

## **THE HUMAN RIGHT TO SELF DETERMINATION AND THE LONG WALK OF THE BASQUE COUNTRY TO A DEMOCRATIC SCENARIO**

“Law is a living deed, not a brilliant honors list of past writers whose work of course compels respect but who cannot, except for a few great minds, be thought to have had such a vision of the future that they could always see beyond their own times”.  
Judge Ammoun “Separate Opinion”  
Advisory Opinion of the ICJ Jon Namibia, 1971

### **Introduction**

Let me start with some considerations. The case of the right to self determination is the case of human rights and history shows us that human rights are the cause of the oppressed, the cause of the colonized, the subalterns, and the cause of those on the other side of the borderline. Human rights have always been opposed by those in power, by the states of the capitalist world system. And so the recognized human rights are not but the consequences of long term struggles for non-recognized rights. And same pass with the right to self determination. Those who today consider this right only to be applied to colonies or occupied territories, are the same who opposed to the struggles for national liberation. Those who consider right now the right to self determination recognized in art 1 of the UN International Covenants on Civil and Political rights and Social, Cultural and Economic Rights are the same who opposed in the UN to the establishment of art.1 and those who right now try to limit the right of indigenous peoples to self determination. And so, the passing of the right to self determination from a political principle to a principle of international law and then to become a basis human right, of erga omnes and ius cogens character is consequence of struggle. And the same is happening with its scope and the definition of those entitled to it. It is the struggle of the liberation movements, the struggle of stateless nations, of indigenous peoples which have had and will define its scope. As always has happened with human rights.

### **1.- HUMAN RIGHT TO SELF DETERMINATION**

#### **1.1.- The right to self determination as a BASIC HUMAN RIGHT**

Currently and according to the International law after basically the 1966, International Covenant on Civil and Political Rights and on Social Cultural and Economic rights, Self determination is clearly a Human Right, a basic Human right, a basic human right that according to the ICJ (last time in the advisory opinion about the Wall in Palestine) has ius cogens and erga omnes character.

According to the Commission on Human Rights' General Comment no. 12 adopted at its 21st session (1984)<sup>1</sup> “The right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights. It is for that reason that States set forth the right of self-determination in a provision of positive law in both Covenant and placed this provision as article 1 apart from and before all of the other rights in the two Covenants”.

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<sup>1</sup> HRI/GEN/1/Rev.9 (vol.1) pp.213 f

Collective human rights which content give to the peoples (collective expression of human beings) the right to decide about their future, a right which entitles peoples to decide about their internal model of organization and its relations with other peoples. Basically this human right would include:

- The right to self affirmation
- The right to self definition
- The right to self delimitation
- The right to self organization
- The right to self management.

All those would be the contents of the right to self determination.

On that sense there have been some attempts to limit or split the right to self determination on internal and external self determination. According to this approach some groups would be entitled to internal self determination and others external one. Well this clearly would be a violation of equality and non discrimination. This division has not any base on international law.

As F. Przetacznik declares” No international legal instrument to date to my knowledge defines or even contains the term “internal self determination” autonomy or self government. Actually the aspects of internal and external self determination are interlinked. The internal and external aspects of the right to self determination of peoples and nations are constitutive and inseparable elements of this basic collective human right<sup>2</sup>.”

Even it is true that (based on the pressure of States) currently the Indigenous peoples International declaration states that on the basis of the right to self determination indigenous peoples would have the option to autonomy and self government.

It is clear on that sense that the right to self determination is one an only one, which would mean the right of people to organize themselves democratically and without external interventions, which would include also the right to agree on the relationship with other peoples.

## **1.2.- “Peoples” are “Peoples”**

Basically one of the main critical points when there is an approach to the right to self determination is to try to identify the collective group entitled. States has attempted to restrict this right to colonized peoples and scholars have tried to resolve the difficulties they face once realize there is not legal definition of the concepts analyzing the debate which was developed in the UN during the 50s including the Assembly debate, the HRC decisions or the ICJ decisions or also to have a look to the real development of this right, basically developed in the decolonization process. The processes of self determination which happened once the dismantling of the Soviet Union created some difficulties which were tried to resolve through trying to consider those events not really as self determination processes. The Baltic States independence would be only the end of the occupation of previous independent states. The processes of Slovenia, Croatia, and Bosnia Herzegovina would be just the dismantling of the Yugoslavian federation (Badinter opinion). Same would happen with Slovakia and Chequia, or the unification of Germany. But this position has had to face other developments which are much more difficult to include on this way. The struggle of indigenous people for their recognition as peoples entitled to self determination and recently the unilateral declaration of Independence of Kosovo, as well as the process

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<sup>2</sup> F. Przetacznik The collective right to self determination of peoples and nations as a prerequisite to peace (1990 *New York Law school. Journal. Of Human Rights*)

in Scotland, the Good Friday Agreement or the developments in Faeroe or Greenland create more and more difficulties to tie the right to self determination exclusively to colonized, occupied or grossly oppressed peoples.

But as the Swiss Confederation states on its written statement addressed to the International Court of Justice in relation to the Advisory Opinion request made by the UN assembly regarding to the Accordance with International Law of the unilateral declaration of Independence by the Provisional Institutions of Self Government of Kosovo:

*The effort to restrict this right to colonized peoples was rejected. At the time of the ratification of the two human rights covenants in 1979 India declared that: "the words "the right to self-determination"...apply only to the peoples under foreign domination and...do not apply to sovereign independent States or to a section of a people or a nation –which is the essence of national integrity". France, Germany and the Netherlands were against this restriction, stating that the UN Charter did not foresee any condition limiting the exercise of the right of peoples to self-determination.*

According to the Swiss Government

*1. - The right to self-determination is closely linked with the principle of equality. All peoples possess this right to the same extent. It can not be granted to one people but denied to another in a selective manner on subjective grounds.*

*2-The right to self-determination applies to a collective that goes beyond mere groups of individuals. What binds a people is shared consciousness or a common political will. This results from the exact nature of the right of peoples to self-determination which is a fundamental standard of eeh democratic State. Thus any effort to deny the notion of a people entitled to self-determination in a conclusive, objective and scientifically observable manner is intrinsically contradictory.*

*3. -As a general rule, in order to exercise the right to self-determination the people concerned have to share a common territorial basis.*

So we need to go back to try to find the real content of this concept of peoples.

In the Final Report and Recommendations of the UNESCO international meeting of experts on further study of the Concept of the right of peoples hold in Paris the 27-30 of November 1989<sup>3</sup> it was stated that even "it is true that there is a need for further efforts to define "peoples" for the purposes of peoples rights", it is also possible to find "some universal features" on the concepts. During that meeting of experts the following characteristics were among those mentioned as inherent in a description (but not a definition) of a "people". A description sometimes referred as the Kirby definition, after its principal drafter Justice Michael Kirby:

- a) The existence of common features. Historic tradition, racial or ethnic identity, cultural homogeneity, linguistic unity, religious or ideological affinity, territorial connections, common economic life,
- b) The existence of a certain minimum number of such people.

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<sup>3</sup> SHS-89/CONF.602/7, edited also in Van Walt van Praag M. and Serro O. 1999.Barcelona:Centre UNESCO Catalunya.

- c) The group as a whole must have the will to be identified as a people or the consciousness of being a people –allowing that groups or some members of such groups though sharing the foregoing characteristics may not have that will or consciousness,
- d) The possession of institution or other means of expressing common characteristics and will for identity.

Basically according to this approximation to the notion, there would be as it has been said some objective criteria and a subjective one, the willingness of the individuals.

It must be taking in account also that is a well established maximum of international law contained in the Vienna Convention on the Law of Treaties and affirmed by the International Court of Justice that terms in international legal instruments are to be interpreted according to their plain meaning<sup>4</sup>. According to the ICJ “if the words in their natural and ordinary meaning make sense in their context that is the end of the matter”.

According to the Merryam Webster’s dictionary:

Main Entry: ˈpeɪ·pl  
Pronunciation: \ˈpē-pəl\  
Function: noun  
Inflected Form(s): plural people  
Etymology: Middle English peple, from Anglo-French peple, peple, people, from Latin populus  
Date: 13th century

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- 1plural: human beings making up a group or assembly or linked by a common interest
  - 2plural: human beings, persons often used in compounds instead of persons <salespeople> often used attributively <~ skills>
  - 3plural: the members of a family or kinship
  - 4plural: the mass of a community as distinguished from a special class <disputes between the ~ and the nobles> often used by Communists to distinguish Communists from other people
  - 5plural peoples: a body of persons that are united by a common culture, tradition, or sense of kinship, that typically have common language, institutions, and beliefs, and that often constitute a politically organized group
  - 6: lower animals usually of a specified kind or situation
  - 7: the body of enfranchised citizens of a state

So, according to the plain meaning of the term “all peoples” and the UNESCO experts’ definition, which seems very similar to the Websters dictionary meaning, not only people under colonial or alien subjugation or domination or those under occupation would have to be considered as peoples.

This is also the opinion of the Canadian Supreme Court which in its Reference re Secession of Quebec on this issue:

“It is clear that “a people” may include only a portion of the population of an existing state. The right to self-determination has developed largely as a human right and is generally used in documents that simultaneously contain references to “nation” and “state”. The juxtaposition of these terms is indicative that the reference to “people” does not necessarily mean the entirety of a state’s population. To restrict the definition of the term to the population of existing states would render the granting of a right to self-determination largely duplicative, given the parallel emphasis within the majority of the source

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<sup>4</sup> Vienna Convention on the Law of Treaties, art. 31 para.1. 1155 UNTS 331 Competence of the General Assembly for the Admission of a State to the UN, Advisory Opinion, 950 ICJ 4

documents on the need to protect the territorial integrity of existing states, and would frustrate its remedial purpose”.<sup>5</sup>

This must be also the understanding of its meaning according to the debate on the Declaration of Indigenous People developed during the past decade in the UN.

According to Erica-Irene A. DAE the Chairperson-Rapporteur of the United Nations Working Group on Indigenous Populations considers that there is not “any distinction between “indigenous peoples” and “peoples” generally, other than the fact that the group typically identified as “indigenous” have been unable to exercise the right of self-determination<sup>6</sup>”

Also according to the Special Rapporteur of the Un Sub-Commission on Prevention of Discrimination and on Protection of Minorities, Jose Martinez Cobo, in his Study of the Problem of Discrimination against Indigenous Populations :

“Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present no dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples in accordance with their own cultural patterns, social institutions and legal system<sup>7</sup>”

The debate on the concept of indigenous people and its entitlement to self determination means an ending on the criteria of people as being only the whole population of a state and the application of the right to self determination to exclusively people under colonial or alien subjugation or domination or those under occupation.

There have been attempts by some states in the Commission Working Group to refer to Indigenous Peoples as “people” or “populations”. For example States used brackets to put into doubt Indigenous peoples status in their proposals for “alternate language” to the existing declaration draft.

Although there is no single definition of “peoples” at international law the types of objective and subjective criteria most often used indicates that Indigenous Peoples are “clearly” peoples with the right to self determination.

Furthermore the term “racial discrimination” as used in the International Convention on the Elimination of All Form of Racial Discrimination also confirms that no one can deny indigenous peoples their status as “peoples” in order to denying them the human right of self determination.

“In this convention the term racial discrimination shall mean any distinction exclusion restriction or preference based on race, color, descent or national or ethnic origin which has the purpose of effect to nullify or impairing the recognition enjoyment or exercise on an equal footing, of human rights and fundamental freedoms in the political economic social cultural or any other field of public life” (International Convention on the Elimination of all forms of racial discrimination art.1 para1)

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<sup>5</sup> Supreme Court of Canada: Reference Re Secession of Quebec, reprinted in 37 ILM 1340 (1998)

<sup>6</sup> John Henriksen, Implementation of the Right to Self-determination of Indigenous Peoples within the Framework of Human Security. Asuntos Indigenas 3/01 IWGIA:2001.

<sup>7</sup> Jose Martinez Cobo, Study of the Problem of Discrimination Against Indigenous Populations E/CN.4/Sub.2/1986/7/Add.4 para 379

According to the HRC such actions would also constitute racial discrimination under the ICCPR,

“ The term discrimination as used in the covenant should be understood to imply any distinction exclusion restriction or preference which is based on any ground such as race color sex language property, birth or other status and which has the purpose of effect of nullifying or impairing the recognition enjoyment or exercise by all persons on an equal footing of all rights and freedoms”<sup>8</sup>

In terms of applying international criteria in the human rights context all peoples whether indigenous or non indigenous must be treated on equal footing. International community cannot determine that indigenous peoples or others will have only a portion of indivisible human rights recognized regardless of future circumstances. As affirmed in the 1993 Vienna declaration:

*All human rights are universal indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner on the same footing and with the same emphasis...It is duty of states regardless of their political economic and cultural system to promote and protect all human rights and freedoms (UN world conference on human rights Vienna declaration and program of action June 25 1993)*

If indigenous peoples are also peoples and are entitled to self determination, then the strict and limited criteria that has been tried to apply to the concepts of people fall down and the natural understanding of the concept of people would have to be take in account. It is no longer tenable to assert that the right to Self-determination is only applicable to some cases.

If Saharans, Palestinians, East Timorese, Puerto Ricans, Eritrean, are peoples and Sámi, Inuit, Aymara, Quechuas, Maoris are also peoples, how could it be said that Basques, Catalans, Kurds or Tamils are not? And how it could be said they are not entitled to Self determination?

“El definir el termino pueblos a efectos internacionales de tal modo que ni refleje su uso normal ni la autopercepcion e identidad de grupos humanos diversos y establecidos durante largo tiempo ello convertiría el principio de autodet. en un engaño cruel”<sup>9</sup>.

As Michael Dodson states “what we see is an inversion of logic where the decision about which peoples in fact have the right to self-determination is not derived from recognition of what a people is “but the desired political outcome determines the use of the term peoples”<sup>10</sup> 1994”.

### **1.3.- Human rights versus States rights. The paradox of International law. Uti possidetis and territorial integrity base for peace or base for violence?**

The second limit established to the Right to self determinations is clearly the territorial integrity of states and the Uti Possidetis concept. According to this broadly supported position this basic human right would be limited by International Law.

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<sup>8</sup> UN HRC general comment n.18 non discrimination 37<sup>th</sup> sess. 1989 at para 7

<sup>9</sup> J.crawford The right of self determination in international law, its development and future in P. Alston. Peoples rights (Oxford UP 2001)

<sup>10</sup> Voices of the People-Voices of the Earth: Indigenous Peoples –Subjugation or Self-Determination? Michael Dodson in Liberating Faith: Religious Voices for Justice, Peace, and Ecological Wisdom. Roger S. Gottlieb, editor. Rowman and Littlefield Publishers, 2003

A basic principle recognized in General Assemblies 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples (Rs 1514 UN) which reaffirms “the sovereign rights of all peoples and their territorial integrity” and the paragraph 6 which states that “any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of United Nations”.

And the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among states in Accordance with the Charter of the United Nations which state also that “nothing in the foregoing paragraphs shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self determination as described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race creed or color. Every state shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other state or country”. The resolution also provides that territorial integrity and political independence of the states are inviolable.

This declaration places the principle of territorial integrity or unity according to several authors as a superior principle to that of self determination, only to be applied to states if states conduct themselves in compliance with the principle of equal rights and internal democracy. So the state must represent the whole people without distinction as to race creed or color.

So what we face currently today is a clash between the *ius cogens* and *erga omnes* human right to self determination base of the International Human rights law and the *ius cogens* principle to territorial integrity and unity of states based on the International law of the states. So right to self determination on its secessional development would be only recognized in basically three cases.

But which of that right does must prevail?

It is broadly considered that the territorial integrity of states must prevail basically because the territorial unity and integrity would be (it is said) the base for international peace, stability and security basical objectives or goals of the international system.

But this is only an assumption which is not based on facts. According to the Annual report on Peace processes year 2008 of the Escola de Cultura de Pau in Barcelona the 50% of the armed conflicts are related to “self government” claims<sup>11</sup> . So it could be also clearly said that it is the states intransigency on unity and integrity the base for instability war and insecurity.

It is the no-existence of self determination right implementation mechanism and the empowerment of states to oppose through all means to self determination claims which provide scenarios of violence.

As the written statement sent by the Republic of Slovenia to the ICJ regarding to the advisory opinion request to this Court on the Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self Government of Kosovo, declare:

While the right of all people to self-determination is the essence of democracy –democracy being founded on this right- the principle of the territorial integrity of states has no direct link to democracy, even though it is one of the basic principles of international law as well. The preservation of territorial

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<sup>11</sup> Anuario 2008 de Procesos de Paz. Vicenc Fisas. Escola de Cultura de Pau.Barcelona. Icaria editorial. 2008

integrity of states is often a reason for gross violations of human rights and the rights of minorities or small nations. It is even an excuse and the cause for war and hotbeds of crisis. However, the experiences of the newly independent states in the last two decades, which are no longer based on decolonization, have been very stimulating for the economic, social and cultural development of their societies. These experiences also have a positive impact on their surroundings and contribute to regional stability.

The right to self-determination is defined by art. 1 of the ICCPR and ICESCR. The concept of the right to self-determination evolved after period of decolonization and the Cold war, particularly in confrontation with the principle of respect for the territorial integrity of states. When the "right of a state" to protect its territorial integrity and the "right of people" to decide upon their own destiny are in conflict, the right of people prevails, alongside the peaceful settlement of disputes, in particular through negotiations. In recent decades, the right to self-determination as a human right has been given precedence over the principle of respect for their territorial integrity of states.

The option for remedial self determination according to which a people would be entitled to self determination and secession on the base of gross violations of human rights form the state is the paradox of this position. According to this idea only when peoples are close to despair through massive and gross violations of human rights like ethnic cleansing, genocide etc would be this people entitled to self determination model of secession. So once is completely destroyed to self govern itself the IC would consider granting this right to the people. And this only if the people have enough international support to prove or convince of this being happened. And then, later on probably IC would consider it is a failed state! The contrast between Kosovo and Tamil Eelam is the better example of this nonsense.

As J Oloka-Onyango says<sup>12</sup> The objections to secession appear to be based much more on sentimental chauvinism and the desire for outright hegemonic control than they are dictated by any logical moral or legally-indisputable premise. As Nihal Jayawickrama tells us "the boundaries which states claim as sacrosanct "are man-made having been demarcated at peace conferences during this century by victors of the great wars". He goes on to argue that in the case of former colonial territories, most boundaries, particularly in Africa, had been drawn in a very arbitrary manner. Slashing across ethnic settlements regardless of the cultural affinities that had existed from time immemorial. Indeed, it is true to say that most ethnic groups precede contemporary national boundaries by hundred, if not thousands, of years. This desire to sanctify and perpetuate a few artificial lines drawn on a map of the world by a succession of politicians, diplomats, explorers and even adventurers, often without reference to the people living on the land appears to be misconceived in the context of the international human rights regime which exists today"

As some other actors consider also

"The potential for recognition of secessionist demands will encourage multicultural states to pre-emptively rectify any abuses of ethnic minorities, whether they amount to a nation or not. On the other hand, potential recognition of their right to secede may encourage separatist groups to go to the international legal community before resorting to armed conflict with the unified government<sup>13</sup>"

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<sup>12</sup> Heretical reflections on the right to self determination at the close of the second millenium, prospects and problems for a democratic global future

<sup>13</sup> Osterland Holly A. National Self Determination and secession: re Slovak case 25 Case on Res Journal.of Intl Law 39 (1993)



#### **1.4.- The respect and implementation of human right base for peace, security and stability. The self determination implementation as a democratic tool to conflict resolution.**

According to T Frank "Self determination postulates the right of a people organized in an established territory to determine its collective political destiny in a democratic fashion and it is therefore at the core of the democratic entitlement<sup>14</sup>". As well R. Stavenhagen states that "The denial of self determination is essentially incompatible with the true democracy. Only if the peoples right to self determination is respected can a democracy society flourish<sup>15</sup>"

Opposing to what some actors says implementing Self determination is not a way to exacerbate conflicts but a real way to give solutions to quit a lot of non resolved conflicts. We must remember that according to the UN Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States, The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitutes modes of implementing the right of self-determination by that people". The essential requirement is that "the outcome corresponds to the free and voluntary choice of the people concerned<sup>16</sup>".

So there is not one prescribed outcome for this right and we would have to understand its implementation as a process rather than an outcome. As Michael Van Walt van Praag, recognized in the Report and analysis of the Conference for the implementation of the right to self-determination as a contribution to conflict prevention of UNESCO, "self determination means simply that human beings, individually and as a group should be in control of their own destinies and that institutions of government should be devised accordingly<sup>17</sup>".

Self determination is based on the idea of democracy, understood as the right to choose one's rulers and to participate in decision-making. In being on control over its own destiny. As all rights it is not absolute and its implementation needs to take in account others and other rights not to be damages. That means also that the implementation of this right needs of dialogue and negotiation so that its implementation does not damage at all other rights.

But it is clear that understanding this right as a democratically tool, as the rights of citizens to decide by democratic means about their future, it become also an instrument for peace, an instrument for the solution of conflicts. Because peace, security and stability to exist need to be based on the consent of the people, on the mutual respect and mutual benefit.

On that sense the Canada Supreme Court by linking democratic rights and constitutional obligations acknowledged that after a clear expression of a clear majority of Quebecers that they no longer wish to remain in Canada negotiations would have to follow on the issue of secession and suggested that the outcome of any negotiated settlement would be step in the direction of amending Canadian constitutions<sup>18</sup>. Along with the substantive criteria it seems essential to consider suitable procedures –

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<sup>14</sup> T.Frank .The emerging Right to democratic governance (1992) AJIL 46, 52

<sup>15</sup> R Stavenhagen, Self determination right of democracy In D.Calrk and R wiliamson, eds. Self determination international perspectives /NY S. Martin Press 1996

<sup>16</sup> ICJ advisory opinion on Western Sahara

<sup>17</sup> *Conference for the implementation of the right to self-determination as a contribution to conflict prevention of UNESCO*

<sup>18</sup> Supreme Court of Canada: Reference Re Secession of Quebec, reprinted in 37 ILM 1340 (1998)

weighted majority in favor of secession and waiting period between secessionist referenda for example as well-. The need to clarify both substantive and procedural criteria for determination of the validity of secessionist claims is paramount.

Finally as Judge Ammoun in the separate opinion in his advisory opinion of 1971 in Namibia case said: "indeed one is bound to recognize that the right of peoples to self determination before being written into charters that were not granted but won in bitter struggle had first been written painfully with the blood of the peoples in the finally awakened conscience of humanity. If any doubts had remained on this matter (of the right to self determination) in the mind of the states members of the united nations, they would not have resolved to proclaim the legitimacy of the struggle of peoples and more specifically the Namibian people to make good their right to self determination. If this right is still not recognized as a juridical nor mind the practice of a few rare states or the writing of certain even rare theoreticians, the attitude of the former is explained by their concern for their traditional interests and that of the latter by kind of extreme respect for certain long entrenched postulates of classic international law."

## **2.- BASQUE PEOPLE A PEOPLE ENTITLED TO SELF DETERMINATION.**

### **2.1.- Basque people a People (self affirmation, self definition and self delimitation)**

It is clear on that sense that Basque people would be a people entitled to self determination if it fulfills the objective and mainly the subjective criteria considered necessary to understand a group or a collectivity as a people. Basically there is not doubt on the fact of Basques being a people on its plain sense. Just having a look to main dictionaries and encyclopaedias in the net we can find clear definitions of Basques being a people.

- Encyclopædia Britannica

BASQUE "member of a people who live in both Spain and France in areas bordering the Bay of Biscay and encompassing the western foothills of the Pyrenees Mountains. In the late 20th century probably about 850,000 true Basques lived in Spain and 130,000 in France; as many as 170,000 Basques may live in emigrant communities outside Europe, mostly in South America and the United States".

- The Columbia Encyclopedia, Sixth Edition | 2008 |

BASQUES , "people of N Spain and SW France. There are about 2 million Basques in the three Basque provs. and Navarre, Spain; some 250,000 in Labourd, Soule, and Lower Navarre, France; and communities of various sizes in Central and South America and other parts of the world. Many preserve their ancient language, which is unrelated to any other tongue. They have guarded their ancient customs and traditions, although they have played a prominent role in the history of Spain and France. (...)

- The Oxford Pocket Dictionary of Current English | 2009 |

Basque / bask/ • n. 1. a member of a people living in the Basque Country of France and Spain. Culturally one of the most distinct groups in Europe, the Basques were largely independent until the 19th century. 2. the language of this people, which has no known relation to any other language. • adj. of or relating to the Basques or their language.

Basques A people living mostly in the Basque territory ("Euskadi") which is situated along the western Pyrenees and the eastern end of the Bay of Biscay. Since 1514, its (smaller) northern part has been part of France, while its southern part covers today's Spanish provinces of Álava, Guipúzcoa, Navarra, and Viscaya. Cut off by the mountains from outside culture and population migrations before the tenth century, Basques kept their culture and their language, which is not related to any other language in the world. The distinctive Basque culture was recognized by the rulers of Castile until the nineteenth century, when the Basques' privileges were removed by the Spanish court. However, the country's wealth of iron ore meant that, except for Catalonia, it was the only Spanish region where industrialization started before the twentieth century. Consequently, it developed into one of Spain's richest regions, which was conducive to the resurgence of Basque nationalism.

In the Spanish Civil War, it remained loyal to the republican Popular Front government, for which it suffered extensively under Franco, who subsequently

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discriminated against the Basque population and forbade the use of their language. In response, a guerrilla organization, ETA (Euzkadi ta Azkatasuna, 'Basque Territory and Freedom') was formed in 1959 to gain independence by military means. After Franco's death the Basques received extensive autonomy, and the first Basque Autonomous Parliament and President were elected in 1980. From that date, the Basque government was formed by the moderate Basque Nationalist Party (PNV, Partido Nacionalista Vasco/ Euzko Alferdi Jeltzalea), which tried to extend the province's already extensive autonomy. The Basques received powers over taxation, the police, energy, education, and culture. Nevertheless, ETA had become too committed to the principle of full independence, and thus continued its terrorist campaign regardless of the political concessions granted by the Spanish government. Since 1970, ETA has carried out over 800 assassinations. In 1998, it declared an unlimited ceasefire to promote a political solution to the conflict. A year later, however, in late 1999, the organization resumed its campaign of violence. The brutality of ETA led to a decline in popular support for its political arm, as the Herri Batasuna ('United People') gained but seven out of 75 seats in the 2001 regional elections.

- World Encyclopedia. 2005.

Basques Indigenous people of the w Pyrenees in n Spain and sw France, numbering c.3,900,000. Their language is not related to any other European tongue. Throughout history they have tenaciously maintained their cultural identity. The kingdom of Navarre, which existed for 350 years, was home to most of the Basques. After its dissolution in 1512, most Spanish Basques enjoyed a degree of political autonomy. This autonomy was revoked in 1873, and Basque unrest followed. Some local autonomy was restored in 1978–79 Basque separatists (ETA) continued to agitate for an independent state. In 1998 ETA announced a cease-fire and opened negotiations with the Spanish government.

- Oxford Dictionary of World History | 2000 |

Basque A member of an ethnic group inhabiting the western Pyrenees on both sides of the French-Spanish border; this region is known as the Basque Country. The Basques possess a distinctive culture and language, perhaps the result of their relative isolation from the rest of Europe until comparatively recently. It has been suggested that their ancestors migrated to Europe from the Caucasus about 12,000 years ago and about 5000 years ago moved to the Basque country. Although the Basque country is divided between France and Spain, the Basques have maintained an identity separate from both states. From the 14th century onwards the Basques were renowned for their fishing and whaling skills. Basque culture underwent a revival in the late 19th century, which ensured its continuance into the 20th century. During the SPANISH CIVIL WAR, the Basques supported the Republic; in reprisal, German aircraft acting on behalf of FRANCO's Nationalists destroyed the Basque town of Guernica in 1937. Under Franco's regime, concerted attempts were made to suppress the Basque culture and language. In response to what they consider continuing efforts to stifle their culture by the imposition of centralized authority, many Basques in Spain have campaigned for an independent Basque state, through the nationalist party Herri Batasuna or its violent military wingETA

## 2.2.- A people with a defined history

History of Basque People is also a well defined history. According to The Columbia Encyclopedia, Sixth Edition | 2008 |

The origin of the Basques, almost certainly the oldest surviving ethnic group in Europe, has not yet been determined, but they antedate the ancient Iberian tribes of Spain, with which they have been erroneously identified. Genetically and culturally, the Basque population has been relatively isolated and distinct, perhaps since Paleolithic times.

Before Roman times, the Basque tribes, little organized politically, extended farther to the north and south than at present. But the core of the Basque Country resisted Romanization and was only nominally subject to Roman rule. Christianity was slow in penetrating (3d-5th cent.). Once converted, the Basques remained fervent Roman Catholics, but they have retained a certain tradition of independence from the hierarchies of Spain and France.

The Basques withstood domination by the Visigoths and Franks. Late in the 6th cent. they took advantage of the anarchy prevailing in the Frankish kingdom and expanded northward, occupying present-day Gascony (Lat. Vasconia), to which they gave their name. The duchy of Vasconia, formed in 601 and chronically at war with the Franks, Visigoths, and Moors, was closely associated with, and at times dominated by, Aquitaine. In 778 the Basques, who had just been reduced to nominal vassalage by Charlemagne, destroyed the Frankish rear guard at Roncesvalles, but they subsequently recognized Louis the Pious, king of Aquitaine, as their suzerain.

The duchy of Gascony continued, but the Basques early in the 9th cent. concentrated in their present habitat and in 824 founded, at Pamplona, the kingdom of Navarre, which under Sancho III (1000-1035) united almost all the Basques. Although Castile acquired Guipúzcoa (1200), Álava (1332), and Vizcaya (1370), the Castilian kings recognized the wide democratic rights enjoyed by the Basques. Guernica was the traditional location of Basque assemblies.

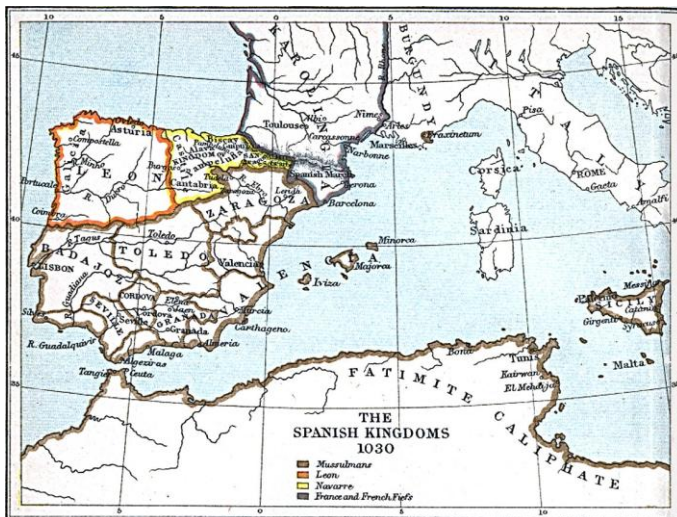
With the conquest (1512) of Navarre by Ferdinand the Catholic, the Basques lost their last independent stronghold. After the 16th cent., Basque prosperity declined and emigration became common, especially in the 19th cent. Basque privileges remained in force under the Spanish monarchy, but in 1873 they were abolished because of the Basques' pro-Carlist stand in the Carlist Wars. To regain autonomy, the Basques supported nearly every political movement directed against the central

authority.

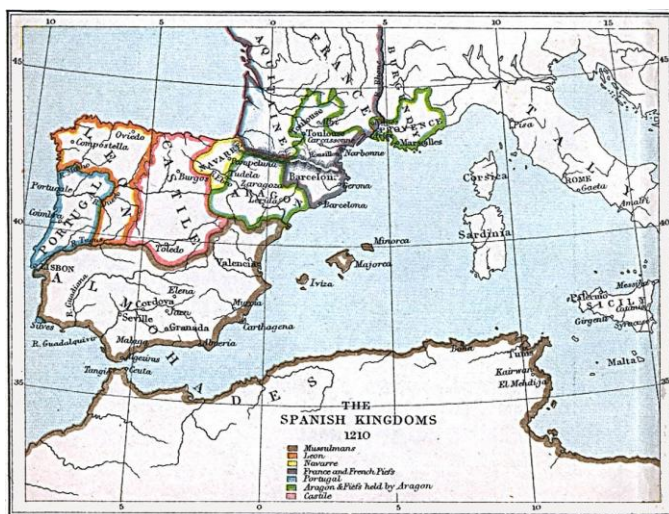
In the civil war of 1936-39, the Basque provs., not including Navarre, defended the republican government, under which they had autonomous status; the Basques of Navarre supported the Franco forces. The Franco government, once in power, for the most part discouraged Basque political and cultural autonomy, but Basque nationalism retained its appeal to the Basques, and they continued to wage their fight for self-determination.

### 2.3.- A people living in a well defined territory.

Basque country territory it has also been well determined in history, even does not mean has always been the same. Basically until the 1512 conquest it has depended on the Navarra's kingdoms development. Later on has had a clearly defined territory.



1030



1210





1360



1600

Atlas to Freeman's Historical Geography



Map of Spain in 1854 after the First Carlist War. It shows the areas where different law systems, tax frontiers and military power applied, although unified after the First Carlist War

Top (Title): "Map of Spain in which the territorial division is presented based on provinces grouped according to their common special laws".

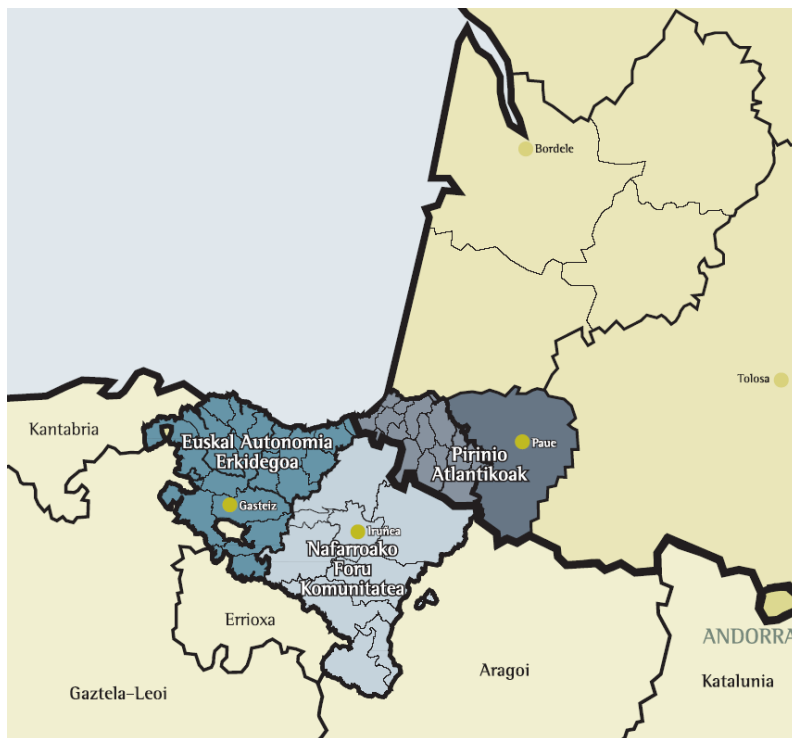
Orange-surrounded area "Uniform or Purely Constitutional Spain which comprises these thirty-four Provinces of the Crowns of Castile and Leon, equal in all economic, judicial, military, and civil branches". Former kingdoms of Castile, León and Granada.

Green-surrounded area "Incorporated or Assimilated Spain which comprises the eleven provinces of the Crown of Aragon, still different in the manner of contribution and in some points of private law". Crown of Aragón

Blue-surrounded area : "Spain of the Fueros", or approximately "Statutory Spain". Navarre and Provincias Vascongadas

Overseas: "Colonial Spain".

**FORMED BY SEVEN PROVINCES, CURRENTLY IS DIVIDED IN THREE ADMINISTRATIVE TERRITORIES**



## 2.4.- A people with a clear sense of being a people a nation

If we have a look to the surveys regarding to the self identification of Basque people we will see that those who fell themselves exclusively or basically basques are around the 48-50% and those who feel exclusively spanish/french or basically spanish/french are around -15 %, The rest feel themselves as basque as spanish.

### BASQUE SPANIARDS

**AND FRENCH. A NATION OF DIVERSE IDENTITIES** (Source: Basque Government EH Inkesta soziolinguistikoa 2001)

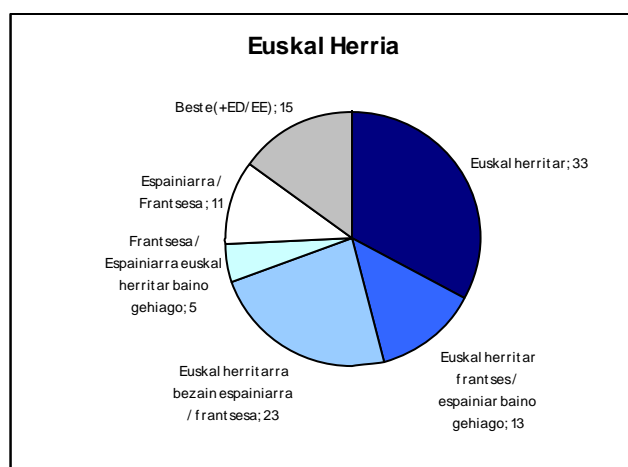
While many inhabitants of Euskal Herria identify themselves exclusively as Basques, others consider themselves Spanish or French, and yet other define themselves as both Basque and Spanish, or Basque and French. Feeling on this matter vary and show regional differences, but on the whole SELF-IDENTIFICATION as basques is widespread.

ONLY OR MOSTLY BASQUE: 50 %

ONLY OR MOSTLY FRENCH/SPANISH: 15%

AS SPANISH/FRENCH AS BASQUE: 23%

DO NOT KNOW/WANT TO ANSWER: %12

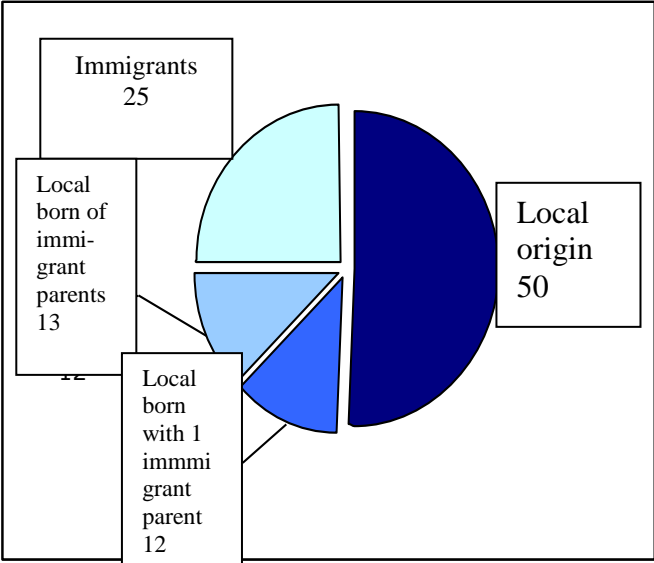


This is very interesting if we take in account the demographic strata of the baque country regarding to their origins : many of the basque country's citizens are not basque-born. Half of the population is of

immigrant origin, 25% were born outside the basque country and another 25% have foreing-born parents. Nowadys being that true, being 50% of population of spanish/french origin just a 10% of the population feel themselves only or basically spanish /french. This meant that ethnicity is not tha base for the division of political projects in Basque country, even of course is an element must be take in acount.

**DISTRIBUTION OF INHABITANTS OVER FIFTEEN, ACCORDING TO THEIR AND THEIR PARENTS' PLACE OF BIRTH 2001 (%)**

HALF OF THE POPULATION OF EUSKAL HERRIA IS OF IMMIGRANT ORGIN; 25% WERE BORN OUTSIDE THE BASUQE COUNTRY AND ANOTHER 25% HAVE FOREIGN-BORN PARENTS. MOST IMMIGRANTS ARE FROM EUROPEAN UNION COUNTRIES, PARTICULARLY SPAIN AND FRANCE. IN RECENT YEARS OVER 100.000 INHABITANTS NOW COME FROM SOUTH AMERICA AFIRCA AND OTHER PARTS OF THE WORLD.



Source: Basque Government EH Inkesta soziolinguistikoa 2001.



## 2.5.- History a debated issue

Basques being a people, one of the core debates on Basque and Spanish politics is regarding the historical relationship between the Basque territories and Spain and its development.

In that sense there is no unanimous agreement when it comes to determining the reasons for the so-called Basque conflict. According to different sources, it is either a long conflict with historical roots, an instrument of Basque nationalist politics, an attempt to impose a privilege, or evidence of the state's obstinacy. Whichever of these may be the case, an understanding of the historical relations between the Basque provinces and the Spanish and French states is indispensable in order to explain the present conflict.

### Historical roots of the conflict

The emergence of Basque nationalism in the early 20<sup>th</sup> century goes back to historical divisions and the political-legal relations between the Basque provinces and the Castilian crown. Whereas Basque institutions established their origin in a remote past, pre-dating the Castilian crown, the latter declared that they derive from royal power.<sup>19</sup>

The bloody conquest and annexation of the Navarre crown by the Castilian crown during the 16<sup>th</sup> century was followed by social riots that called the institutional power, and sometimes clearly the central power, into question.

In the aftermath of the 1789 French Revolution, the suppression of pre-revolution Basque institutions, and changes in local government regimes, were countered by Basque protest.

In the peninsular Basque Country,<sup>20</sup> throughout the 19<sup>th</sup> century the Carlist Wars pitted the nobility and urban bourgeoisie against the peasants, and the liberalist model against traditional forms of government preferred by the peasants.

The defeat of the Carlist party led to the creation of a wide movement for the restoration of the *fueros* (charters compiling local or regional laws), and their ultimate suppression is remembered in the literature as one of the saddest moments of Basque history.

Finally, another decisive event which marked the history of the Basque political conflict was the military uprising of Franco, the subsequent war and repression and a forty-year dictatorship. The public accusation of Biscay and Gipuzkoa as being 'traitor provinces' because of their pro-separatist positions was the clearest example of this heritage of confrontation between the state and the Basque Country.

Historically, we can thus assert that some major historical events have brought Basque institutions into conflict with Spanish (and French) institutions. Even though those conflicts, partly

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<sup>19</sup> One prominent representative in this long-standing debate, on the pro-Castilian side, was J.A. Llorente; the answer came, above all, from Francisco Aranguren (see Fernández Pardo, 1990).

<sup>20</sup> The term 'peninsular Basque Country' refers to southern territories under Spanish sovereignty whereas the term 'continental Basque Country' refers to northern provinces under French legislation.

embedded in a European cycle of social unrest, do not follow a consistent nationalist logic, they remained in the Basque memory and became a direct breeding ground for the rise of nationalism later on.

### The national conflict: historical and language confrontation

The emergence of Basque nationalism in the late 19<sup>th</sup> century, mainly in Biscay and Gipuzkoa, was based on a reinterpretation of history prominently put forward by Sabino Arana, who founded the Basque Nationalist Party (PNV) in 1895 and was the father of Basque nationalism as a movement.

This is not to suggest that his interpretation was unfounded in historical facts, but simply that – as with any growing nationalist movement be it a nation-state or stateless nationalism – his ideas were presented with a certain slant.

Basque nationalism built an epic of the Basque people on the basis of their military victories and defeats, historic institutions, popular revolts, etc. Everything was re-contextualised, with the purpose of showing a territorial unity in the past that must be continued into the future. Once this purpose had been stated, the annexation of Navarre by the Castilian crown, the social revolts of 17<sup>th</sup>, 18<sup>th</sup> and 19<sup>th</sup> centuries, the loss of Basque institutions after the French Revolution, the Carlist Wars, the loss of the *fueros* and the Spanish Civil War provided the material with which the Basque nationalist movement (like all nationalisms) made its interpretation of the conflict. Even though the nationalists themselves used several different interpretations of the historical facts, they were all pursuing the same aim: to stress historical arguments justifying the Basque people's right to an independent state.<sup>21</sup>

Apart from historical arguments, Basque nationalism also had economic, social, political or territorial reasons to justify its need for an independent future without the Spanish and French states. Racial or anthropological factors have more recently been replaced by the cultural argument.<sup>22</sup>

Today, the Basque language is in decline, and this is largely due to the assimilation policy developed by the Spanish and the French states. In this context, total political sovereignty is seen as being the only way to assure the future of the Basque language and culture, as any language maintenance policy developed by the autonomous or regional Basque governments would be undermined, or rendered far less effective, by the nation-state's efforts to promote the language which they have declared to be the official national one.<sup>23</sup>

Other arguments are related to the impossible and repressive relationship among Spanish state and basques. Taking in account the repressive history the only way to resolve this is considered to separate from this state.

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<sup>21</sup> The predominant version in the earlier wave of nationalism asserts that the Kingdom of Navarre and the other Basque territories had their own laws and, through different paths (convenience pacts, monarchic unions), were included in the kingdoms of Spain or France. More recently, another nationalist trend highlights that the union of Basque territories with Spain was a matter of conquest. In the first case, it is argued that Basque territories would have the full right to demand separation, if they wanted to, in order to go back to a situation they had previously been in, given that the union had been a matter of convenience and had taken place against a background of independence. In the second case, it is argued that the union with Spain has never been desired, but imposed by force, so it is justified that the defeated party should be able to recover their original institutions.

<sup>22</sup> The race factor was put forward by Arana (1980) and Ibero (1979). The theory of Federiko Krutwig (Sarrailh de Ihartza, 1979) bridged the gap towards the current prevalence of the language factor.

<sup>23</sup> The comparatively late development of Basque nationalism in the continental Basque Country is the main reason why its discourse is much more based on and preoccupied with language and culture than in the peninsular Basque Country, as the Basque language there is in a particular state of decline.

Certainly, language and history are not the only arguments used by Basque nationalists. Together with these, there are other strong reasons for Basque nationalism, ranging from economic ones, such as preventing leakage of Basque wealth, passing through a long history of repression and harassment to national or romantic reasons, such as having their own national sports teams or the desire to see all the Basque territories politically united. All of these help to explain the continuation of the conflict, as do the respective discourses of the Spanish and French states, to which we will now turn.

#### The Spanish and French states facing the Basque conflict: the theory of privilege

From the beginning, the position of both states was to completely deny the conflict, either by omission or by de-legitimising it, for instance by stating that Basque claims corresponded to privileges that the state could not accept under any circumstances.

The controversy over the characterisation of Basque claims as being 'privileges' is one of the most highly debated themes in the literature on the Basque conflict. Proponents of Spanish and French nationalism have argued in one of two ways: either by denying the claim completely because the Basques have no right to specific privileges and it would be a comparative disadvantage for other regions; or by reducing the issue to a mere decentralisation claim, which should partly be valid for other regions as well, and later opposing the national nature of the claim, because that would mean a comparative disadvantage for other regions.

The first position has been the predominant one. Defenders of Castilian unity argued in their writings from the 17<sup>th</sup> to 19<sup>th</sup> centuries that the fueros of the Basque provinces were a reward from the king and therefore were subject to the royal will. Now that the middle ages and their territorial dispersion had been left behind, the new Castilian kingdom should be based on unity both in the territorial and political-legal spheres.

Following the French Revolution, any attempts to preserve the old institutions and customs against the uniformity movement were constantly accused of trying to maintain the privileges of the aristocracy. Since the sovereign was no longer the king but the people, legal-political privileges were considered an offence not to the royal desires, but to the equality of all the people. Under this principle, France denied the very existence of the Basque Country by denying it any way of forming its own institutions.

The argument of a unitary state and the equality of all its citizens, which is still used nowadays, leaves little room for conflict resolution, since it makes two assertions difficult to resolve: firstly, that all French citizens are compulsorily French and all Spanish citizens are compulsorily Spanish; and secondly, that there cannot be legal differences between Spanish citizens or between French citizens.

The second idea regarding particular regional rights is more recent, and it is a variation of the first one. It is specially included in the current Spanish constitution (1978), where Spain is declared to be a state of autonomies. This means that all regions in Spain must belong to an autonomy, regardless of their size. A slight difference is accepted between the so-called 'historical autonomies' (four, among them the Basque Country) and the rest, but minimum requirements are established for all autonomies, and above all, there is an upper limit that no autonomy can surpass: the sovereignty is based on the Spanish nation and it is indissoluble, so no one autonomy can claim more powers than those given by the state.<sup>24</sup> The state of autonomies, as it is constructed, would ensure harmony between the Spanish

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<sup>24</sup> A good example for this is the Spanish parliament's opposition to even discussing the New Autonomy Proposal approved in the Basque Autonomous Community Parliament, which was completely rejected on 1st February 2005.

regions and every attempt by the historic autonomies to achieve greater power represents an attack on such harmony and, therefore, would be poorly received by the other autonomies, which would feel a comparative disadvantage.

Either way, the theory of privilege turns out to be very sterile, because who would accept the fact that one party may have some privileges that the others do not? Agreements may only be reached by overcoming this conception of territorial differences concerning legal-political matters, and the predominance of this way of understanding the conflict has only served to drag it out further.

## **2.6.- Basque people a people entitled to Self determination: The right to self determination demand in Basque modern history (self organizing and self management)**

### **2.6.1.-The right to self determination in the early XX century**

The right to self determination has been a concept developed in Basque country from different political and theoretical backgrounds. This right to self determination has been a demand not only of nationalist forces but also left forces.

In the nationalist forces, historically the right of Basque country to independence was at its first step seen as a right based on the past sovereignty which was defeated during the XIX century Carlist wars. Basques "fueros", would be the real component of the sovereignty, this ancient home rule system would mean that Basques were sovereign before the XIX century and then what was required was the return to this scenario, which actually would mean independence.

During the beginning of the XX century, to this approach the Nationalist party would add the Wilsonian perspective and in that sense would defend this position and the principle of nationalities presenting a case to the League of Nations, and participating on the Congresses of Nationalities. The Basque nationalist party will show a clear commitment and position in favour of this right to all peoples. In that sense the support to Irish republican struggle, to the Rif (Marocco) rebellion, the Catalans, the checks ....will show this understanding of the right to self determination as a right concerning all peoples.

As development of this right to self determination, during the years 1918-1920 a strong movement asking for home rule will be developed. First time since the XIX century demand for reintegration of "fueros", the concept of home rule (autonomy) for the 4 provinces will develop. These attempts would not succeed and the 20's Primo de Rivera dictatorship would mean the banning of the nationalist party and its social clubs as well as arrest, imprisonment and exile for several members of the party

At the same time at the beginning of the XX century, the communists in Basque country would defend the Leninist view of the right to self determination. The Basque communist party would strongly defend the right to self determination of Basque country during the 20's and 30's newspaper on its daily newspaper "Euskadi Roja". During the 20's Primo de Rivera dictatorship, an attempt to an armed rising would be discussed among the Catalans (Maciá) anarchists, the Komitern and some members of the outlawed Basque nationalist party (Gallastegi and others). It would be the position of Komitern that Catalans and Basques would be granted independence.

The Socialist party in Basque country will be totally opposed to the national question and the idea of nationalities since its formation at the end of the XIX century. There will be a minority position, in the 10s and 20 in favour of the principle of nationalities and the Wilsonian perspective. At state level and after the IWW and in the context of the Russian revolution, the PSOE will approve in its XI Congress the idea

of a Republican Confederation of Iberian Nationalities” promoted basically by Catalan socialist, and which will be opposed by the Basque representatives.

The first progresist split in the nationalist movement, Basque Nationalist Action will defend also the right to self determination not so much based on historical reasons but in progresist perspectives, based on Wilson liberal principle of nationalities.

Basques forces would support the Republic, (both nationalists and left ones) and Basques will demand an autonomy during the republican period of time. This will be granted by the Republic once the civil war started and an autonomous government practically independent will be formed in Basque territories not still on fascist hands. An autonomous government with its own army, international relationship, passports, judiciary system, police and most of the requisites to be considered a semi-independent government.

### **2.6.2.-The right to self determination during the Franquist period.**

Once the Basque Republican Government was defeated it flight to exile. There the Basque political forces will continue on the opposition to the franquist regime and on the defence of the right to self determination. On that sense there will be a shift on the historical position of the basque socialists who will defend the right to self determination of the Basque people.

Both Spanish Communist and Socialist will recognized during the exile and the struggle against franquism this right to self determination.

In the 70's Dolores Ibarruri had declared herself in favour of the right to self determination in a report presented to the Central Committee.

The PSOE also will defend in the 8<sup>th</sup> conference the recognising of the right to self determination of Iberian nationalities. In the 70's will march in basque country in favour of this right.

In the nationalist forces the 50s formed Euskadi Ta Askatasuna will defend the right to self determination also. Basically in this movement two main ideological components will be the base for its defence of this right. On one hand the so called culturalist of the movement, basically will defend the right to self determination from an ethnic perspective. Basque country is an ethnic group, which main character is the language and as an ethnic group is entitled to self determination. The second group will develop its position basically on the bases of the third world liberation struggles, and the understanding of both national and social liberation as faces of the same coins. Basically very influenced by author like Fanon, Troung Minh and others their position will be backed with the Aljer declaration of the right of peoples. ETA and the abertzale left will be very critical with the communist position about the Basque national question because of their tactical approach to the national question and the considering of the state as the struggle frame and the class as the main contradiction instead of the national one.

In the 60 and 70 all the new left groups .which will be formed at that time, troskyst, maoist...will defend also this right but on this case also the debate about the main contradiction and the frame of struggle will be the basic debate.

### **2.6.3.-The Spanish transition- The second defeat of the Republicans. Self determination denied the land divided**

In the course of elaborating a new constitution after Franco's death, new political alliances were created and some of the opposition parties changed their position regarding the Basque Country to collaborate

with the regime. As a result, Navarre was split from the Basque project and the abertzale left remained the only and thus isolated force practically opposed to the constitutional project. Its alternative proposal defended by the newly created electoral coalition Herri Batasuna, failed to impact on the new constitution, eventually reinforcing the continuity of the conflict.

According to the then PSOE spokesman Txiki Benegas, “in the months of 1977, there was a change in the strategy of all parties, including the communist party. The strategy of a democratic break, suggested as a sudden and radical change of the previous regime, turned into a negotiation process of pressure and tension, which was called an agreed democratic break”. Once the referendum regarding the Reform Law had been held, the Suárez government called for general elections in June 1977. The political forces that had accepted the reform (i.e. PSOE, PCE and PNV) were legalised, and two new parties were also established representing the state’s centre and right wing: the Union of the Democratic Centre (UCD) and the Popular Alliance (AP).

Ahead of the elections, the PNV and the PSOE committed themselves to forming an Assembly of Basque Members of Parliament that would present a project of pre-autonomy to be discussed with the members of the central government. After the election, forty-two members of parliament gathered in Gernika, representing among others the PNV, the Basque Socialist Party (PSE, Basque section of the PSOE), and some representatives of the UCD; the right-wing representatives of Alava and Navarre did not attend. At the meeting, some objectives were settled: amnesty, the legalisation of political parties and the setting up of a self-government regime for the four Basque provinces. It was also agreed that representatives from the regional assemblies in each of the four Basque provinces would meet in a confederate council to develop a statute of autonomy, to be negotiated with the central government. The main problem occurred with Navarre, where the regional government was controlled by ultra-conservative forces.<sup>25</sup>

The Spanish government’s ambition to divide the Basque Country by splitting Navarre from the common project was confirmed in the next round of negotiations between the assembly negotiating commission and the representatives of the government. Thus, Xabier Arzalluz, president of the PNV, remembered in 1987 that at that time, the forces in power thought that integrating Navarre into Euskadi would have made that territory big enough and would have provided it with the necessary international borders to be able to form an independent Basque state in the future, a scenario the Spanish government wanted to prevent. The central government pressured PSOE leaders to change their party’s historical position and to support the division of the four provinces, which they finally accepted as part of their attempt to become an alternative to the governing power. As a result, Navarre was split off from the common Basque project.

#### The constitutional process and the creation of Herri Batasuna

After the elections of 1977, the forces of the patriotic left refused to participate in the process of building a new Spanish constitution, as they deemed it impossible that this could lead to an appropriate recognition of the nation. In particular, ETA rejected a series of constitutional proposals which it considered to have been imposed by the armed forces: the monarchist reform, the adoption of the capitalist system, the lack of freedom of opinion and expression, the continuation of Francoism without Franco, the denial of the right for the peaceful self-determination of nations, the anti-terrorist law, the

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<sup>25</sup> The Spanish right wing opposed integrating Navarre into the Basque statute, with the support of Navarre’s right wing. Members of the UCD of Navarre refused to participate in the project. Disagreeing with that decision, 14 local parties, including the PSOE, sent a document to Adolfo Suárez to condemn the UCD’s attitude and to clarify that those parties representing 60% of the votes considered such an attitude to be a threat to peace and coexistence in Navarre and the rest of the Basque Country.

division of Euskadi (Navarre and the Basque provinces), the mandatory nature of the Spanish language, the intention to make the Basque language disappear, and the general lack of national freedoms. Consequently, ETA decided to oppose the constitution with all its forces.

At the end of 1977, the political organisations created around KAS, and some independent ones (such as the Basque Socialist Convergence (ESB), ANV or EIA), formed what was called the Mesa de Alsasua (Table of Alsasua), in order to face possible local elections and support the creation of a statute of autonomy for the four Basque provinces. It further committed itself to fight for a free, united and Basque-speaking Euskadi. In April 1978, the parties ESB, ANV, the Socialist Revolutionary Popular Party (HASI) and the Party for the Revolution of Left Workers (LAI), the majority of the independent mayors, and other independent people created the Herri Batasuna (HB) coalition. Its strategic objectives were to achieve the independence of the country from the left, and to implement the KAS alternative. A new version of the KAS alternative was published, enumerating five essential conditions to be negotiated in order for ETA to give up the armed struggle: amnesty for all Basque prisoners; the legalisation of pro-Basque-independence parties; the withdrawal of the Spanish police force from Helgoalde (the Basque Autonomous Community and Navarre); Madrid's acceptance of the right to self-determination and the inclusion of Navarre within the new autonomy statute; and an improvement of basic living conditions for the working classes. Within this framework, the abertzale left had thus created a consistent political body that united independence and socialism as a political project, with the new KAS alternative as a tactical claim and the fight against reform as a line of intervention.

In April 1978, the Basque nationalist forces eventually rejected the new constitution as it denied national rights and defined the function of the armed forces as the defence of national unity.<sup>26</sup> Whereas Herri Batasuna<sup>27</sup> took position against it, the PNV and other minority parties promoted active abstention. As a result, the referendum held on 6<sup>th</sup> December 1978 revealed that the constitution was only supported by 34.9 % of the electorate in the Basque Country; in none of the four provinces did the support reach 50%.<sup>28</sup> The Spanish constitution was supposed to be the basis of the new Spanish state, but it was not supported in the Basque Country.

#### Conclusions: unfinished business

The new model imposed by the state sought approval in Western Europe and was promoted as the key to definitive integration into the international community. But there was one main aspect that the reform did not solve: the Basque conflict. As the new constitution had been formed without the consensus of the Basque people, it did not have legitimacy and was disputed by Basque pro-independence forces.

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<sup>26</sup> Article 2 of the constitution states that: “*La Constitución se fundamenta en la indisoluble unidad de la Nación Española...*” (The Constitution is based on the indissoluble unity of the Spanish Nation). Article 8 further states that: “*Las fuerzas armadas ...tienen como misión garantizar la soberanía e independencia de España, defender su integridad territorial y el ordenamiento constitucional*” (The mission of the armed forces ... is to guarantee the sovereignty and independence of Spain and to defend its territorial integrity and the constitutional order).

<sup>27</sup> At the following elections for the Spanish parliament, Herri Batasuna obtained 172,110 votes, where it decided not to participate in the parliament. It also obtained 211,000 votes at the local elections, becoming the second largest force in the country, with more than 280 councillors. The political and institutional will of the patriotic left had, thus, taken a concrete form.

<sup>28</sup> In Navarre, active abstention reached 33.42 % and 12.63% voted against the constitution. In Gipuzkoa, active abstention reached 56.55% and 12.15% voted against. In Bizkaia, active abstention reached 56.6% and 9.48% voted against, and in Araba, active abstention reached 40.7% and 11.37% voted against. By comparison, in the whole of Spain, 87.79% voted in favour and 7.91% opposed it, while abstention reached 32.33%.

History has shown that there were additional problems. The Spanish transition, which was seen as a model for some international actors, was in fact a compromise between a strong party (the fascist regime) and a weak opposition. The fascist regime's crimes were not recognised and criminals were not prosecuted, and an amnesty law wiped clean the slate of 40 years of criminal and fascist regime history. There was no investigation, nor truth, nor reparation and reconciliation process. Not a single change was effected in the main state powers like the army, police, secret services, justice, or media. Thirty years after the end of the Francoist regime, the children and grandchildren of those who lost the civil war and suffered repression and harassment for years are asking for truth, justice, and reparation. A very strong movement in the Basque Country is demanding to know the truth about the civil war and the repression of Franco's years (e.g. by searching mass graves), as well as the truth about the transition and the compromises adopted.

#### **2.6.4.- From a political principle to a democratic right and a tool to conflict resolution (current struggle for self decision and self organization)**

On the basis of the new Spanish Constitution and with the approval of the Basque Autonomy Statute and the Navarre Autonomy Statute, the autonomy regime was established in the Basque Country, along with other nations and regions (seventeen in total) which also approved their autonomies. However, right-wing parties, the state apparatus, and centralist sections of left-wing Spanish parties considered the power attributed to these autonomies to be too high. The old regime forces promoted a coup d'état attempt in 1981, which, although not completely successful, created a setback for the decentralisation process, crystallised in the Organic Law for the Harmonisation of the Autonomy Process (LOAPA).

The PSOE's arrival in government in 1982 did not bring any substantial changes with regards to the Basque conflict. On the contrary, in May 1982, before the general election, PSOE promoted "support for the Spanish democracy by recognising the need to intensify co-operation to fight terrorism" at the Socialist International meeting in Rome. In the PSOE Decalogue published two days after its electoral victory, it was stated that dialogue could only be used for surrender or repentance. From then on, the new government developed a triple intervention line in order to defeat ETA.

Firstly, police operations were reinforced, and the army started getting involved in the struggle against terrorism through the Rural Antiterrorist Groups (GAR) and the Quick Action Units (UAR).

Secondly, the state's counter-terrorism unit (called the Department of Information and Special Operations, Gabinete de Información y Operaciones Especiales) was reorganised. The government launched the ZEN Plan (Plan for the Special Northern Zone) as an element of its counterinsurgency struggle. It was based on international counterinsurgency handbooks, and lessons given to Spanish military experts at the School of the Americas. The appointed leaders of the antiterrorist struggle were well known for having been members of the Francoist regime. Shoot-to-kill policies and reported cases of torture increased<sup>29</sup>.

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<sup>29</sup> The practice of torture has been constantly denounced by detennies in Basque Country. According to the foundation Euskal Memoria in the period of time between 1959 and 2009 50.000 people has been arrested politically motivated. 10.000 of them have denounced to be tortured. The practice of torture has been recognised by several International organizations. See the Special Rapporteur Mr. Theo van Boven Report after his visit to Spain in 2004. E/CN.4/2004/Add.2. On the report he recognizes that "torture or bad treatment are not systematic in Spain, but the system, as it practised allows torture and bad treatment to take place, especially in the cases of people placed in incommunicado detention in relation to terrorist activities". I also expresses concern at "the high level of silence which surrounds this issue and the refusal of the authorities to investigate allegations of torture". See also Reports A/59/324, Amnesty International annual reports, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) reports (f.e.the Report the



Thirdly, the state also launched a dirty war against the Basque abertzale left. The death squads known as Antiterrorist Liberation Groups (GAL) were set up by officials of the highest bodies of the Spanish government and coordinated by the leaders of the counterinsurgency struggle.<sup>30</sup> GAL carried out operations to annihilate Basque refugees in Basque territories under French rule and significant political representatives of the abertzale left.<sup>31</sup> Para-police organisations and death squads were not new in the Basque conflict,<sup>32</sup> but GAL was a step forward in terms of organisation and operation. It had clear objectives, stable co-ordination and the order to disappear after fulfilling all of its functions. GAL's double objective was to punish the community of refugees and weaken the Basque patriotic left-wing activists, and force the French government to change its policy about Basque refugees and get more involved in the struggle against ETA. This latter aim was fulfilled after the French Home Ministry signed an agreement with their Spanish counterparts in June 1984 and started to extradite Basque activists.

The government started also using a dispersion policy with Basque political prisoners, instead of the previous policy of detaining all suspected ETA members in the same prison. Since then the dispersal policy has been promoted by all Spanish Governments. The policy of dispersal implemented by the French and Spanish states, whereby Basque prisoners are kept in jails far away from their country and prevented from contact with each other is an added punishment both for the prisoners have to travel hundreds, even thousands of kilometres every week to visit their loved ones for no longer than 40 minutes. Friends and relatives of the more than 735 prisoners kept in 88 jails travel every week, a media of 630 kilometres, or twenty times round the world, a distance longer than that between the earth and the moon. If we take into account that up to four people are allowed to attend a visit, we are talking of 2940 Basque citizens travelling to visits every week. Only 7 of the 735 prisoners are based in Basque Country located jails. Sixteen relatives has died in car accidents Turing this periodo f dispersal policy. The economic coast of each family visiting relatives isa round 19.650,00 euros. (see [http://www.etxerat.info/orokor.php?id\\_saila=14&lang=es](http://www.etxerat.info/orokor.php?id_saila=14&lang=es), basque prissoners relatives web page) This policy has been denounced by several international institutions. The UN Special Rapporteur on Torture Mr. Theo Van Boven in his report E/CN.4/2004/Add.2 compiled after his visit to Spain from October 5 to October 10, 2003, stated "that the assignation of Basque prisoners must take into account the maintenance of social relations between the prisoners and their families, in the best interest of the family and the social rehabilitation of the prisoner"

PSOE promoted also the idea of a "front for protecting democracy and peace", which was crystallised in the Madrid Agreement in November 1987 (which authorised the Spanish government to talk technically, but not politically, with ETA), and the Ajuria Enea Agreement<sup>33</sup> for the Normalisation and Pacification of Euskadi in January 1988, signed by Alianza Popular AP, [later known as PP] Centro

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Spanish Government on the visit to Spain carried out by from 22 to 26 July 2001), Committee Against Torture recomendations, (CAT/XXIX/Misc.3, 19th november 2002). (more info at [www.behatokia.info](http://www.behatokia.info))

<sup>30</sup> The Spanish government's involvement was proven when the former socialist Home Minister José Barrionuevo, the Secretary of State Rafael Vera, and members of the State Security Forces were sentenced to ten years in prison for kidnapping Segundo Marey, a French citizen, and for embezzlement of funds.

<sup>31</sup> In total, 29 assassinations committed between October 1983 and November 1989 were attributed to GAL. For instance, Dr. Santiago Brouard, president of HASI (People's Socialist Revolutionary Party), member of the National Board of Herri Batasuna, member of the Basque Parliament, and mediator in the talks held with the French Ambassador Pierre Guidoni, was assassinated in his own paediatric office. The last victim was Josu Muguruza, representative of Herri Batasuna in the Spanish Parliament, killed on the day before his speech in the parliament to present a new peace offer.

<sup>32</sup> Precedents included the Triple A, the Basque-Spanish Battalion, Spanish National Action, *AntiTerrorismo ETA* (ATE), etc.

<sup>33</sup> This agreement was named after the residence of the Basque Autonomous Government President.

Democrático y Social (CDS), EAJ-PNV, EE, PSE and Basque Solidarity (EA) (a split from EAJ-PNV) in the Basque Autonomous Community, with the objective of promoting the isolation of the abertzale left.

Nowadays all these operations would not be able to end with the pro independence left strength and an attempt to dialogue and negotiation was developed in Algeria between Spanish Government representatives and ETA members at the end of the 80s. But those talks did not succeed because the opposition of Spanish Government to enter on talk about the political solutions to the conflict.

### **The 1990 debate on Basque autonomous parliament**

On this context and after the process of Independence of the Baltic State a debate was developed in the Basque Autonomous Parliament regarding Self determination. This debate was consequence of the strong mobilizations developed during the Arjel talks and after in favour of self determination, mobilizations which were supported not only by abertzale left but also by other nationalist parties grassroots.

The debate developed showed again the different positions of nationalists and unionists. Being self determination basically from the unionist point of view a political goal and apolitical project not a right. And being a political principle and a right on the point of view of nationalist parties.

The result was that the Basque autonomous parliament accepted a non binding motion on that sense. The Basque Parliament at a full session on 15 February 1990 approved a "motion regarding the right to self-determination of the Basque People" (Official Gazette of the Basque Parliament, III Legislature, n.º B-IV-134-135, de 26.2.1990), which affirmed that the Basque People

*"have the right to self-determination", a right which "resides in the power of its citizens to freely and democratically decide on their political, economic, social and cultural status, either by creating a separate political framework or by sharing, in part or in full, their sovereignty with other peoples".*

### **The end of an era: Ireland Forum and the Lizarra-Garazi agreement**

By the middle of the 90's it was clear that:

1.- In the case of ETA and the abertzale left movement it was not possible to change the political scenario through exclusively a process of negotiation and talks between Madrid and ETA, being the role of Basque parties just to back this dialogue so that the KAS alternative would be pursued. It was understood that government was able to show the conflict as a mere conflict between the abertzale left and Spanish government, not a conflict between the Basques and the Spanish state. Government was also able with the policy of isolation to show the conflict in mere antiterrorist schemes. So on April 26<sup>th</sup> 1995, ETA announced the so-called "Democratic Alternative" (as a replacement for the KAS alternative). The Democratic Alternative meant a tactical readjustment to the new struggle approach suggested by the abertzale left. That would mean that both sides ETA and Spain have to respect a democratic process among the people and its representatives in Basque Country about the development of the right to self determination. ETA left on basque parties the negotiation about the political issues.

2.- For nationalist parties it was also clear that the Autonomies formed in 1978 Constitutional frame were not fulfilling their aspirations. The process of the autonomy model implementation was completely unsatisfactory. The LOAPA process, the difficulties for devolution of power which had to be on hand of autonomous government the constant appeal to the Constitutional Court and its centralist position, the development of the EU and the non participation fo the autonomies on power levels. At the end of 1996, the EAJ-PNV politician Juan Maria Ollora expressed in his work called "Una Vía Hacia la Paz" (A Way towards Peace) the need to pick up the self-determination concept with more strength, introducing this debate in the emerging globalisation process, and advocating the promotion of a content-related dialogue in Euskal Herria.

Hence, in 1994, the trade unions Basque Labour Union (LAB) and Basque Workers' Solidarity (ELA)<sup>34</sup> agreed also on a Basque labour relationships framework, and in 1995 they also agreed to join forces in the pursuit of the right to self-determination. As a consequence of these common work dynamics, on October 18<sup>th</sup>, 1997, ELA organised an event in Gernika where it solemnly stated the death of the Statute of Autonomy.

On this scenario a new understanding or definition of the right to self determination will start to be developed in Basque Country, a definition which basically define the right to self determination as a tool to deep on democracy and participation, and a tool to conflict resolution. There is gonna be on this term a shift on the definition being the demand basically presented as "the right of the basquese to decide about their future".

On that sense and on the bases of the Irish process a debate forum called "Forum of Ireland" will be organized in 1998, with participation of trade unions, social movements and basically nationalist and progressive parties (IU). As a consequence of that forum the Lizarra Agreement will be signed.

On that agreement the signatories will talk about a need for a negotiation process where it need to make democracy more profound in the sense that it gives the citizens of basque country the last word to decide the future, and the parties respect the decision. Basque Country must have the last word and make the decision.

### **Attempts to develop this concept of the right to decide.**

**On one hand** there was the proposals of Abertzale Left to resolve the conflict through dialogue and negotiation. The Anoeta proposal in 2004 will put on the table a twin track resolution process were basically on one track ETA-Government would talk about the armed consequences of the colflikt. And in other track political parties will try to settle an agreement which would respect the right to decide about Basque future. Batasuna presented on that sense a proposal for an statute for the four provinces with the right to decide as a model to overcome the conflict. The Anaitasuna proposal according to which there had to be developed a political process where we would pass from the current scenario of partition among the Basque Autonomous Community and Navarre to a common Autonomy statute which would have also recognised the right of the Basques to decide about their future. This new autonomy would be achieve through developing from current ones to this only one having to be accepted by the population of those two autonomies to pass to an only one autonomy for the four provinces.

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<sup>34</sup> The former was the trade union close to the abertzale left, while the latter was a trade union that had historically supported the autonomy model.

The position of Spanish government to this strategy shift since 1994 has been clear. Banning of parties, political movements social agents, closure of media. Everything with the objective of opposing the political development of abertzale left.

Since 2000, the Spanish government worked on a strategy to eliminate the pro-sovereignty dynamics by preventing the pro-independence left-wing from taking part in electoral politics. Based on a PP-PSOE "Pact for the Liberties and against Terrorism", agreed in December 2001, the government set about banning Batasuna so as to prevent its participation in the June 2003 local elections and the autonomous parliament election in Navarre. Without any qualms, on February 24, 2002, the Minister of the Interior and Vice-president Mariano Rajoy stated that "before the summer, the legal reforms that will promote the banning of Batasuna will be ready". In this way, the ad hoc and tailor-made character of the reform of the Political Parties Law passed on June 27<sup>th</sup> (Ley Orgánica 6/02 de 27 de Junio de Partidos Políticos) was clearly stated, whose exclusive objective was to leave the social sector represented by the patriotic left-wing out of Basque political life.

In August 2002, a three-year suspension against Batasuna was imposed on the grounds that the party was part of the "terrorist network" of the armed separatist group ETA. This measure of suspension was taken through a criminal procedure (Procedimiento Sumario 35/02 Juzgado de Instrucción Central num. 5 Audiencia Nacional) and not by constitutional procedures established in the Political Parties Law. Spain's right-wing government began seeking a permanent ban on the party in September, with the overwhelming support of the parliament in Madrid. Finally, the court approved the request to ban Batasuna according to the Political Parties Law in 2003 (STS, Sala art. 61, de 27 de marzo 2003). In addition, several lists of local candidates considered by the government to be Batasuna instruments to bypass its upcoming prohibition were banned from the local elections and the Navarre Regional Parliament election held on 26<sup>th</sup> June 2003.

It was the first time since the 1975 death of the dictator General Francisco Franco that a political party had been banned. Repression continued in following months. Egunkaria, the only newspaper written in Basque language, was closed down in February 2003 and its editors and directors – who afterwards reported having been brutally tortured – were arrested. The Basque Assembly Udaltzaria was also banned for being considered part of the "ETA complex", and a police operation against its members led to the arrest of several mayors and councillors of the country.

The attempts to negotiate and find a solution during the years 2005-2007 failed as it is well known. (more info in ..) and abertzale left representative trying to find a peaceful solution to overcome the conflict were arrested and sent to prison where they still are as Arnaldo Otegi spokesperson and chief negotiator of Batasuna.

**On the other hand** we have seen also the denial also to give any positive reply to moderate nationalist proposals: The new autonomy statute, and its denial by Spanish parliament

The so called moderate nationalist parties has also tried to develop the concept of this right to decide through the Basque Autonomous institutions, referred to the three provinces.

*2005 The Proposal for a new political statute of the Community of the Basque Country. REJECTED*

The proposal was announced by the former lehendakari (Basque region President) Juan Jose Ibarretxe in September 2001 before the Basque parliament's plenary of general politics and the contents of the proposal were made public in July 2003, after long term debate in commission. It was

officially presented on October 25 2003. The Basque Parliament's plenary approved on 2004 December 30 by (39 votes in favour to 35 opposed, and 4 abstentions).

According to what is established in constitutional law the proposal was sent on January 2005 to the Spanish Parliament to be debated and voted, being refused on February 1 by 313 votes against (PSOE, PP, United Left (Spain), Canary Coalition and CHA), 29 votes in favour (PNV, ERC, CiU, EA, Na-Bai and BNG) and 2 abstentions (IC-V), without any real debate: It was brutally rejected in a plenary.

The three pillars of the new proposal were:

- a) The Basque people has its own identity
- b) ... It has the right to decide its own future
- c) ... Based on respect for the decisions taken by citizens from different legal and political backgrounds, within the existing framework. Respect for citizens' decisions in the Basque Autonomous Community, Navarre, and Iparralde (Pays Vasque)

The instruments:

- The Additional Disposition of the Statute of Gernika
- The First Additional Disposition of the (Spanish) Constitution.
- The Second (Repealing) Disposition of the (Spanish) Constitution.  
"To the extent that it they may conserve some effect, the Royal Decree of 25 October 1839 is considered repealed insofar as it may affect the provinces of Alava, Gipuzkoa y Bizkaia.  
  
In the same terms, the Act of 21 July 1876 is considered definitively repealed".
- The International Covenant on Civil and Political Rights of 19 December 1966.  
Ratified by the Kingdom of Spain, through instrument of ratification dated 13 April 1977 and published in Official State Gazette number 103 of 30 April 1997.
- The International Covenant on Economic, Social and Cultural Rights of 19 December 1966.  
Ratified by the Kingdom of Spain, through instrument of ratification dated 13 April 1977 and published in Official State Gazette number 103 of 30 April 1997.
- The democratic legitimacy of the will of Basque society, expressed through a referendum and articulated through its representative institutions.

The main content

- 1) The legal recognition of basque national identity and the right to decide on its own future
- 2) Freedom of relations between the Territories of the Basque Autonomous Community and the Autonomous Community of Navarre

- 3) The capacity to establish relations with the Basque Territories of Iparralde, located in the French State
- 4) The setting up of an autonomous Basque judiciary
- 5) Guarantee the political institutionalisation of Euskadi
- 6) Preserve basque cultural identity
- 7) Develop own labour, economic and social protection system
- 8) Guarantee the administration of natural resources and infrastructures
- 9) The establishment of a bilateral system of guarantees with the Spanish State that prevents the unilateral modification of the Pact
- 10) Have own voice in Europe and in the world
- 11)

A two-question non-binding consultation or referendum in the Basque Autonomous Community was scheduled for 25 October 2008. The vote call was appealed by the Spanish government and eventually overturned by the Constitutional Court of Spain on 11 September 2008, before the vote's scheduled date..

The referendum-like vote was announced on 28 September 2007 by Juan José Ibarretxe, with the support of the three party coalition that made up his Government, namely the Basque Nationalist Party (Ibarretxe's own), Eusko Alkartasuna and Ezker Batua Berdeak.<sup>[2]</sup> The lone Aralar MP also supported the call while the Basque branches of both socialist PSOE and conservative Popular Party rejected it. This made a 33-33 tie at the Basque regional Parliament.

On 27 June 2008, the referendum cite was approved by the Basque Parliament narrowly by 34 to 33, and 7 abstentions. To break the existing 33 to 33 votes tie at the Basque autonomous Parliament, the referendum cite received the tactical support of one of the EHAK MPs – while the other 7 MPs of this party abstained.

Ibarretxe preferred to call the vote a "consultation" rather than a referendum<sup>[4]</sup> and stated he would negotiate its terms with the Spanish central government until June 2008, and then would submit a possible mutually accepted plan to a binding referendum; should the negotiations fail. Ibarretxe stated he would hold a non-binding referendum on the future of the Basque Country.<sup>[5]</sup> Eventually in his plans, if his coalition still held government, another referendum in 2010 would then decide the final status of the Basque Country

The two questions were revealed on 28 May 2008. The questions proposed were:

First

Do you agree to supporting a process of dialogued end to the violence, if ETA previously declares unmistakably their will to end it once and for all?

Second

Do you agree that the Basque parties, without exceptions, start a process of negotiation to reach a democratic agreement about the right to decide of the Basque People, and that the aforementioned agreement will be submitted to referendum before the end of the year 2010?<sup>[7]</sup>

.The Spanish government appealed the vote to the Constitutional Court of Spain, thus suspending the referendum plans.<sup>[15]</sup> The suspension occurred on 17 July 2008.<sup>[16]</sup> The Court ruled unanimously on 11 September 2008 that the referendum was unconstitutional, as only the central government could call such a referendum<sup>[17]</sup>. The court said only Spain's central government can convene referendums and that the issue this one wanted to raise — the possibility of changing the Basque region's relationship with the rest of Spain — is something that all Spaniards would have to decide on, not just Basques; in turn, Ibarretxe said he respected the court ruling, while adding that the court was "acting for political reasons disguised in a legal veneer"<sup>[4]</sup>. On the day the vote was to have taken place, Saturday October 25, 2008, up to 20,000 protestors rallied in six Basque cities demanding a referendum on proposed moves towards independence. According to Basque Premier Ibarretxe "This is an extraordinary snub to the Basque parliament and its powers, and is also, politically and socially, an abuse of democracy,"

### *2009 A MINORITY RULLING*

In march 1 2009 Autonomous Parliament elections the PNV won the highest number of votes, but failed to win an outright majority in the 75-seat parliament. The two main Spanish parties, the local section of the ruling Spanish Socialist Workers' Party (the PSE) and the right-wing Popular Party (PP), who between them took 38 seats, struck a deal on April 1 to form a coalition government , moving out first time in 30 years PNV form government,. PNV took 30 seats, and other small parties (aralar, EA, IU, UyP) 7. In the lead-up to the poll, the Spanish judiciary increased its repression of the pro-independence movement andhe Supreme Court banned two more parties — Democracy 3 Million and Askatasuna (Freedom) — from standing candidates several of them beign arrested and put in jail. So the left-nationalists, who generally poll 15-20%, were entirely excluded. They have no representatives in the new parliament. The left-nationalists responded by printing and distributing illegal ballots, with which more than 100,000 people voted. It would mean 7 seats for thsoe parties and a majority nationalist parliament.. Including these ballots to those of PNV and other minor parties, a majority of voters would be nationalists (around 640,000) backing pro-self determination parties. The PSE and PP won 482,000 votes combined being really a minority.

### **2.7.- But the reallity is there:Basque society is ready.**

According to some surveys those are the positions of the majority of basques.

## VIEWS ABOUT INDEPENDENCE

### SUPPORT FOR INDEPENDENCE IN A HYPHOTHETICAL REFERENDUM, BASQUE AUTONOMOUS COMMUNITY 2006

38 INDEPENDENCE

31 AGAINST INDEPENDENCE

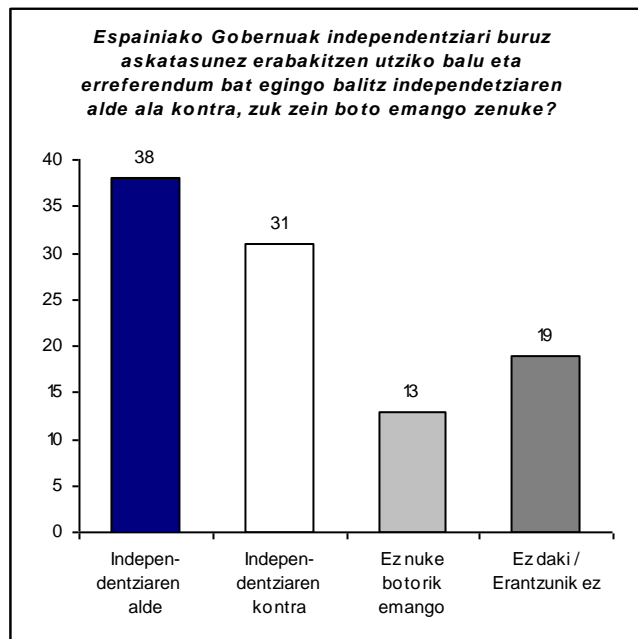
13 NO VOTE

19 NO ANSWER.

Iturria: Eusko Jaurlaritzaren Prospekzio Soziologikoetako Kabinetea. 31. Euskal Soziometroa ikerketa, 2006ko abuztuan argitaratua (21. orrialdea).

Oharra: unibertsoa Euskal Autonomia Erkidegoan bizi diren 18 urtetik gorako herritarrek osatzen zuten, eta landa lana 2006ko maiatzaren 3tik 18ra egin zuten.

Guztira, 2.874 herritar elkarrizketatu zituzten euren etxeetan.



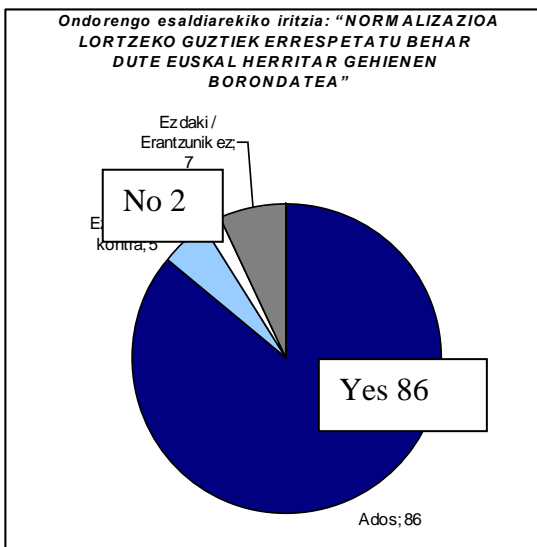
CITIZENS' VIEW ON THE CENTRAL ISSUE FOR RESOLVING THE CONFLICT. RESPECT TO THE BASQUE COUNTRY'S WHISES



## Respecting the wishes of the Basque Country's citizens

Most people in the BAC choose "Respecting the wishes of the Basque Country's citizens as the most basic principle that needs to be honoured by all sides in order for political normalisation to be achieved. Most people also consider that any choice made by a majority of the citizens of the Basque Country ought to be recognised even if this requires changes in Spain's present constitution and legislation..

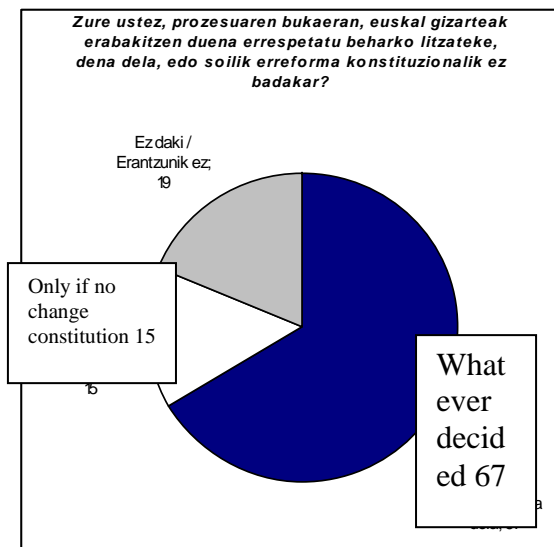
Do you agree or disagree with this statement?  
In order to achieve normalisation everyone should respect the wishes of the majority of Basques



Iturria: Eusko Jaurlaritzaren Prospekzio Soziologikoetako Kabinetea. Bakegintza eta normalizazio politikorako prozesua ikerketa, 2006ko abenduan argitaratua (33. orrialdea).

Oharra: unibertsoa Euskal Autonomia Erkidegoan bizi diren 18 urtetik gorako herritarrek osatzen zuten, eta landa lana 2006ko irailaren 26 eta urriaren 11 bitarte egin zuten. Guztira, 2.866 herritar elkarrizketatu zituzten euren etxeetan.

Do you think that at the end of the process whatever is decided by Basque society should be respected, or only if does not entail amendments to the Spanish Constitution?



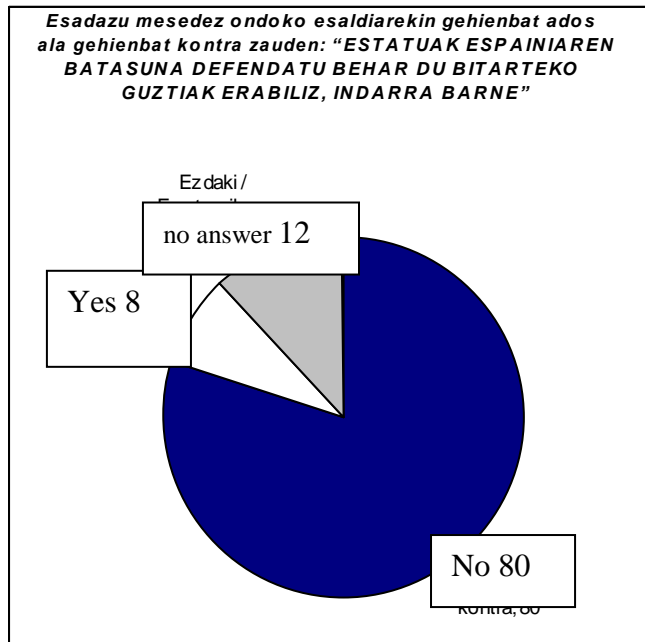
Iturria: Eusko Jaurlaritzaren Prospekzio Soziologikoetako Kabinetea. Bake prozesuaren egoerari buruzko iritzia ikerketa, 2006ko azaroan argitaratua (19. orrialdea).

Oharra: unibertsoa Euskal Autonomia Erkidegoan bizi diren 18 urtetik gorako herritarrek osatzen zuten eta landa lana 2006ko urriaren 30tik 31ra egin zuten. Guztira, 600 herritar elkarrizketatu zituzten, telefono bidez.

## Concerning the position of the Spanish Authorities

Very few people are of the opinion that the Spanish state ought to defend unity of Spain at all cost. In opinion of most people, then, it behooves eeh Spanish state to respect the choice of basques.

Do you agree or disagree with this statement: the state must employ whatever means required to defend the unity of Spain, including use of force?



Source: Eusko Jaurlaritzaren Prospekzio Soziologikoetako Kabinetea. Normalizazio politikorako alderdien mahaia ikerketa, 2006ko maiatzean argitaratua (15. orrialdea).

Issues for discussion in all-party talks

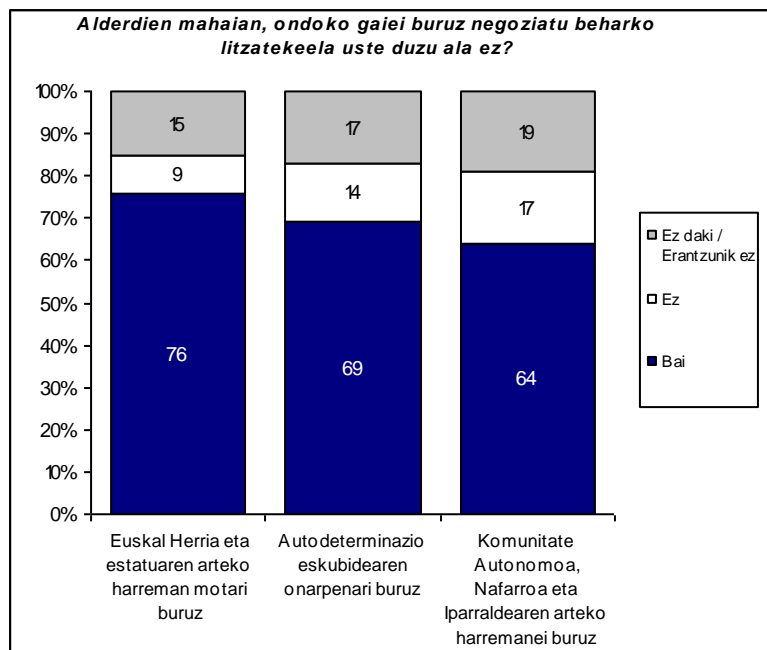
Most of the population of the BAC believe that the following issues should be discussed in all-party talks:

A)-the nature of the relationship between Euskal Herria and the Spanish state

B)- recognition of right to self determination

C)- Relationship between BAC and Navarre and Northern Euskal Herria.

ks



Source: Eusko Jaurlaritzaren Prospekzio Soziologikoetako Kabinetea. Normalizazio politikorako alderdien mahaia ikerketa, 2006ko maiatzean argitaratua (35. orrialdea).

## what about Spain?

!!!!!!!.

### 3.- NEW PROPOSAL THAT CAN CHANGE THE SCENARIO

- The internal debate within the abertzale left shows its complete commitment not to leave the opportunities to fail and its readiness to take unilateral steps

The abertzale left has been involved in a deep debate whose objective was to design an effective political line of action to accomplish the required political change, and to take a significant step in the liberation process. As articulated in the document “Clarifying the political phase and strategy”, “the challenge is to transfer this opportunity created after decades of struggle and to nail down the political change. There are sufficient conditions for this. The key to being successful is based on being able to shape those conditions in a union of forces capable of achieving political change, and starting the construction phase of the Basque state; on defining an effective strategy that shifts the key aspect of the confrontation to other parameters based on the dialectic Euskal Herria/States”.

The key to political change is the democratic process, understood as “a general political initiative that aims to build up strength for political change. Is the functional strategy that will allow to change the current ‘Rules of the game’ to place it in a context where the Abertzale Left will be more strong and effective. The democratic process must also put the future on our side. The state is using the time factor to wear down the Abertzale Left and close the conditions for change”. Once the democratic process is launched, “time will be our ally and we will manage it so that the eternal denial of the solution of the conflict will be untenable”.

The democratic process must be based on the word and the decision of the Basque citizenship and therefore must be done “without any violence or external interference”. In this regard, “it is essential to activate all forces that support the process and the democratic framework and to undermine the actions of the agents who want to deny the rights of the citizens of Euskal Herria”. “This is the fundamental guarantee of the process, given that we know that the State will put all the obstacles in its power to prevent it. In addition, like in any other process, democracy must also be gradual and dynamic, getting closer step by step to abertzale left goals”. The four big steps of the process are the following:

- restructuring of abertzale left;
- policy of alliances: union of pro-independence forces;
- responding to repression by building the “people’s wall”;
- reconstruction of the negotiation process.

As a first step in this process, a document called “Principles and Will of the Abertzale Left” was launched in Altsasua and Venice on November 14<sup>th</sup>, 2009 by a hundred of the abertzale left’s well-known members. In this document, the movement shows “without reservations its support for a peaceful, political and democratic process in order to achieve an inclusive democracy, where the Basque people freely and without any intimidation of any kind will be able to decide their future”. Moreover, “the democratic process must be developed in a complete absence of violence and without interference, by the use of exclusively political and democratic means”. The abertzale left also reiterates “its commitment to the Anoeta Proposal. According to this, there should be a process of multi-party dialogue, where all the forces in this country would participate under equal conditions. This process will take on board the achievement of a democratic framework through which the citizenship will be able to decide its future freely and democratically, without any other limit than the will of the people”. Abertzale left also understands that “this process has to be conducted in accordance with the Mitchell principles”.<sup>35</sup> The document was welcomed by Basque political parties, including EA, Aralar and the

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<sup>35</sup> The Mitchell principles were established during the Irish peace process as rules to be accepted by all members participating in the multiparty talks. All those involved in the negotiations had to affirm their commitment:

United Left (IU), as well as trade unions such as ELA and LAB. It was also welcomed by international actors involved in the last peace process like Sinn Fein president Gerry Adams, South African facilitator Brian Currin, the European Parliament MEP's Friendship Group, or the Gernika Network of elected representatives in favour of the right to self-determination of the Basque Country.

The debate ended on February 2010 with the Resolution called "Zutik Euskal Herria, Stand up for Basque Country", where the elements of the debate and the Altsasua – Venice document are confirmed and stressed.

This document has been welcomed on march 29<sup>th</sup> 2010, through a joint declaration by prominent international actors, including Archbishop Desmond Tutu, President Mary Robinson, John Hume, Albert Reynolds, Frederick DeKlerk, Nelson Mandela Foundation or Jonathan Powell among others, as well as peace mediators and experts, who have also asked ETA a permanent cease of fire fully verified and Spanish Government to give a proper reply to this step.<sup>36</sup>

Today, like before, the abertzale left is becoming the driving force to create a new momentum and overcome the current blockade. The coming months will show if it will succeed or not, and whether or not we are closer to completely transforming the current paradigm. So that at least Basques find a new democratic frame where the willingness of the majority is respected. Let us hope that we will see this change happen.

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- to democratic and exclusively peaceful means of resolving political issues;
  - to the total disarmament of all paramilitary organisations;
  - to agree that such disarmament must be verifiable to the satisfaction of an independent commission;
  - to renounce for themselves, and to oppose any effort by others, to use force, or threaten to use force, to influence the course or the outcome of all-party negotiations;
  - to agree to abide by the terms of any agreement reached in all-party negotiations and to resort to democratic and exclusively peaceful methods in trying to alter any aspect of that outcome with which they may disagree; and,
  - to urge that "punishment" killings and beatings stop and to take effective steps to prevent such actions.

<sup>36</sup> Statement by International Leaders in Conflict Resolution and Peace Processes: We, the undersigned, welcome and commend the proposed steps and new public commitment of the Basque Pro-independence (Abertzale Left) to "exclusively political and democratic" means and a "total absence of violence" to attain its political goals. Fully carried out, this commitment can be a major step in ending the last remaining conflict in Europe. We note the expectation that the coming months may present a situation where the commitment to peaceful, democratic and no-violent means becomes an irreversible reality. To that end, we appeal to ETA to support this commitment by declaring a permanent, fully verified ceasefire. Such a declaration appropriately responded to by [Spanish] Government would permit new political and democratic efforts to advance, differences to be resolved and lasting peace attained.

## **SIMPLE CONCLUSIONS:**

**“Un pueblo solo se autodetermina verdaderamente cuando permite a los individuos que lo componen liberarse igualmente es decir ser libres iguales y si es posible dichosos. Limitarse a una autodeterminación. nacionalista es recorrer sólo una parte del camino e incluso en gran parte dar la espalda a la autentica liberacion.”**

**Dennis Langloise, jurista escrito y premio nacional de DDHH de Francia 1989,**

**1.- Right to self determination is an human right, and as all human right looks for a better life of everybody. This is the objective of human rights, defend the humanity and its dignity.**

**2.-Right to self determination is also a tool for the application of democracy, is related to it. The objective is to stablish the ways so that people can live fairly and better. On that sense is not only related to the outcome of he process, be it Independende, or other formula, its objective must be also to find ways for people to live equally and happily. The objective of self determination must be liberation of peoples and their individuals.**

**3.- Right to self determination on than sense can be also a tool to resolve the conflicts. If self determination main meaning is related to “leave the peoples to be the owner of their destiny”, this is a tool to resolve conflicts. It is the limiting of the peoples right to decide about their future which create conflicts, not the demand to be owners of our destiny.**

**4.- In Basque Country this mean that basques must be free to decide among them the model of relationship they wanted for them, regarding the internal relation of the provinces. And also means that basques must be free to decide which relationship want them to maintain with other peoples. And of course this mean that this must be developed through dialogue and negotiation, firstly among basques and later between the basques and the Spanish and French states ,because to find these new scenarios we must take in account the current realities.**