⁴ Marc Masurovsky, “A Comparative Look at Nazi Plundered Art, Looted Antiquities, and Stolen Indigenous Objects,” *North Carolina Journal of International Law* 45, no. 2 (2020): 497–526, <https://scholarship.law.unc.edu/ncilj/vol45/iss2/8/>.

¹³⁵ Masurovsky, “A Comparative Look at Nazi Plundered Art,” 523–524.

¹³⁶ Patty Gerstenblith, “Protecting Cultural Heritage in Armed Conflict: Looking Back, Looking Forward,” *Cardozo Public Law Policy & Ethics Journal* 7 (2009): 677–708, [https://heinonline.org/HOL/LandingPage?handle=hein.journals/cardplp7&div=27&id=&page=](https://heinonline.org/HOL/LandingPage?handle=hein.journals/cardplp7&div=27&id=&page=,), 684.

¹³⁷ UNESCO, “States Parties”.

¹³⁸ Gerstenblith, “Protecting Cultural Heritage in Armed Conflict”, 701.

goods removed from occupied territories of other states members of the Hague Convention. On top of that, the country has also ratified the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property and enacted domestic legislation since 2007¹³⁹. The government has also published laws on the topic of cultural heritage such as the Act on the Protection of German Cultural Heritage against Removal Abroad, a Cultural Code, the Act on the Return of Cultural Assets and the Act to Implement or a 2017 handbook on the protection of cultural property¹⁴⁰.

There appears to be a visual contrast between the both countries, Spain and Germany, on the issue of cultural heritage even if they seem to have had similar timeline progressions for two main reasons. On the one hand, Germany started acting on the implementation of restorative justice soon after the end of World War II while in the case of Spain, while it ratified the Hague Convention in 1960, the first national legislation on the topic would only come in 1985¹⁴¹. The difference in the implementation measures for those nations during so many years gives a clear advantage to Germany, who started the whole restoration process earlier. On the other hand, and this is a personal opinion, while the cultural heritage protection issue in Spain affects mainly other Spanish citizens because the majority of misplacement from the last century stems from a national conflict, the Nazi plundering became an international affair with larger repercussions. Based on this, one could argue that while both countries began on a similar note halfway through the 20th century, their different historic progresses situate Germany nowadays as an advanced country on the topic while Spain is still in a developing phase with laws as recent as 2022 and draft bills to be published this year.

¹³⁹ Gerstenblith, “Protecting Cultural Heritage in Armed Conflict”, 696.

¹⁴⁰ Compendium, “Germany,” Compendium of Cultural Policies & Trends, accessed May 16, 2023, <https://www.culturalpolicies.net/database/search-by-country/country-profile/category/?id=15&gl=4>.

¹⁴¹ Gobierno de España, Ley del Patrimonio Histórico Español.

METHODOLOGY

Research approach

For this analysis, the approach used will be a case study on the specific legal battle of the Pazo de Meirás. A qualitative case study has been decided because this method has its roots in sociology and the thesis focuses on a social and political sciences perspective. This will also help in the creation of a hypothesis in the results section of the dissertation, as case studies “are not used to test hypotheses, but hypotheses may be generated from case studies.”¹⁴²

The idea behind this choice is to provide insights into the subject at hand as well as proposing a course of action and opening new directions for future investigation. Case studies are helpful for the comparison, evaluation and understanding of the various aspects surrounding the research problem, which was already the initial planning for this research¹⁴³. For that, data will be collected from different sources and a qualitative method¹⁴⁴ conducted within content analysis¹⁴⁵; that is, there will be a description and categorisation of the recurring words, phrases and ideas found in the data that will be helpful in understanding the issue through concepts, opinions or experiences and, by the end of the analysis, and interpretation of the data will be able to support the answer to the research question: what are the democratic and social implications of the lack of restitution in the 21st century?

Data collection method and analysis techniques

Indeed, the choice of methodology derives from the data collected. Content analysis will be the most convenient to use in this thesis as different sources across media, mainly

¹⁴² Haradhan Kumar Mohajan, “Qualitative Research Methodology in Social Sciences and Related Subjects,” *Journal of Economic Development, Environment and People* 7, no. 1 (December 10, 2018): pp. 23-48, <https://doi.org/10.26458/jedep.v7i1.571>, 33.

¹⁴³ Shona McCombes, “What Is a Case Study?: Definition, Examples & Methods,” Scribbr, May 8, 2019, <https://www.scribbr.com/methodology/case-study/>.

¹⁴⁴ Pritha Bhandari, “What Is Qualitative Research?: Methods & Examples,” Scribbr, June 19, 2020, <https://www.scribbr.com/methodology/qualitative-research/>.

¹⁴⁵ Amy Luo, “Content Analysis: Guide, Methods & Examples,” Scribbr, July 18, 2019, <https://www.scribbr.com/methodology/content-analysis/>.

interviews—done by me or already existing ones—and secondary research such as tweets, legislative texts and academic journals will be used. Once this data is collected, coding¹⁴⁶ will be performed on it to learn what are the recurring ideas, words or sentiments expressed in them and a following interpretation of their meaning in the discussion part of the thesis will aid in answering the question.

This type of qualitative methodology where only a few samples are analysed is liable to be criticised in the field due to a possible subjectivity on the researcher's part when choosing the particular documents as the analysis itself can be influenced by their own interpretation. As it will be explained below, limiting the data collection to a small fraction can entail an extrapolation of the results, which could be criticised further down the investigation since the results and discussion are only absolute within the constraints of the scope¹⁴⁷. The reason for choosing to use this methodology even though there are some disadvantages to it is that the social implications of the research question calls for interpretative skills that can only be done through a qualitative study since the quantitative one analyses numerical data¹⁴⁸.

¹⁴⁶ Michael Williams and Tami Moser, "The Art of Coding and Thematic Exploration in Qualitative Research," *International Management Review* 15, no. 1 (2019): 45–55, <http://www.imrjournal.org/uploads/1/4/2/8/14286482/imr-v15n1art4.pdf>

¹⁴⁷ Mohajan, "Qualitative Research Methodology," 37-42.

¹⁴⁸ Bhandari, "What Is Qualitative Research?"

THE PAZO DE MEIRÁS CASE STUDY

Context for the case study: Symbolism, ownership dispute and recovery trial

Much like Masurovsky suggests in his article *A Comparative Look at Nazi Plundered Art, Looted Antiquities, And Stolen Indigenous Objects* when he affirms that “the history of ownership of objects participates in the duty to memory”¹⁴⁹, in this case study we will explore the repercussions that the change in ownership of cultural heritage has on a democratic and social level.

The case of the Pazo de Meirás has been chosen as the analytical framework for this study because it has been the only cultural heritage misplacement example so far that has gone through trial, been resolved, and has enough literature written about it to support any claims and spark some ideas in the discussion section.

Indeed, this pioneering example has a double symbolic meaning in the context of Spanish cultural misplacement: a palace that once belonged to a renowned Galician author popular for her continuous vindication of women’s rights, feminism and writing innovations was suddenly transferred under dubious circumstances to a dictator, Franco. Therefore, it is double symbolic insofar as what was already a symbol for the Spanish society for belonging and having been explicitly said to be the source of inspiration¹⁵⁰ for a left-wing novelist, became the symbol for the right-wing dictatorship when it turned into the summer residence for Francisco Franco and his family. As it will be studied in the discussion section of this part, still to this day there seem to be rather contradictory connotations surrounding the Pazo de Meirás because of this equally important but starkly different ownership history.

The reason why this case has brought so much attention to the media and public spheres, providing more available literature compared to other cultural heritage misplacement examples in similar conditions, is precisely this ownership difference. As opposed to other

¹⁴⁹ Masurovsky, “A Comparative Look at Nazi Plundered Art”, 525.

¹⁵⁰ Paola Obelleiro Gonzalo Cortizo, “La Novela de Pardo Bazán En La Que Se Apoya La Xunta Para Oponerse a Las Pretensiones de Los Franco En Meirás,” *elDiario.es*, October 12, 2021, https://www.eldiario.es/galicia/novela-pardo-bazan-apoya-xunta-oponense-pretensiones-franco-meiras_1_8387595.html.

instances of cultural heritage that was taken away from its original but not necessarily well-known owners during or after the Spanish Civil War, the Pazo de Meirás was taken from a famous family when it was known to be the artistic subconscious creation¹⁵¹ of a novelist that would change the 20th century Naturalist literary movement in Spain¹⁵² and given to the dictator himself.

Unfortunately, the family of Emilia Pardo Bazán would die out without any heirs to claim their heritage after the dictatorship. However, the importance of the Pazo was such that the State and other public organisations started fighting for a new change in ownership in the democratic era as the descendants of Franco still were in possession of the building. This would lead to an incredibly public and criticised lawsuit in 2019 which would climax with a judicial trial resulting in the official return of the Pazo to the State in 2021.

Documents used in the analysis

There are three distinct categories of documents used in the analysis of this thesis in order to achieve a comprehensive collection of data that will hopefully support the answer given to the original research question regarding the democratic and social implications of the lack of return of cultural heritage misplacement.

The first category is “interviews”. For that, the analysis consists of one interview conducted online via Zoom with University of Santiago de Compostela professor Emilio Grandío Seoane and another written interview by digital newspaper *Cuarto Poder* with researcher and Pazo de Meirás advocate Carlos Babío Urkidi. Both people were chosen for the interview part as they were prominent figures during the Pazo de Meirás lawsuit started in 2019¹⁵³. The former was a member of the expert group selected by the judge during the trial to explain the

¹⁵¹ Gonzalo Cortizo, “La Novela de Pardo Bazán”.

¹⁵² Lou Charon-Deutsch, “Naturalism in the Short Fiction of Emilia Pardo Bazán,” *Hispanic Journal* 3, no. 1 (1981): 73–85, <https://www.jstor.org/stable/44284383>.

¹⁵³ Rosalina Moreno, “El Juzgado Admite La Adhesión de La Xunta y El Ayuntamiento de Sada a La Demanda Para Recuperar El Pazo de Meirás,” *Confilegal*, September 12, 2019, <https://confilegal.com/20190912-el-juzgado-admite-la-adhesion-de-la-xunta-y-el-ayuntamiento-de-sada-a-la-demanda-para-recuperar-el-pazo-de-meiras/>.

timeline of the transfer of the Pazo from the heirs of Emilia Pardo Bazán to Francisco Franco, and the latter is an avid advocate who faced the Franco family several times inside and outside of court and wrote a book about the case entitled *Meirás: un pazo, un caudillo, un expolio* (*Meirás, a pazo, a commander, a loot*)¹⁵⁴.

The second category of elements to be analysed is a series of fifteen tweets published between 2019, when the news of the lawsuit broke into the public, and 2023, after the trial was finished. The idea of limiting the timespan is to concentrate the public opinion on the dates of the trial and the consequences that this had on the Spanish society, trying to find similarities with other cultural heritage misplacement cases or whether there is a change in attitude after the trial results.

Since the first two categories rather focus on a social level, a legal and academic perspective is also needed to fully answer the research question as it entails both social and democratic repercussions. In order to do that, two more documents have been selected: the first document is the BIC declaration of the Pazo de Meirás¹⁵⁵, a legal document establishing the status of the Pazo as a Good of Cultural Interest, particularly as a historical site; the second document is an academic journal article by Sebastián Alberto Longhi Heredia, José María Morillas Alcázar, and Ángel Hernando Gómez entitled *El Pazo de Meirás. Representations of a heritage in dispute*¹⁵⁶, covering the trial and its coverage in the media.

Findings

After a detailed analysis of the different documents expressed above through coding, two different results that will be discussed in the following section can be expected: the recurring words found across the documents and the recurring topics on which each of them focus.

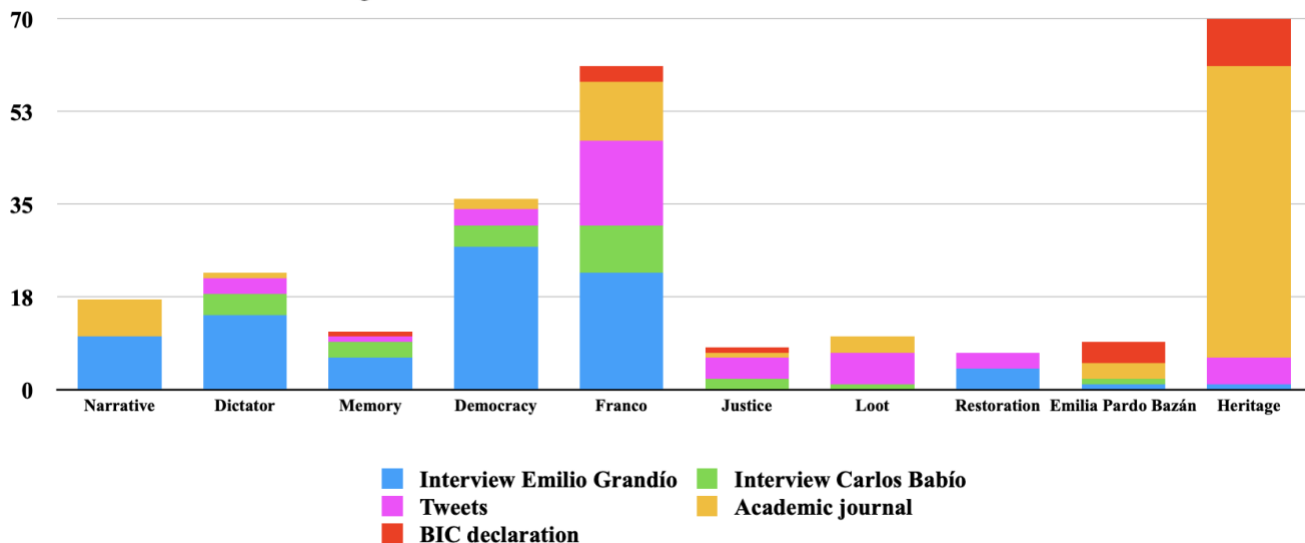
¹⁵⁴ Carlos Babío Urkidi and Manuel Pérez Lorenzo, *Meirás: Un Pazo, Un Caudillo, Un Expolio* (Santiago de Compostela, A Coruña, Spain: Fundación Galiza Sempre, 2017).

¹⁵⁵ Gobierno de España, Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática, Decreto 299/2008, de 30 de diciembre, por el que se declaran bien de interés cultural, con la categoría de sitio histórico, las Torres de Meirás, situadas en el término municipal de Sada, en la provincia de A Coruña § (2009), <https://www.boe.es/boe/dias/2009/02/28/pdfs/BOE-A-2009-3491.pdf>.

¹⁵⁶ Longhi Heredia, Morillas Alcázar, and Gómez, “El Pazo de Meirás. Representaciones de Un Patrimonio En Disputa.”

Word recurrences

Figure 1. Word recurrences bar chart from the data on annex 4



Once the chosen key documents were analysed, it was clear that there were some words that constantly appeared in all of them. This was the case for “narrative”, “dictator”, “memory”, “democracy”, “Franco”, “justice”, “loot”, “restoration”, “Emilia Pardo Bazán” and “heritage”.

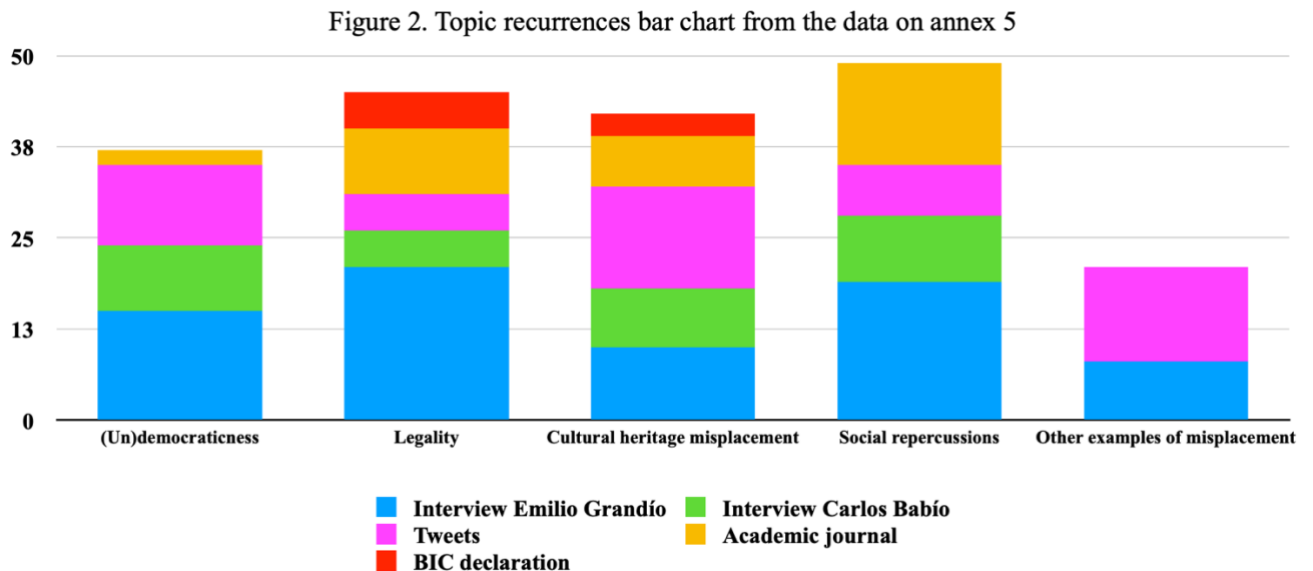
Overall, the most repeated terms were “heritage” appearing up to 70 times, “Franco” with 61 repetitions, and “democracy” with 36. However, it must be mentioned that most of these terms appear numerous times but not in all of those documents. Although “heritage” might be the most repeated word, it is essential to note that it is largely recurring within the same article and it is not mentioned in Carlos Babío’s interview and only once in Emilio Grandío’s.

On the other end of the spectrum, terms such as “restoration”, “justice”, “memory”, “Emilia Pardo Bazán” or “loot” appear less than 15 times each but seem to have a more equitable distribution among the documents. The example of “heritage”, although the most repeated, appears in four of the five categories with a massive difference in distribution because the academic journal is responsible for 55 of those recurrences, that is, more than 78% of them.

“Justice”, on the other side, also appears in four of the categories but with the most repetitive category being tweets, where it recurs up to only 50% of the times.

The only case in which a word appears in all of the analysed documents is “Franco”. The term can be observed in the two interviews, the tweets, the academic journal and the BIC declaration and it is present fairly equally across them with only a slight decrease in the BIC declaration and Carlos Babío’s interview and the most repetitive category being Emilio Grandío’s interview where it recurs 36% of the times.

Topic recurrences



The content of these analysed documents is as relevant as the specific words used when trying to research social and democratic implications. Because of that, an analysis on the topics debated in the documents is also important for the overall study to give an educated answer to the research question.

Five recurring topics were found during the analysis across the interviews, social media content, legislation and academic paper. One could further subcategorise these initial five

topics but, for this thesis, a general classification is enough to create an idea of the concerns mentioned in the documents.

The first topic has been titled “(un)democraticness” and it is related to any notions where democratic or undemocratic practices are mentioned. It appears in most of the analysed data with the most recurrences happening in Emilio Grandío’s interview and the tweets. The second topic, closely related to this concept of (un)democraticness, is “legality”, where there is content dealing with legislation or mentioning legal and illegal actions. This is one of the more popular topics as it is mentioned in all of the analysed data, but with a higher percentage of mentions in Emilio Grandío’s interview.

The third topic in this classification is “cultural heritage misplacement”, where the data makes an explicit reference to the Pazo de Meirás case as a misplacement of heritage. This is the second and last instance in which the topic appears in all the documents, in this case with a fairly even distribution except for a slight advantage to the tweets, which make up 33% of the recurrences.

The fourth topic found in the data collected has been titled “social repercussions” and it is, as the name suggests, a compilation of all the instances in which the reactions and attitudes of the public in regards to the lack of reparations or return of cultural heritage misplacement are mentioned. This is another of the more popular topics as it appears in four of the documents.

Finally, the fact that there are some references in the data to other cases of cultural heritage misplacement must be acknowledged. This has been collected under the umbrella term “other examples of misplacement” and it is a rather small category when compared to the rest. In fact, there are under 25 recurrences of the topic while the rest appear over 35 times each and they are only in two out of the five types of documents, in the tweets and in Emilio Grandío’s interview.

Other observations

Apart from these tangible numerable instances where either words or topics are repeated, it is possible to reflect on some other findings more nuanced or subtle given by the context of these documents.

Firstly, it is interesting to notice on a social level, that not just the general public decided to take a stance on the issue, but also political and other influential figures. This is the case of Yolanda Díaz (in Annex 3.15), Minister of Labour and Social Economy at the time of writing her tweet and left-wing candidate for the 2023 Spanish Prime Minister elections¹⁵⁷, Ignacio Escolar (Annex 3.10), director of the well-known Spanish journal *El Diario*¹⁵⁸, or Miguel Ángel Cajigal Vera, best known as El Barroquista, (Annex 3.3 and 3.4) a popular historian with around 200.000 followers on Twitter. When filtering tweets through the advanced filtering tool on Twitter under key words such as “Pazo de Meirás”, “cultural heritage”, “Franco” or “return”, it is relevant to mention that out of the fifteen first highlighted tweets that appear and were chosen for this analysis, six were from influential people in Spanish society that have obtained the verification badge on the platform, that is, the 40%, five were from the general public (33.3%) and the other four were from public organisations (26.6%).

Regarding the attitudes towards the issue of cultural heritage misplacement, there is not much perceptible difference in the public opinion throughout the years that the lawsuit and consequent trial took place. There seems to be a widespread opinion that Francoism is still ingrained in society. Most comments in the tweets from 2019 to 2023 make references to the objects and cultural heritage looted by Franco during his dictatorship that still have not been returned and link the matter of impunity to a lack of restoration with claims such as “we should also “exhume” the Cultural Heritage that should be of public domain but is still in the hands of the Franco family”¹⁵⁹. While most people seem to believe that the fight against this lack of cultural heritage return is far from over even as the years of the trial pass by, others

¹⁵⁷ La Moncloa, “Yolanda Díaz Pérez,” Gobierno, accessed July 2, 2023, <https://www.lamoncloa.gob.es/gobierno/Paginas/130120-yolandadiazperez.aspx>.

¹⁵⁸ Ignacio Escolar, “Ignacio Escolar,” ElDiario.es, accessed April 3, 2023, https://www.eldiario.es/autores/ignacio_escolar/.

¹⁵⁹ Annex 3.4, XV.

think that the democratic approach is slowly improving the situation, stating that “[t]he return of the Pazo de Meirás is a milestone for Democracy that serves for its consolidation”¹⁶⁰.

However, what seems to be rather unanimous in the selected literature is the belief that restorations must be made and that the Franco family and their supporters should be stripped of their looted objects. The language used to refer to the family of the dictator is telling of the feelings of the people behind the statements: they are referred to as “those people” in a pejorative manner by Emilio Grandío¹⁶¹, used them while promoting hashtags such as “GiveUsBackWhatWasStolen”¹⁶², said to be “duly countered by our country’s Justice”¹⁶³ and ultimately attributed animal-like features when someone claims “an element of cultural heritage restored by the State from the claws of Franco’s selfish heirs”¹⁶⁴. All of these declarations indicate a rather consistent negative image of the family in the eyes of society.

Another interesting observation is that the only legislative text used in the analysis avoids any subjectivity or ideological bias and simply briefly links the building to the figures of both Emilia Pardo Bazán and Francisco Franco. This article does not mention the much disputed issue of the debatable legitimacy of the transfer at the time when it was written and concentrates on the objective features that qualify the Pazo to be a Good of Cultural Interest.

Discussion

The findings in the previous subsection will guide the following discussion, that is, they will be the starting point in which the different interpretations will try to give an answer to the research question later on.

The most salient information that can be extracted from the findings is the reiterations of the word “Franco” as well as the numerous references to his family and the dictatorship when

¹⁶⁰ Annex 3.8, XIX.

¹⁶¹ Annex 1, I.

¹⁶² Annex 3.7, XVIII.

¹⁶³ Annex 3.8.

¹⁶⁴ Annex 3. 14, XXIV.

talking about the Pazo de Meirás. As it was demonstrated in the previous section, “Franco” was the only term that appeared in every single one of the several documents used for the data collection and, taking into account the diverse natures of the files, it is safe to assume that this implies that, no matter the aspect—be it political, social or economic—the past of the Pazo de Meirás is tangled with the dictator’s history. Even to this day, all the documents used for the thesis connect the Pazo to Franco, which means that what once was the summer residence of the Franco family and was therefore intrinsically linked to the regime, became a symbol for the dictatorship itself. One could argue, and it seems that that is the general opinion from the tweets and the interviews used, more subjective than the BIC declaration or the academic paper, that the non-return of the cultural heritage misplaced during the Civil War and post-war periods would pose a democratic impasse. If a symbol of the dictatorship still belongs to the dictator’s family and the circumstances under which it was transferred to them are not acknowledged even if they should be by law, then the democratic nature of the State could be questioned. How can a democratic nation allow the existence of these symbols as such? Is it not incompatible to have anti-democratic symbols within a democracy? Both Emilio Grandío and Carlos Babío address in their respective interviews this contradictory notion and their statements are similar to this one: Grandío explores the narrative used by the Franco family during the trial in order to win the Pazo back, claiming that this “should not exist in a democracy”¹⁶⁵, as well as the different uses that the Pazo should have after the dictatorship instead of still performing the same “totalitarian uses”, as is the case as the tweet in annex 3.1. mentioning an extreme right-wing political figure doing the fascist salute in front of the building; Babío also talks about incompatibility stating that these situations should be studied “as irregular processes, not compatible with a democracy”¹⁶⁶.

However, a problem may arise here. If the only reason why the Francos’ use of the Pazo could be considered anti-democratic is its condition as a symbol of the dictatorship, and not just because it was a misplaced cultural heritage, then the rest of the Spanish cultural heritage still being misplaced should not be considered a democratic issue. This is, if the Pazo de Meirás belonging to the family was only anti-democratic because of its deep connections to

¹⁶⁵ Annex 1.

¹⁶⁶ Annex 2, VIII.

the dictator, then other cultural heritage that was also taken away from its original owners but given to Franco's not so well-known supporters would not be anti-democratic because there would not exist this connection to the dictatorship in today's society. Nevertheless, the opinions expressed concerning other cases of cultural heritage misplacement such as the Casa Cornide, the statues of Mestre Mateo, the Portico of Glory or the Palacio de Marivent, are clear: the majority still considers them an important part of the country's cultural heritage that should be returned to the State even if they are not as significantly connected to Franco's legacy.

One could question the subjectivity of the data collected and whether the chosen documents all support the return of cultural heritage due to this thesis' own bias. Because of that, it is important to mention the lack of media coverage, tweets or interviews supporting the Francos' side in this Pazo de Meirás case. Perhaps it is because of an overwhelming majority of people advocating for the return of the cultural heritage as a sign of democratic advancements or perhaps it could be that the social stigma surrounding the support of Franco and his heirs carries too much weight and people avoid defending them publicly. However, seeing as, unlike other European nations with a totalitarian past, Spain in practice does not criminalise fascist support¹⁶⁷, this latter option would be more difficult to accept due to the absence of an actual stigmatisation. Although it might also potentially be a simple lack of interest in the topic of cultural heritage by the extreme right, preferring to focus their efforts on other matters, the limitations of this study make it impossible to venture any further on this lack of data.

The importance that the term "heritage" demonstrates throughout the collected data, being the word with the most recurrences, proves that the issue of misplaced cultural objects is intrinsically connected to heritage and that both the democratic State and the society care and feel responsible for its preservation as a symbol of identity. The different legislations throughout Spanish democracy in the 20th and 21st centuries that have been studied in the second chapter suggest a strong interest in the heritage maintenance that seems to have been

¹⁶⁷ Víctor Rodríguez, "La Apología Del Fascismo Es Legal En España," Diariocrítico.com, November 24, 2016, <https://www.diariocritico.com/nacional/apologia-fascismo-legal-franco-20n>.

transmitted to the citizens. The public's concern regarding the conservation of the nation's cultural heritage indicates their appreciation for their culture and past and explains their stance on the Pazo de Meirás case. Once in the hands of the State after the trial resolution, the general public could visit and see in person the building so they began writing about it on social media with claims such as “Impressive the [...] fight to return the dignity and justice to its community. Thank you, @cgabio for your fight and the guided visit”¹⁶⁸ or asking whether they could “already register for the visits to the Pazo de Meirás as an element of cultural heritage restored by the State from the claws of Franco's selfish heirs?”¹⁶⁹.

In their interviews, both Emilio Grandío and Carlos Babío mentioned the social outrage that the case provoked. Grandío referenced the reaction that the public organisations linked to the A Coruña regional government as well as the general Galician public had when the Franco family fought back the lawsuit and denied the initial anti-democratic transfer of the building. Babío praised the involvement of the governmental institutions too and the public debate generated during the trial. It is relevant to mention that Babío was also part of the group of advocates who protested in person and was sued by the Franco family on several occasions due to his personal affiliation to the cause. Indeed, the case brought together historians, advocates, governments and day-to-day people that were enraged when they found out that the Pazo was still in possession of the Francos. This suggests that one of the main difficulties in advocating for the return of misplaced cultural heritage is the obscurity of the information available to the public and begs the following question: would the public have fought for the Pazo de Meirás return to the State earlier if all of the information that came to light during the public had been accessible before? Would they fight and involve themselves in more cultural heritage misplacement cases if they knew all the information? It seems that once the specifics of this case were available people began relating to the situation and advocating for it, but not so much before that. Of course, the institutions, as Grandío mentioned, were already moving their pieces since “[t]here were some complaints in 1977 and 1978 from specific groups such as the town hall of A Coruña saying that they could not continue like that, that the Pazo could not still be regarded as a reference for the dictatorship”¹⁷⁰. But it is

¹⁶⁸ Annex 3.12, XXII.

¹⁶⁹ Annex 3.14.

¹⁷⁰ Annex 1.

impossible to study this case without acknowledging the role that the pressure generated from the general public had and it is only fair to question that whether the public had not been involved, the outcome would have been different.

When reflecting upon the following steps in order to change those uses of the cultural heritage, Carlos Babío makes an excellent point in his interview stating that this symbol of the dictatorship should be turned into a public memorial space, not forgetting about the building's history but acknowledging all its past and putting it into context. The writer even claims that the majority of people advocating for this change of use would be in favour of creating a space where both history and victims are recognised. This solution would put an end to the Francos' discourse denying the anti-democratic practices that led to the transfer of the building and help contextualise its history. The very public social outrage that occurred with this trial demonstrated a unified front in the face of fascist remains and symbols in Spain and the analysed documents also displayed the concerns about other instances of cultural heritage misplacement. In the case of the Pazo de Meirás, people wrote books, tweets, gave interviews or even protested in person and suffered consequent lawsuits while advocating for the return of the building to the State, like Carlos Babío. Right after this, the indignation on the matter became such that people began a conversation on a more general level about all the other cases that still had not been brought to justice, which would make the Pazo de Meirás the blueprint, the example that new lawsuits would look up to. It is still too early to confirm whether Grandío's hopes for this to be "the reference for other cases of misappropriated cultural heritage"¹⁷¹ will become true, but it certainly seems to have awakened a sense of duty and democraticness in the population.

Other misplaced cultural heritage, challenges and opportunities

The main problem with the issue of return of Spanish misplaced cultural heritage during the Civil War and post-war periods is that, like it has been studied in chapter II, this is a fairly recent problem. Of course, the 1978 Constitution already introduced the topic of culture and the Historical Heritage Law expanded on it, although it seems that on the matter of

¹⁷¹ Annex 1.

reparations from the dictatorship, culture used to not have a critical role until the Law of Democratic Memory update in 2022.

The case of the Pazo de Meirás can be now seen as an example of cultural reparation and become, as advanced in the previous section, the blueprint for the following cultural heritage misplacement trials. However, one must note the two most important points on this matter: on the one hand, what was mentioned about symbolism and the particular emotional load that the Pazo de Meirás has as a representative building directly linked to Francisco Franco because no other case will be so easily connected to the dictatorship and, on the other hand, the hard work that the general public and researchers, more so than public institutions, have done and continue to do to uncover the truth about these cultural heritage pieces and buildings that were transferred under dubious circumstances.

The Pazo and its trial will certainly become an example of returned cultural heritage and shed light on how to approach the situation. Nevertheless, all of the thousands of pieces listed by Colorado Castellary in his life-long research¹⁷² as still misplaced will not fulfil those same requirements and, while the Pazo de Meirás, because of its significance, had an easy history to track, other not so well-known pieces will be much harder. For instance, a painting taken away from a Republican and given to a Francoist loyalist after the Civil War will have few if any documents proving this transfer, which would make a trial on the matter much more difficult and, while the Pazo has set a precedent, it would be naïve to believe that all of those cultural heritage pieces will be soon returned to their original owners. Especially when a case as clear as the Pazo de Meirás has taken almost fifty years to achieve the return to the State.

However, not all speculations are negative. The public commotion and media coverage over the Pazo de Meirás case seem to have sufficiently demonstrated that cultural heritage is a meaningful topic for both the democratic transition and the Spanish society as a whole and, seeing as there are still some laws to be implemented by end of this year¹⁷³, it appears that, in the future, there will be more opportunities for cultural heritage protection and recovery

¹⁷² Colorado Castellary, *Éxodo y Exilio Del Arte*.

¹⁷³ Gobierno de España, *Anteproyecto de Ley*.

measures. Much like Emilio Grandío foresaw in his interview, the key element here is the unity of action. As long as there are common objectives, democracy will prevail and the remnants of the dictatorship are likely to fade.

At the beginning of this study it was mentioned that, while there were plenty of contributions by experts on the matters of Spanish politics around the Civil War, post-war and democracy periods and of cultural heritage, there was a lack of connection between the legislative and social aspects today. This analysis has, firstly, created a link between these two relevant elements and, secondly, proved that there is still quite a long way to go in the discipline of cultural heritage restoration in Spain as there is only one case that has been through trial, exposing the underlying issue of an incomplete cultural restitution as of 2023. Certainly, other researchers had already explored the case of the Pazo de Meirás and the above mentioned subjects separately, and they have indeed been essential for the basis of this analysis. However, this study is rooted in an interdisciplinary approach, which means that it has combined all the information from the different areas of expertise studied and created a blend in order to give an answer to the research question.

Answering the research question

During the introduction of the topic, there was a brief explanation about the expected outcomes of this study as well as the research question that guided the whole essay structure and determined the direction of the analysis made. The objective of the thesis was to find an answer to the following question: on the basis that Spanish cultural heritage was misplaced during the Civil War and consequent dictatorship and a good part of it was never returned to its initial owners, what are the democratic and social implications of the lack of restitution in the 21st century?

The reason for choosing the particular case study of the Pazo de Meirás was already itemised in the “context for the case study” subsection of this chapter, but when faced with the research question, one might wonder why use the one case where the cultural heritage was returned to identify the democratic and social repercussions of the non-return. There is little data on

the heritage that has not been returned yet available to the public—either because it has not been classified as such yet¹⁷⁴ or because the general public is not aware of it—and so it makes sense to analyse the one example easily accessible to everyone that could allow for the exploration of both democratic and social repercussions and then support an extrapolation to give a comprehensive answer to the issue.

The research question tackles two interesting aspects—democraticness and society—and for that the answer will be given separately. In the first place, as demonstrated by the analysed data, the issue of democraticness and lack thereof is still a relevant topic in a nation that has been a democracy officially for almost half a century. During the Pazo's lawsuit and subsequent trial, it became obvious that across documents from diverse natures the matter of the non-return of the building to the State was crucial and intrinsically linked to what that meant for the democracy. Answering the first part of the research question, the consequence that the non-return of misplaced cultural heritage would have on a democratic level is that the democracy itself would be challenged. If there is proof that citizens, victims, were stripped off their rights and lost the ownership of their own cultural heritage under dubious circumstances and that the new owners, supporters of the fascist regime, still are in their possession currently, then this must mean that the European and Spanish democratic legislations have not been fully implemented. As long as there is cultural heritage associated to the dictatorship still belonging to Franco's loyal supporters and their families and the pieces are not judicially processed, as long as there are no reparations or memorial justice for all the victims of the Civil War and post-war periods, the democratic government will live in the shadows of the Francoist regime.

The second part of the research question appeals to the social implications that the non-return of misplaced cultural heritage has. The results from the collected data analysis show that the active civic participation in protests, advocating in person or online and media consumption were fundamental in the coverage of the Pazo's trial. This is not to say that the judicial system would not have achieved the same results without the public opinion, but it is clear that the citizens' involvement implies a strong interest in the subject matter. Although there had been

¹⁷⁴ Colorado Castellary, *Arte, Botín de Guerra*.

several publications in media and academia previously about the Pazo de Meirás and its symbolism and ownership changes through time, from 2019 onwards there was an increase in social activities related to the issue. The tweets, the protests, the books and news articles became much more present in everyday life during this time, more accessible to the common person. When the lawsuit was filed, it sparked a conversation about cultural heritage that came with a public outrage that seemed to have been put off before, perhaps prioritising other matters central to the citizens such as economy or human rights protection in this new government. This does not mean that people had forgotten about the actions during the dictatorship, but that the indignation had taken a peripheric place.

From the findings, several assumptions can be made in order to answer the social repercussions of the non-return of cultural heritage: first, that the public is concerned with the non-return of cultural heritage and it is not just a matter of governmental involvement; second, that the vast majority of people that have made their opinion public are in favour of historical reparations from the dictatorship; and, lastly, that the Pazo de Meirás is not an isolated case as there have been several instances where people have expressed their opinions on how other cases of cultural heritage misplacement should be returned to the original—what they consider the legitimate—owners.

CONCLUSION

This thesis aimed to understand the matter of cultural heritage misplacement, that is, its change of ownership under dubious circumstances and, specifically, find a response to the question stated in the introduction of the thesis, which was: what are the democratic and social implications in 2023 Spain of the lack of return of the majority of misplaced cultural heritage during the Civil War and consequent fascist dictatorship? This conclusion section will be responsible for the summary of the findings of this research and the proposal for a future line of work within the same topic that could be relevant to approach in the history and cultural heritage disciplines in academia.

This study has explored the historical, political and social conditions from the beginning of the 20th century with the Spanish Second Republic, passing through a 40 year long dictatorship until the current democratic system. The thesis could be divided into three main chapters. The first part would correspond to a historical overview that explains the circumstances that led to the cultural heritage misplacement as well as the definitions and distinctions of the related terms in order to understand where the literature lies on the matter and why the word “misplacement” has been chosen in lieu of other alternatives. The following section of the thesis addressed the legal and ethical aspects affecting the non-return of cultural heritage in the Spanish context, mainly the European Union and Spanish legislations and the moral arguments on both sides of the battle—advocating for the return of cultural heritage or its postponement—as well as a comparison with the German governmental evolution on the issue, bringing in the European dimension. The final chapter left behind the theoretical part of the essay and created a comprehensive analysis of different sources through content analysis methodology and coding in order to reason the answer to the initial question.

That practical section of the research has been useful to find certain results related to the matter at hand. The first main discovery was that, although the chosen documents to perform the analysis on were of different natures—interviews in person or in newspapers, Twitter publications, academic journals and legislative declarations—there were some recurring words and topics linking them all. The terms “memory”, “democracy”, “restoration”,

“justice”, “loot”, “heritage”, “narrative”, “Emilia Pardo Bazán”, “dictator” and “Franco” appeared several times in most of the collected data, with the noun “Franco” being the only one that recurred in every document and “heritage” being the word with the most repetitions, 70. In these analysed documents, recurring topics could also be observed, with “democraticness and undemocraticness”, “legality”, “the Pazo de Meirás as an example of cultural heritage misplacement”, “social repercussions” and “other examples of cultural heritage misplacement” being the most salient ones. These two results provided an interesting overview on the subject matter that supported the answer to the research question.

The initial question referred to two relevant aspects in the non-return of cultural heritage: democraticness and social implications. Based on the interpreted data analysed above, it is now possible to give a well founded answer. Regarding the democratic implications that the current non-return of Spanish cultural heritage misplaced during the Civil War and post-war periods in the country carry, the fact that these cultural pieces were transferred from their original owners under unclear circumstances in a fascist regime and the people that were wronged and their families have not been fairly compensated yet, indicates an underlying issue. The democratic system would be challenged by the unacknowledged remains of the dictatorship. With regard to the second part of the research question, the social implications that the non-return would have are, primarily, that the general public demonstrates a continued interest in the subject of cultural heritage and supported the return of the Pazo de Meirás to the State and, secondarily, that most of society advocates for the return of all cultural heritage pieces and involves themselves in the discussion by protesting or expressing their opinion publicly.

At the beginning of the thesis, the literature review section addressed the main studies and progress made on neighbouring fields such as cultural heritage, Spanish history in the 20th and 21st centuries or misappropriation of Spanish cultural heritage in order to create a detailed basis for this research. That is where the literature gap was uncovered and this investigation took shape. Although previous academic investigations had for the most part focused on the mentioned fields separately and with predominantly theoretical approaches, there seemed to be a gap in studies framed in the present-day situation combining both democratic and social

implications, with only *A People Betrayed: A history of Corruption, Political Incompetence and Social Division in Modern Spain 1874 – 2018*¹⁷⁵ by Paul Preston combining political and social issues, but without focusing on the matter of cultural heritage. These initial theoretical studies were definitely essential to establish a good foundation for this thesis. However, the aim here was to go a step further with a practical analysis that would reveal the significance of a lack of complete cultural heritage restitution in 2023 for legislation and society and, indeed, the contributions found in the analysis could be ingrained into the research made by Arturo Colorado Castellary. Colorado Castellary's ongoing investigation, as seen at the beginning, explores documented cases of misplaced cultural heritage and aims at creating a large inventory with all the information needed to help the original owners and the State claim them back, advocating for their return on the basis of legitimacy and reparative justice. The results obtained in this investigation would reinforce those arguments.

Nevertheless, this study is far from over and the limitations found during the analysis cannot be overlooked. As has been addressed during the analysis, it could be within reason that a criticism for this research would be the use of the Pazo de Meirás case study. This example is the only one that has actually been through trial and returned and the research question addresses specifically cases that have not been returned yet. However, for the sake of a detailed analysis, it was essential that the case used was accessible to the public in order to not only explore the democraticness of the matter, but also the social implications and reactions. If a more obscure case had been chosen instead, there would have been much less literature on it as this is a fairly new subject in Spain's tradition and also little to no social repercussions as it would not have been a public example. Of course, the Pazo de Meirás was, without a doubt, incredibly helpful in understanding the situation and the extrapolation mentioned in the analysis with the data and its interpretation was enough to give a reasonable answer to the research question. Criticism, nonetheless, would be understandable as this extrapolation leaves a small room for doubt and no claims can be absolute outside of the analysed data.

¹⁷⁵ Paul Preston, *A People Betrayed*.

Finally, it would be an interesting suggestion for a future line of work for researchers specialised in political sciences and Spanish cultural heritage to continue the investigation proposed in the research question. On the one hand, political scientists could use the findings here as motivation to study the fascist remains in 21st century democratic Spain and, on the other hand, the interdisciplinary approach in the content analysis could be a relevant methodology to explore the importance of cultural heritage in society. Developing this methodology to study the new cases arising currently such as the Casa Cornide, for instance, would provide experts like Emilio Grandío with a wider lens to understand the similarities and differences in the social response compared to the Pazo de Meirás.

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ANNEXES

Annex 1. Translated interview with professor Emilio Grandío Seoane (USC) via Zoom.

-When I began my research on the Pazo de Meirás, I realised that your name and your articles came up constantly. What is your role in this whole debate?

-I am a history professor at USC (University of Santiago de Compostela, Spain).

-According to the university's website, you focus your research on the Second Republic and the subsequent Francoist regime in Galicia. Do you consider important to study these subjects from a Galician perspective?

-I believe there is a difference between study those subjects in Galicia and from a Galician perspective. I don't think we need to study them from a Galician or a Spanish perspective necessarily; the topic is larger than that. This is about democratic culture, right? What is my specific role in the Pazo de Meirás conflict? Briefly, the issue of the Pazo de Meirás narrative exploded in the media a few years ago, when the heirs and the Franco Foundation came up with a story that should not exist in a democracy. Several groups, including the provincial government of A Coruña, were outraged. What they considered from the beginning was creating a series of reports to argue their case (against the heirs) because those people... Those people... well, the people managing the house at the time were laying out an anti-democratic narrative within a democracy. That's why the government called us, they wanted us to write reports. At first it was just the provincial government of A Coruña, but after that came the complaint from the regional council of Galicia, the Xunta, and the creation of an expert committee within the Galician parliament via the Xunta.

Later on we will find other items such as the Casa Cornide, which has a similar history to the Pazo de Meirás, or the retrieval of the statues of Mestre Mateo. In all of these processes, from the very beginning, it was said that if the parties involved could not reach an agreement, they would resort to legal channels. However, they have always considered the importance of

historical reports as the starting point. Why? Because the judicial narrative has barely changed since the democratic transition, meaning that there are no bold red lines separating the dictatorship and the democracy in plenty of affairs-that is why they call it a transition, there is no rupture. The experts of the past are obviously the ones in charge of doing this, of defining the differences. Most of the judicial narrative has not changed since then, the code, and evidently, there is no acknowledgment there of the differences between uses in a dictatorship and a democracy. That is really the difference: even if the whole legal system is the same from years and even centuries ago, there are clear differences that historians must indicate. After that, we can create the judicial argumentation and debate on when it is better to accept the lawsuit or not. That is a whole process but we must know what is happening, what happened and how, right? That is why I am there, I am a specialist in those subjects and my academic career and my research focus cover the entire issue.

To the initial question about a Galician perspective, in the memory restoration field, people from Galician society as more of a protagonist that they realise sometimes. For example, all of this movement of memory restoration, the advocacy of opening of mass graves and similar things appeared because of the unsealing of an archive, the military archive of Ferrol, back when the access to these archives was extremely limited. However, in Ferrol they gave us the capability to access some control and from then onwards, people started researching. Or, for example, when we realise that since the 1980s the largest collection of restoration testimonies related to the war, violence and memory in general was done by a man called Isaac Díaz Pardo at the expense of his company, Sargadelos, financing something that from the economic perspective was loss-making. But he created the most extensive collection of memories from the democratic transition until now. What I mean by this is that, while usually we take a centre < periphery approach, there are several topics in which the periphery, specially Galicia in the field of memory restoration or monumentalisation of memory or institutions, has had a positive attitude from the democratic perspective. The unanimity in regards to the retrieval of the Pazo de Meirás is one of them. This is on the first motion in which a regional parliament decides unanimously to mark the differences between the dictatorship and the democracy.

- You were talking about the undemocratic narrative from the Franco family and the efforts from historians to uncover how it really happened. Could you briefly tell me how the transfer of the Pazo de Meirás happened between the heirs of Emilia Pardo Bazán and Franco?

- This process begins with the creation of a self-named Junta Pro Pazo (Committee in Support of the Pazo) in 1938, in the middle of the Civil War. The Committee has no institutional value and was created by the armed forces of A Coruña with the sole intent of alluring the dictator, leader of the nationalists at the time because the war had not ended. Alluring him to the city of A Coruña by making it his summer residency. A Coruña was not the only place trying to do this, Santander and San Sebastián did the same. In the end, Franco preferred A Coruña for whatever reason, different motivations that we are not discussing here but that could also be interesting to study, and what they did was gather money from donations and even taking out a percentage of the government's employees' salaries. Unfortunately, this was not enough, the money was not enough and so they paid for a loan to the heirs. That is, since they money was not enough (for buying) they prorated-took a percentage of the budgets for the provincial government of A Coruña-with that money it is finally enough to pay the heirs of Pardo Bazán and, in exchange, the Junta Pro Pazo gives the building as an offering to the dictator and his family in the role of "victorious commander of the armies" at the time, in 1938.

In 1940, after the end of the war, the Franco family tries to "make a new lease" since they did not have any legal title. This time, they will give the house not to the "commander", but to Franco himself. Before starting this expert committee process, we did not know that during the first sale the Junta Pro Pazo-with no legal entity-was involved in the 1938 contract. It was not an institution, or a council or anything; just an association that did not even appear in the associations register at the time and whose only objective was to give the building to Franco. When we found this contract, it changed the perspective on the Pazo's ownership and misappropriation narrative. There are obviously other protagonists of the story too, but in the end, this is just a confusion, which is what happens with the uses of a dictatorship. The place was not given to the estate, but to a person, commander or Franco it did not matter, it was the

same person. Even if the name was Francisco Franco, it is clear that it was really given to the head of state. All the costs from the Pazo de Meirás as well as other places like the Casa Cornide from what we have seen so far such as repairs or maintenance were covered by the estate or public institutions. They considered the Pazo as the summer court of the government, a second headquarter. Every summer, for one or two months, a great portion of the greater figures from the dictatorship headed by Franco were there.

To sum this up, the issue was done through legal means. However, there is obviously a background and context full of repression, violence, fear, social pressure and impunity. Who would try to say something to Franco? Not just his inner circle, but anyone, at a time when impunity was commonplace. It was not a democracy but a dictatorship. Franco was above everyone and everything, he was above the law, could change legislation, get rid of courts, etc. there was no separation of powers and that conditions the whole process. It is not the same even if the judicial system is quite similar to the current one. That is why we study history.

-I understand. This begs the question, after all that happened in the dictatorship and democratic transition, why did this issue not become relevant before? It only exploded much later. Why now and not right after the death of Franco?

-Well, there were some previous proposals. Franco's wife, Carmen Polo, preferred the city with buildings like the Casa Cornide, and she did not like the Pazo de Meirás, which means that after his death the Pazo will become unused. Although they maintain it, there was a clear deterioration because Franco was the one particularly interested in the construction. Even on her first travel to Galicia as a widow, at the beginning of 1976 (Franco died in November 1975), she does not go to the Pazo and stays only at Casa Cornide. There were proposals and, just like in this process now, they tried to reach an agreement. There were some complaints in 1977 and 1978 from specific groups such as the town hall of A Coruña saying that they could not continue like that, that the Pazo could not still be regarded as a reference for the dictatorship. There were two big moments: the first, when the town hall tries to reach an economic agreement with the Franco family, who outright refuses; and the second one, more

important, with the provincial government involved too. This second time, they do start negotiating with the family, but do not agree in the end. So, both parties tried to agree at some point. However, as there was no agreement, the Pazo kept on being managed by the Franco family for decades, although progressively with less institutions backing them up. The family would sell different properties that they acquired during Franco's rule throughout this time but the problem arises when the narrative is changed.

The Pazo became a BIC (Bien de Interés Cultural or Good of Cultural Interest) and from the beginning of the 21st century and after their change in narrative this battle continued. This implied a process where they almost forced the Franco family to open the Pazo's doors and to return it to the state. Of course the family always did the bare minimum, you know? This BIC declaration means that you have to open the site's doors certain specific days to the public or the authorities and include a historically accurate explanation of the place. In 2018, the dictator's daughter, Carmen Franco, begins having health issues (in fact, she would die two years later) and for me, in my personal opinion, this triggers a change in the Pazo's management. I believe the Pazo is not sold because of Carmen Franco. Remember that she was a child when the transfer happened, they even added a small mini-pazo next to it for her and there is some context here, right? For her, it meant her childhood and adulthood, even her grandchildren came here. Of course there was a sentimental baggage for her. How it was initially acquired is a different issue. So Carmen refused to negotiate but when she starts having health problems, her children take over the management helped by the Francisco Franco Foundation and they start creating a non-democratic narrative. That is where the indignation comes.

One of the things that the Francos and their defence kept on repeating during the trial was precisely that, why now?, what you just asked, and why did the democracy not do it until then? I believe that there were several democratic attempts to negotiate and even up until the last moment the governments tried to negotiate and talk to the Franco family. Try to decide how to do it. But the Francos always completely refused as far as I am aware. This forced the authorities, due to the public outrage, to take the family to a trial. It is interesting to notice the difference with other similar processes where the families were involved: when the

previous dictator Primo de Rivera's remains were moved from the Valle de los Caídos, his family's attitude was completely different. Even if there were some fanatics making noise, the family did not fight it. They took his remains and put them somewhere else, in Madrid I think. That is it. What I mean by that is that these processes always depend on both parties, not just one.

- From a personal perspective, I imagine there is some emotional burden as well as some social implications that this return to the state showcased.

- Yes, yes, yes, of course. This case meant the recognition that historians serve a purpose. It was a recognition that really surprised us. Even the report after the trial in September 2020 clearly indicates that historians can perfectly explain the past. Up until then and from a judicial perspective, history was a series of stories that people told and could be believed or not. You could believe them or not, but they did not influence reality. Of course it influences, the past always influences. This country not taking the issue as seriously as in other countries is another topic. That was, for me, the greatest satisfaction. It was very satisfying to see that what you do is worth it, because we are social scientists in the end. We are also civil servants and so the state is us.

Regarding the repercussions, there is a before and after of the Pazo de Meirás. This is just my opinion, but I believe this is more important than the removal of Franco's remains from the Valle de los Caídos. It implies more. It implies not just the removal of a corpse-which may have a symbolic value and not be on a public building anymore, I agree-but, in the case of Meirás, it means the different uses in a dictatorship and in a democracy. Although there was a transition, there were still some totalitarian uses. The practices must be different. Legality should not be assumed by everyone individually, but by the group, and impunity imposed itself over others before. On a social conscience level, collective conscience, it reaffirms the democratic agreement. The sentence from September 2020 indicates something that was not clear before: that Spanish society is mature enough to understand these processes. We should not be treated like children, it has been over 40 years of democracy and we can finally make the democratic culture equivalent to that of other countries. It seems

to me, maybe it is because I am so involved in the topic, that concerning the social implications, this is much more important. It is a personal opinion.

- And to finish, do you think that the Pazo de Meirás will be a precedent for more cases of misappropriated cultural heritage in Spain?

- Absolutely, no doubt about that. As a process, as I mentioned before, you first need a historical report to know all the data. After that, there will come proposals, arguments, legal argumentation and an essential part, having a common democratic objective, which I believe was the key element over the unanimous outrage. Believing that the narrative and the traces from the dictatorship have no place in a democratic environment such as ours. Democracy must defend this.

Unity of action was fundamental. The lack of it makes us untrustworthy as a democracy. The visualisation of inner ruptures is what is happening nowadays, every time more individualised, and the enemies of democracy are taking advantage of that. Democracy is another thing, it is the commonality, understanding each other in a collective manner, not imposing ourselves, groups over groups of people. The unity of action, forgetting the differences and focusing on one or two objectives was key. If society sees itself as democratic, then dictatorial uses have no place there. The problem comes when there are ruptures, which entails a lack of credibility. If democracy stays together and realises that they must act democratically with a common objective with debate, dialogue and different opinions, that is enough.

This will be the reference for other cases of misappropriated cultural heritage such as the Casa Cornide, which we are currently doing, or the statues of Mestre Mateo. First, we will make a historical report and, afterwards, the legal complaints with different actors or public institutions. We will take the success of Meirás as reference.

Annex 2. Translated written interview with Carlos Babío for Cuarto Poder¹

The past 2nd September was historical. The sentence by the magistrate's court number 1 of A Coruña was clear: the Pazo de Meirás is of public domain and does not belong to the Franco family. Thanks to the lawsuit from the State Attorney, we are closer to accomplishing the historical recognition from a great part of Galician society and “memorialist” associations. However, the resolution might still be appealed but this was an important step regarding the ownership of this building which was Franco's official residence during the dictatorship until his death. Afterwards, it went to his heirs. Currently, it is managed by the family and the Foundation carrying the dictator's name.

One of the people who has been fighting and researching to do justice is Carlos Babío (Sada, A Coruña, 1967). Last November he already talked to cuartopoder.es about the pazo. In 2018, he published a book together with Manuel Pérez entitled *Meirás, a pazo, a commander, a loot* (Galiza Sempre Foundation). His work has been helpful in the resolution coming from the sentence. And also to annoy the Francos, who have sued him twice on the basis of slander and false accusations. We talk to him again after knowing the court ruling.

- I suppose you are very happy with the court ruling. How did you feel when you learnt about it and what does it mean for you and the Galician society?

- Very happy. It's been many years trying to rebuild the real history of everything that happened in Meirás. There were a lot of years of research and dissemination. A collaborative work in everything that had to do with social participation, commissions and institutions that all did their part. Some were essential. I specially thought of the victims. Of how late we were but that we finally did justice.

- You defend that this is a historical sentence because it is the largest sentence ever made against Francoism.

¹ Miguel Muñoz, “La Sentencia Del Pazo de Meirás Es Una Victoria Absolutamente Colectiva,” [Cuartopoder](http://cuartopoder.es), September 12, 2020, <https://www.cuartopoder.es/espana/2020/09/12/la-sentencia-del-pazo-de-meiras-es-una-victoria-absolutamente-colectiva/>

- Yes, because if we looked at the Pazo de Meirás strictly from Civil Law, as a property lawsuit, it would be very difficult to manage from a technical point of view. One must understand the historical processes made by those that rebelled militarily and socially in A Coruña and how they turned the building into an official state residence. Not only does the sentence give a masterful historical narrative but also the key elements of how such a sentence is possible. One of them is that all the evidence pointing out the abuse reported for years was documented. The judge highlighted the social participation and the coordinating entities that moved the lawsuit forward.

That is telling of society's democratic maturity to organise itself to make this possible. It is an absolutely collective victory for the Galician society organised from its foundations to make the public administrations coordinate themselves. The State joined the cause and the State Attorneys wonderfully wrote the lawsuit.

- What is the next step? I understand that the sentence must be definite. What are the deadlines for the process?

- From the publication of the sentence now, the Francos have 20 days to appeal in the Provincial Court. The State Attorney is considering the possibility of applying for the preventative realisation of the sentence. That is, the Francos give the keys and we do not have to wait for other rulings. This is because of how firm the sentence is. It is a sentence that supports all the claims from the State Attorney and does not leave room for doubts. And it is juridically based. And then, after the judge's resolution there can be an annulment appeal before the Supreme Court and, last case, before the Constitutional Court. But oh, well, we are optimistic. During the reading of those 400 pages from the sentence there was no room for pessimism.

- Anyways, we will have to wait to see the Pazo completely returned.

-Yes, but if we look two or three years back, it all looked badly. Because, indeed, there was a "very well tied end", said by the man responsible for the dictatorial regime. It was difficult

to fight against certain elements and combine all the wills and social majority created around this in the Galician society. Two years ago it was much worse and now we have an irreversible situation even if we have to wait some time. It has been 80 years already... we are too late. But the tools given by the Spanish democracy are these, and they are extremely limited. And the Galician society is using them exemplarily.

-Did you expect a sentence like this one?

-It surprised us in that it was the first sentence in the Spanish State that judged the coup d'état from 1936 and everything that came after it. And it is the first time that a sentence considers not only these processes but also judges them as irregular processes, not compatible with a democracy. The sentence talks about a self-proclaimed head of state. It leaves no room for doubts that there was no difference between public and private in Franco's regime. The regime was absolutely corrupted and the sentence reveals an unending list of historical matters that are being transferred into the judicial sphere which can help us in the future to look at the Francoism from a different perspective. Considering that we already have jurisprudence to understand that the Francoist regime is not a normal or democratic period in the history of Spain.

-You have always mentioned that the future of the Pazo must have room for honouring Emilia Pardo Bazán. Do you think that there will be an agreement for this?

-Lately there has been a lot of discussion about this because, after the sentence, it is presumed that the Pazo, sooner than later, will become public domain. The idea is that the State would share the Pazo with the Galician institutions so that they can give it this public use. We must not forget that the Pazo was paid by Galician men and women and that should be understood like that. There is a public debate about what should be added to the Pazo. I believe there is agreement in that there should be a space dedicated to Pardo Bazán. And there is also an unanimous agreement that it should be a space dedicated to historical memory and recognition of victims. Beginning there, there are multiple proposals on how to turn it into a public memorial space.

-Your trial with the Franco family is still pending...

-Yes, well, now it will be a bit more difficult for them. The four lawsuits that I have received are linked to alleged slander and false accusations that I have said against the dictator, Franco. They are all expressed in a book that I published with Manuel Pérez. The judge has given them absolute validity. This book is not only supported by academia but also by the legal field after this sentence. I do not think there is any other publication in the world with more endorsement than this one. It is difficult to understand.

Annex 3. Tweets

Annex 3. 1²: “The number two in the electoral list for VOX in Valencia (Seville) doing the fascist salute before the Pazo de Meirás/ His name is Manuel José Sánchez López and he is a doctor.”

 **AntonioMaestre** 
@AntonioMaestre

El número 2 de las listas de VOX en Valencia (Sevilla) haciendo el saludo fascista frente al Pazo de Meirás.

Se llama Manuel José Sánchez López y es médico.



11:58 p. m. · 30 abr. 2023 · **58,8 mil** Reproducciones

158 Retweets **7** Citas **316** Me gusta **2** Elementos guardados

² Antonio Maestre, Twitter post, April 2023, 11:58 p.m.
<https://twitter.com/AntonioMaestre/status/1652794700204572674>

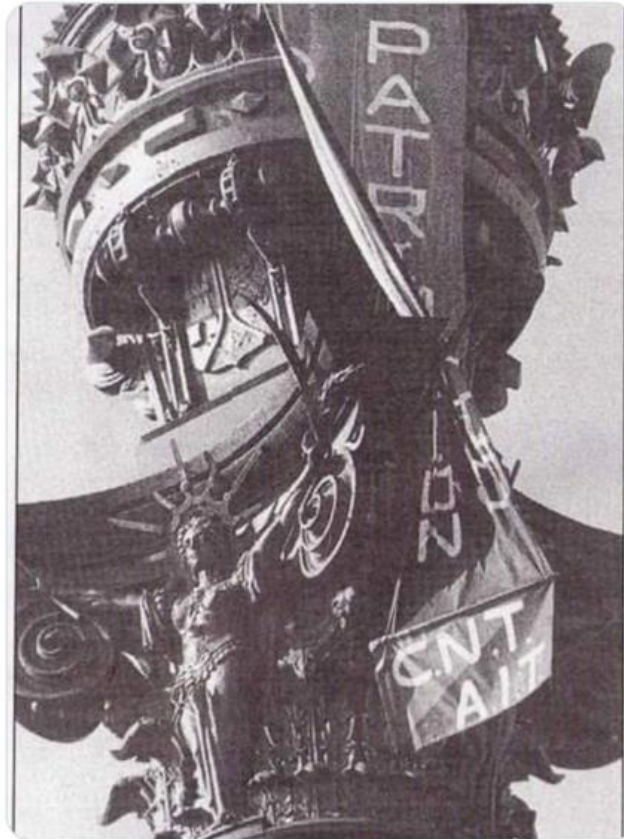
Annex 3. 2³: “#OnADayLikeToday in 1985 four anarchists occupied the Columbus monument in Barcelona in the context of the restoration campaign of the cultural heritage from CNT, looted and stolen by the Francoism and managed by those who came later. (1/2)”



CNT Vitoria Gasteiz @CNTVitoria · 29 nov. 2019

...

#TalDiaComoHoy de 1985 cuatro anarquistas ocupan el monumento de Colón en Barcelona en el marco de la campaña para la devolución del **patrimonio histórico** de CNT, expoliado y robado por el **franquismo** y conservado por los que vinieron después. (1/2)



CNT Sindicato y 3 más



³ CNT Vitoria Gasteiz, Twitter post, <https://twitter.com/CNTVitoria/status/1200328116406759424>

November 2019, 9:18 a.m.

Annex 3. 3⁴: “Seeing the topic of today, it is important to note that besides #FrancosExhumation we should also “exhume” the Cultural Heritage that should be of public domain but is still in the hands of the Franco family./ A little bit of context here”

“As this is a lovely Sunday, I think it is time to explain some things about the issues with the Franco family and the Portico of Glory./Like that, direct./ Because people are not getting the seriousness of the matter./ THREAD”



⁴ El Barroquista, Twitter post, October 2019, 9:51 a.m. <https://twitter.com/elbarroquista/status/1187275317100064768>

Annex 3. 4⁵: “When in the rest of Europe there are programmes to return the looted art from the dictatorships and world wars to their owners, a Spanish court considers that the Francos may have a right to keep a part of the Cultural Heritage in their home.”



El Barroquista  @elbarroquista · 17 feb. 2019 ...

Cuando en el resto de Europa se están moviendo programas para que el arte expoliado durante las dictaduras y guerras mundiales vuelva a sus propietarios, un tribunal español considera que los **Franco** pueden tener derecho a quedarse una parte del **Patrimonio Histórico** en su casa.



 2

 115

 243



⁵ El Barroquista, Twitter post, February 2019, 12:16 p.m.
<https://twitter.com/elbarroquista/status/1097092455672004615>

Annex 3. 5⁶: “The Francos fail in the Supreme Court in their attempt of condemning on the basis of hate the activists that put a banner asking for the return of the Pazo de Meirás /Deal with it those who for 82 years occupied a property belonging to the people./ SandR⁷”



Miércoles Republicano en Cana... @MiercolesRep... · 12 mar. 2021 ...

"Los **Franco** fracasan en el Supremo en su intento de condenar por odio a activistas que colgaron una pancarta reclamando la **devolución** del Pazo de Meirás"

Ajo y agua para quienes durante 82 años okuparon una propiedad que era del pueblo.

SyR! ❤️👉👈💜

www.eldiario-es.cdn.ampproject.org/v/s/www.eldiar



🗨️ 2

↻ 25

❤️ 31

📊

📌

⁶ Miércoles Republicanos en Canarias, Twitter post, March 2021, 6:00 p.m. <https://twitter.com/MiercolesRepu22/status/1370419316588351491>

⁷ Acronym for “Salud y República” or “Cheers and Republic”, salute made during the Second Republic and commonly used nowadays to express the desire to have a republican regime.

Annex 3. 6⁸: “A court allows the dictator’s family to continue the loot of the Pazo de Meirás. Another one stops the exhumation of a mass grave of republicans killed by falangists. And all like that (full of impunity).

A court from A Coruña allows the Francos to take out a part of the objects from the Pazo de Meirás// An exhumation was stopped in Piloña until a judge goes there, following the findings of human remains.”

Memoria_ARMH @ARMH_Memoria · 28 sept. 2022

Un juzgado permite a la familia del dictador terminar el saqueo del **Pazo de Meirás**. Otro paraliza la exhumación de una fosa de republicanos asesinados por falangistas. Y así todo (repleto de impunidad).

Galicia

Un juzgado de A Coruña permite a los Franco retirar parte de los bienes del Pazo de Meirás

El Estado pidió, a su vez, en otro de Madrid que se les impida quitarlos a la espera de que se resuelva sobre la propiedad

— La Abogacía del Estado demanda a los Franco para reclamar otros 564 bienes del Pazo de Meirás

N'asturlanu

11 417 574

⁸ Asociación Recuperación Memoria Histórica, Twitter post, September 2022, 9:44 a.m. https://twitter.com/ARMH_Memoria/status/1575028754027405312

Annex 3. 7⁹: “Picture from this morning from the protest in solidarity with the 9 people sued by the Francos for asking for the return to the Galician heritage of the Casa Cornide and the end of the Francoist looting! Right now, the trial is taking place #GiveUsBackWhatWasStolen #FrancoismNeverAgain”



19 de Meirás @19deMeiras · 4 feb. 2021

📷 Imaxe desta mañá na concentración en solidariedade coas 9 persoas denunciadas polos **Franco** por reclamar a **devolución** ao patrimonio galego da Casa Cornide e a fin do espolio franquista! Agora mesmo, xa celebrábase o xuízo #Quenosdevolvanoroubado #FranquismoNuncaMáis



↻ 28

❤ 55



⁹ 19 de Meirás, Twitter post, February 2021, 10:20 a.m.
<https://twitter.com/19deMeiras/status/1357257650652794880>

Annex 3. 8¹⁰: “Step by step, the family of the dictator Franco is being duly countered by our country’s Justice. The return of the Pazo de Meirás is a milestone for Democracy that serves for its consolidation. #TruthJusticeAndReparation”

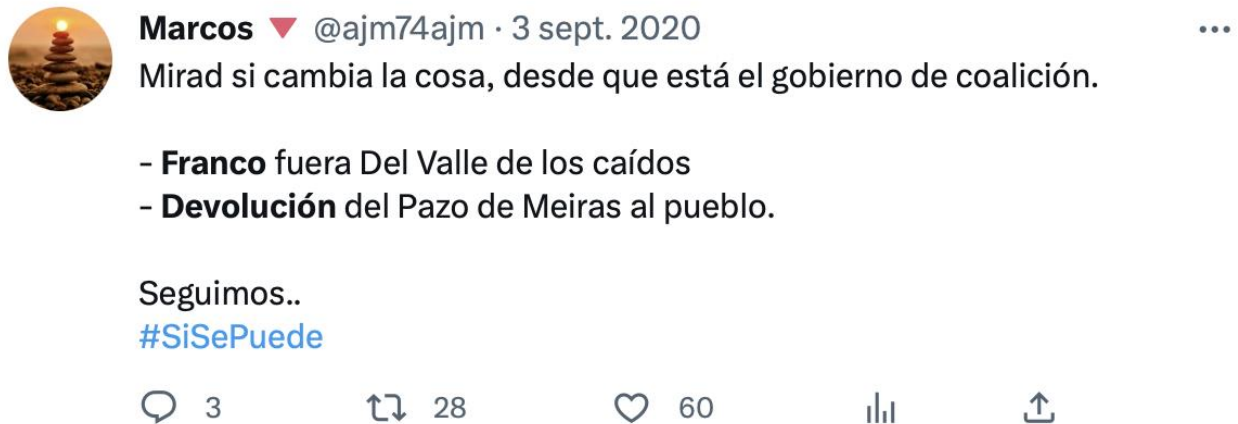


Annex 3. 9¹¹: “Look how much things change, ever since there is a coalition government.

- Franco is out of the Valle de los Caídos
- Return of the Pazo de Meirás to the people

We continue...

#WeCanDoIt”



¹⁰ Diego, Twitter post, December 2020, 7:59 p.m. <https://twitter.com/DRZRZ/status/1337109784714207235>

¹¹ Marcos, Twitter post, September 2020, 3:14 p.m. <https://twitter.com/ajm74ajm/status/1301508966971781120>

Annex 3. 10¹²: “Feijóo demands Pedro Sánchez by letter the Meirás property after supporting for years the Francos’ stance against the Pazo’s return”



Ignacio Escolar  @iescolar · 9 dic. 2020 ...

Feijóo pide por carta a Pedro Sánchez la propiedad de Meirás tras apoyar durante años la posición de los **Franco** contra la **devolución** del Pazo



elDiario.es

eldiario.es
Feijóo pide por carta a Pedro Sánchez la propiedad de Meirás tras a...
Alberto Núñez Feijóo y su conselleiro de Cultura, Román Rodríguez, han reclamado la titularidad del Pazo de Meirás en sendas cartas ...

 279  1.113  1.956  

¹² Ignacio Escolar, Twitter post, <https://twitter.com/iescolar/status/1336660210157576194>

December 2020, 2:13 p.m.

Annex 3. 11¹³: “#BasinThursday Romanesque basins from Frumales and Moraime looted by the Franco family and used today as flowerpot stands in the Pazo de Meirás:”

 **ana** @ana_mlag · 4 may. ⋮

#JuevesDePilas pilas románicas de Frumales y Moraime que fueron expoliadas por la familia Franco y que a día de hoy se utilizan como maceteros en el **Pazo de Meirás**:



Románico en España y 9 más

 2  9  38  2.963 

¹³ Ana, Twitter post, May 2023, 10:34 a.m. https://twitter.com/ana_mlag/status/1654041918345469953

Annex 3. 12¹⁴: “Impressive the levels of narcissism, tyranny, loot, impunity, trash and bad taste at the Pazo de Meirás. And the Galician people’s huge fight to return the dignity and justice to its community. Thank you, @cgabio for your fight and the guided visit.”



Miquel Ramos 🍷 @Miquel_R · 18 sept. 2022



Impresionante el nivel de egolatría, caciquismo, expolio, impunidad, caspa y mal gusto en el **Pazo de Meirás**. Y la enorme lucha del pueblo gallego por retornar la dignidad y la justicia a su gente. Gracias, @cbabio por tu lucha y por la visita guiada.



¹⁴ Miquel Ramos, Twitter post, September 2022, 11:35 a.m. https://twitter.com/Miquel_R/status/1571432605924425728

Annex 3. 13¹⁵: “It happened with the Pazo de Meirás and now it is the time for the Palacio de Marivent to return to its legitimate owner// Podemos denounces the “law of silence” around the Marivent transfer to the royal family and calls for collaboration every democratic force to return the palace to the people”



Lucio Martínez Pereda  @anluma99 · 13 abr.

...

Sucedió con el **Pazo de Meirás** y ahora ha llegado el momento de que el Palacio de Marivent retorne a su legítimo propietario



 10  113  229  3.185 

¹⁵ Lucio Martínez Pereda, Twitter post, April 2023, 11:48 a.m.
<https://twitter.com/anluma99/status/1646450386272755712>

Annex 3. 14¹⁶: “Good morning!/Can we already register for the visits to the Pazo de Meirás as an element of cultural heritage restored by the State from the claws of Franco’s selfish heirs? Thank you to the court and President @sanchezcastejon/ #PazoDeMeirás IT BELONGS TO EVERYONE!!”



¹⁶ Jonay R. López, Twitter post, December 2020, 9:55 a.m. <https://twitter.com/JonayRLpez/status/1336957732251897856>

Annex 3. 15¹⁷: “Meirás symbolises the obstacles that our democratic memory restoration has faced and still faces. Today we thank the work of the groups and voices from civil society for achieving a justice and dignity milestone, for this country and the victims of the Francoist regime.”

 **Yolanda Díaz** ✓
@Yolanda_Diaz_ ...

Meirás simboliza los obstáculos que la reparación de nuestra memoria democrática ha tenido que afrontar y aún afronta. Hoy agradecemos la labor de colectivos y voces de la sociedad civil por marcar un hito de justicia y dignidad, para este país y para las víctimas del franquismo.



10:07 a. m. · 10 dic. 2020

668 Retweets 33 Citas 3.437 Me gusta 2 Elementos guardados

¹⁷ Yolanda Díaz, Twitter post, December 2020, 10:07 a.m.
https://twitter.com/Yolanda_Diaz_/status/1336960769792106496

Annex 4. Word recurrences table. Self-made from the data collected for the analysis.

	Interview Emilio Grandío	Interview Carlos Babío	Tweets	BIC declaration	Academic journal
Narrative	10	0	0	0	7
Dictator	14	4	3	0	1
Memory	6	3	1	1	0
Democracy	27	4	3	0	2
Franco	22	9	16	3	11
Justice	0	2	4	1	1
Loot	0	1	6	0	3
Restoration	4	0	3	0	0
Emilia Pardo Bazán	1	1	0	4	3
Heritage	1	0	5	9	55

Annex 5. Topic recurrences table. Self-made from the data collected for the analysis.

	Interview Emilio Grandío	Interview Carlos Babío	Tweets	BIC declaration	Academic journal
(Un)democraticness	15	9	11	0	2
Legality	21	5	5	5	9
Cultural heritage misplacement	10	8	14	3	7
Social repercussions	19	9	7	0	14
Other examples of misplacement	8	0	13	0	0