



# SPECIAL REPORT

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## ABOUT THE REPORT

This report analyzes the long-drawn-out process toward the disarmament and dissolution of the violent Basque separatist organization ETA, and extracts lessons for policymakers and mediators engaged in efforts to pry armed groups away from violence in other contexts. It draws on the author's book *Endgame for ETA: Elusive Peace in the Basque Country* (Hurst and Oxford University Press, 2014), the research for which was supported by the United States Institute of Peace (USIP).

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*Teresa Whitfield*

## The Basque Conflict and ETA The Difficulties of an Ending

### Summary

- The violent separatist group Euskadi ta Askatasuna (ETA) emerged in 1959 in response to General Francisco Franco's repression of Basque identity during and after the Spanish Civil War and pursued the independence of a Basque homeland, Euskal Herria, that extends across seven administrative units in Spain and France.
- ETA's continued violence after Spain's transition to democracy reflected support within a wider community of radical nationalists that believed the transition had been incomplete.
- Disagreement on the problem that ETA represented—criminal terrorism or the violent manifestation of an unresolved political conflict—had a direct impact on Spain's difficulties in establishing a clear strategy against ETA.
- ETA's violence was met by increasingly effective counterterrorism efforts by Spanish and French security forces, robust application of Spanish post-9/11 criminal law, and a slow but powerful mobilization of civil society against it.
- Three attempts were made to arrive at a political solution. The third, and most audacious, was launched by Prime Minister José Luis Rodríguez Zapatero in 2005. Each attempt involved an ETA cease-fire that subsequently broke down.
- When ETA's violence finally ended in 2011, it could be attributed to multiple factors—counterterrorism and the activism of civil society, changes set in motion within ETA's political base after the collapse of Zapatero's peace process in 2007, and limited but essential assistance by international actors.
- Although no direct negotiation took place and no peace agreement was signed, the unusual trajectory of the Basque peace process offers important lessons for others who seek to persuade violent actors to return to the channels of democratic politics.

### Introduction

The violence perpetrated by the Basque separatist organization Euskadi ta Askatasuna (Basque Homeland and Freedom, ETA) was for many years an anomalous feature of Spain's transition to democracy. ETA claimed some 840 lives over fifty years. It was reviled as a terrorist criminal band inside Spain and listed as a foreign terrorist organization by the United States

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and the European Union. Yet its own perception of its long campaign was that of an armed conflict appropriate to a disciplined political-military organization, sustained by the support of a broader social and political movement. Spain's counterterrorism, reinforced by essential cooperation from France and complemented by vocal and organized opposition to ETA from Basque and Spanish society, succeeded in significantly reducing the number of ETA's victims. But despite three major efforts to seek a solution through negotiations—the third broke down after ETA bombed Madrid's Barajas airport in December 2006—ETA persisted as the last organized armed insurgency in western Europe.

## ETA and the Basque Problem

The Basque Autonomous Community, or Euskadi, enjoys a high degree of autonomy within Spain. Yet, for thirty-five years, it has been shadowed by the existence of ETA and the complex relationship of its violence to an underlying "Basque problem" of two dimensions: the differences among Basques and between Basque and Madrid regarding the nature of the relationship between the Basque Country and the contemporary Spanish state.

The problem is rooted in distinct versions of Basque history. One version is informed by what Diego Muro has termed "the mobilising myths of Basque nationalism."<sup>1</sup> It draws on Basques' perception of themselves as a people and nation with a unique language and culture and a long egalitarian tradition vested in customary rights (*fueros*) and autonomy. The other version sees the Basque trajectory as integral to Spain's development as a unitary nation-state. Within this tradition, Basque society, like others, has developed as a consequence of the evolution of elite interests, at times in conflict with centralizing forces in Madrid and at times not.

Between these—inevitably oversimplified—paradigms, Basque political life is characterized by both polarization and pluralism.<sup>2</sup> Political divisions are in part between nationalist and so-called non-nationalist (pro-Spanish) Basques. They also reflect the great diversity with regard to Basque descent, the Basque language Euskera, social class, and rural-urban origin among Basques, as well as the multiplicity of Basque political parties. In recent decades, the non-nationalist population has generally supported the arrangements for regional autonomy introduced during Spain's transition to democracy. Moderate Basque nationalists associated with the Basque Nationalist Party (PNV)—which has led the Basque regional government since 1980, except between 2009 and 2013—pursue self-determination or a "right to decide" through options that range from reform of the Basque autonomy to full independence from Spain. Radical nationalists in the *izquierda abertzale*, the nationalist Left movement in ETA's orbit, seek independence of the Basque homeland Euskal Herria and for years accepted, or at least would not publicly condemn, ETA's use of violence to achieve it.

The early consolidation of the French state and the relatively little nationalist sentiment in the French Basque territories have centered the Basque drama in Spain. There, the emergence of ETA in 1959 reflected both the distinctive form of Basque nationalism that its founder, Sabino Arana y Goiri, introduced in the late nineteenth century and Franco's repression of Basque identity during and after the Spanish Civil War.<sup>3</sup> Meanwhile, the endurance of Franco's regime beyond 1945 contributed to a significant historical anomaly. Elsewhere in Europe, nationalist movements collaborated with Nazism and lost legitimacy with its defeat. In Spain, as Sebastian Balfour and Alejandro Quiroga have observed, "stateless nationalisms...gained political legitimacy precisely because they opposed a Fascist dictatorship."<sup>4</sup>

ETA emerged from a group of young Basques who, during the 1950s, became increasingly disgruntled by what they saw as the passive opposition to Franco that the PNV-led Basque government-in-exile offered. Defining itself as "a political organization that practices the armed

struggle,” ETA was from its creation a clandestine organization.<sup>5</sup> It advocated an independent socialist state for Euskal Herria, the “land of the Basque speakers” that straddles the borders of Spain and France around the Bay of Biscay. Today, the seven administrative units of this homeland include the three Spanish provinces—Álava, Guipúzcoa, and Vizcaya—of Euskadi; the Spanish autonomous community of Navarre; and three French Basque provinces—Basse Navarre, Labourd, and Soule—in the *département* of Pyrénées Atlantiques.

ETA’s early years were characterized by lengthy ideological discussions, numerous splits, and a gradual escalation of propaganda, sabotage, and armed action before it claimed its first victim in 1968. Spanish security forces came down hard on ETA from the beginning. But even as its militants suffered imprisonment, torture, and exile, ETA drew legitimacy from the virulence of Franco’s response in a cyclical process of “action-repression-action.”<sup>6</sup> Boosted by its spectacular assassination of Admiral Luis Carrero Blanco—Franco’s prime minister—in 1973, ETA was the most audacious force in opposition to the waning Franco regime.

After Franco’s death in 1975, ETA and its supporters sought a complete break with the past rather than engagement in the negotiated reform on which Spain’s transition rested. The organization saw betrayal of the Basque cause on two fronts. The democratic opposition abandoned earlier commitments to self-determination for the territories recognized as Spain’s “historic nationalities” of Catalonia, Euskadi, and Galicia in the new constitution. The PNV reluctantly accepted the creation of a Basque autonomous community—one among seventeen autonomous communities within Spain—that did not include Navarre.

Spain’s constitution was negotiated under the threat of intervention by the army and against the background of two unwritten arrangements. The first, the *pacto de olvido* (pact of forgetting), ensured that no formal accounting of the violence inflicted by Franco’s forces—no “truth” for Franco’s victims or “reconciliation” between opposing forces in Spanish political life—was ever pursued. The second was unnamed but left many core institutions of the state—including the army, police, and judiciary—in the control of Franco’s officials, with cadres of torturers, abusive secret police, and complicit judges still in place. The constitution’s final text embraces a fundamental ambiguity: Article 2 defends “the indissoluble unity of the Spanish nation, the common and indivisible country [*patria*] of all Spaniards” but it also “recognises and guarantees the right to autonomy of the nationalities and regions of which it is composed and the solidarity among them all.”<sup>7</sup>

Basque nationalists abstained from the 1978 constitutional referendum. As a result, the constitution was supported by only 31 percent of the Basque population. However, the PNV’s negotiation of the autonomy statute the following year brought with it an implied acceptance of the constitutional framework. It also formalized an irrevocable parting of the ways with radical nationalists. ETA and the broader Movement for Basque National Liberation (MLNV), of which it was now a part, opposed Basque autonomy as insufficient and Spanish democracy as illegitimate. After a sweeping political amnesty, Spain’s security services returned to many of their old ways in their treatment of ETA, and the violence continued.

## Violence, Conflict, and Its Costs

ETA understood itself to be embarked on what it called a revolutionary war before it had killed a single person.<sup>8</sup> All Spanish governments, however, have rejected the idea that its terrorist violence bears any relation to a formal armed conflict.

The distinction is sensitive even in internal conflicts where the threat is such that a government is forced to mobilize its armed forces, as in Colombia, Sri Lanka, or Northern Ireland. Recognition of an armed conflict both elevates the problem above internal security that can be appropriately handled by national actors and triggers the application of international humani-

tarian law. At a political level, it also vests a degree of legitimacy on the opponent, suggesting an equivalence that might open the door to negotiation.<sup>9</sup> (In Colombia, President Álvaro Uribe insisted that insurgencies be addressed solely in terms of terrorism; for his successor, Juan Manuel Santos, recognition of the existence of the armed conflict has been a cornerstone of the peace process launched in 2012.) The issue has been especially delicate in Spain given the low level of ETA's violence, the state's comparatively moderate and unmilitarized response to it, and a particular pride in the country's post-Franco transition.

ETA clearly and consistently used terrorism to further its political goals and perpetrated violence that was unjustifiable under Spanish democracy. A terrorist, as Joseba Zulaika and William Douglass observed in 1996, "becomes the inhuman bestiality, the quintessential proscribed or tabooed figure of our times."<sup>10</sup> Yet an oversimplified dismissal of the terrorist Other in the Basque case ignores the social and political reality within which ETA was grounded. "The 'terrorists' and the social environment surrounding them are not socially marginalized or pathological characters, nor abstract and distant external enemies who can be portrayed as the personification of evil," wrote the Basque anthropologist Begoña Aretxaga. "The 'terrorists' turn out to be one's neighbors, acquaintances or family members—people who are too close and whose lives we know, and who we cannot disregard so easily."<sup>11</sup>

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Between 1968 and 2011, ETA and related groups killed approximately 840 people, wounded 2,500 more, and kidnapped eighty.<sup>12</sup> The violence peaked in 1980, when ETA itself claimed ninety-two lives, but declined after Spain began to secure counterterrorism cooperation from France in the late 1980s. The count remained low during much of the 1990s, before an escalation in 2000 prompted a particularly robust crackdown in the early 2000s. ETA's death toll was zero between 2003 and late 2006, and only twelve between 2006 and the cessation of violence in 2011. But forty years of killing and the attendant effects of kidnapping, extortion, and other threats had a corrosive effect on Basque society and were a persistent challenge to Spanish democracy.

After the capture of its leadership in 1992, ETA confronted the possibility of military defeat for the first time. In response, it took steps to "socialize the suffering."<sup>13</sup> It shifted its targets from those associated with Spanish security forces to include politicians, local authorities, businessmen, academics, and journalists. The change contributed to the growing prominence of ETA's victims (victims had been all but invisible in the early years of the transition, partly in reflection of many Basque nationalists' ambivalence toward the agents of the Spanish state that ETA targeted), as well as a broader mobilization of civil society against ETA's violence. Two organizations assumed particular prominence: Gesto por la Paz (Gesture for Peace), founded in the mid-1980s, became known for its silent protests against all kinds of political violence. Elkarri, formed in 1992, was closer to Basque nationalism and specifically dedicated to promoting dialogue to resolve what it—unlike Gesto—recognized as "the Basque conflict."<sup>14</sup>

Another shift was the intensification of a distinct form of urban street violence, *kale borroka*, perpetrated by radicalized youth associated with the MLNV. It involved aggressive attacks on Basque police, rioting, and sabotage of public property. Polarization within the Basque Country intensified. The kidnapping and killing in 1997 of a young counselor from the center-right Popular Party (PP), Miguel Ángel Blanco, prompted outrage across Spain and proved a turning point. A new strand of more overtly antiterrorist and anti-Basque nationalist (constitutionalist) activism rose to the fore in the Foro de Ermua (Ermua Forum)—named after the Basque town represented by Blanco—and social platform Basta Ya! (Enough!).

Between 1996 and 2004, Prime Minister José María Aznar, who had been victim of an ETA attack in 1995, placed victims of ETA—frequently described as if they represented a homogeneous block—at the center of counterterrorist policies, which were burnished by the

moral authority the victims brought with them. Their prominence contrasted starkly with the invisibility of those who would come to be referred to as “other victims”—of the state or shady paramilitary structures. These victims were fewer in number than the victims of ETA, but their recognition was denied for a long time, as were their rights in many cases.<sup>15</sup> A study of human rights violations commissioned by the Basque government in early 2013 found that ninety-four people had been killed by agents of the state and seventy-three by extreme right and para-police groups, seventy-seven cases still required investigation, and approximately 1,172 individuals had been wounded.<sup>16</sup> Most notoriously, in the mid-1980s, a “dirty war” pursued by the antiterrorist organization Grupos Antiterroristas de Liberación (GAL), later proven to have direct ties to senior officials of the socialist government, claimed the lives of twenty-seven people—nine of whom were not associated with ETA.<sup>17</sup>

The existence of these victims, and Spain’s resistance to acknowledging them, continued to mobilize the radical nationalist community. No less significant was the persistence of credible and repeated denunciations—regularly reinforced by investigations by international human rights organizations—of the torture of ETA prisoners to extract confessions.<sup>18</sup> Many Basques also saw Spain’s dispersion of political prisoners to locations far removed from their families—a strategy it adopted in the late 1980s as a deliberate element in its counterterrorism—as a vindictive act that meted out additional punishment on the prisoners’ family members.

## Counterterrorism and Negotiation

Approaching ETA’s violence exclusively in terms of terrorism meant a dominant framework of counterterrorism. It also encouraged Spain to see all Basque nationalism as tainted at some level by terrorism and not the deep social and political issue that it remains today. But from the beginning, this narrow approach was difficult to maintain. Before 2012, all Spanish governments embarked on talks or dialogue with ETA that implicitly accepted the existence of a conflict of some sort. In each case, a failure to agree on the nature and scope of the problem to be addressed—ETA’s terrorism or the Basque conflict writ large—prevented their advance.

ETA found support within the complex web of political and social organizations that developed within the MLNV. These were not all created by ETA nor directly bound to it, but their existence was predicated on its military activity and hegemony. Other than ETA, the most significant actor was the political party Herri Batasuna (later Batasuna), which contested all Basque elections after 1978 and consistently garnered around 15 percent of the Basque vote.

The possibility of negotiation was always present, even as successive Spanish governments insisted that they would not negotiate with terrorists. Exploratory contacts began soon after Franco’s death, but other than a successful effort to reintegrate former members of a dissident ETA wing in the early 1980s, they did not prosper. ETA insisted on preconditions for negotiations that no Spanish government would contemplate.<sup>19</sup> Political differences on approaches to ETA abounded, not least because of ambivalence among the mainstream of Basque nationalism toward the group. Additionally, conceptual and tactical confusion on the part of Spanish governments contributed to incoherent and at times counterproductive policies. After 1982, the socialist government turned to practices of the Franco era in its own counterterror campaign (notably in its backing of the GAL). It also pursued contacts with ETA that encouraged expectations that political negotiations were a realistic goal when they never were.<sup>20</sup>

The 1988 Pact of Ajuria Enea was the first consensus among political parties—other than Herri Batasuna—on a shared approach to ETA. It included strong commitments to counter ETA’s terrorism through police action, as well as the possibility of dialogue with those who had decided to abandon violence, as long as political questions were addressed among legitimately elected representatives, not in negotiations with ETA.<sup>21</sup> It was on this basis that

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formal talks between ETA and the government took place in Algiers in early 1989. However, they soon broke down: The gulf between the limited terms on which the government hoped it might secure “peace for prisoners” and ETA’s wider political goals was insurmountable. ETA returned to violence convinced that it could force the government back to the negotiating table. Meanwhile, the government strengthened its efforts against the group.

The Aznar government introduced radical change in policies adopted against ETA. At their core lay a determination to defeat terrorism using the police and not to countenance contacts, dialogue, or negotiation with its perpetrators.<sup>22</sup> Paradoxically, Aznar’s staunch opposition to dialogue was one of several factors that contributed to movement toward a peace process structured along pan-nationalist lines. Others included the influence of the developing process in Northern Ireland (ties between Basque nationalism and Irish republicanism are long and deep) and the mobilization of civil society in the Basque nationalist orbit. A broad range of nationalist parties, including Herri Batasuna, and other actors such as Elkarri announced the Estella-Lizarra Declaration in September 1998.<sup>23</sup> On the basis of confidential agreements with the PNV (which the PNV later contested), ETA declared a cease-fire. Aznar authorized talks between his representatives and ETA but in a single meeting in Switzerland found ETA no more disposed to compromise on its core demands than it had been in the past. ETA ended its cease-fire in late 1999.

The PP returned to power with an absolute majority in 2000. After the attacks of September 11, 2001, and the advent of the “global war on terrorism,” Spain introduced changes in its legal framework to facilitate the prosecution of the social and political organizations in the MLNV (“Everything was ETA,” the PP insisted) and increased its counterterrorism cooperation with France and the European Union. New “special measures” validated Spain’s expansive conception of terrorism and facilitated the prosecution of ETA and the nationalist Left. But the illegalization of activities under a vaguely defined understanding of collaboration or glorification of terrorism at times fell short of the serious crimes that should constitute a terrorist offense.<sup>24</sup>

In 2002, the Spanish Parliament voted to amend a law on political parties to ban Batasuna. The tough legal measures complemented police action against ETA and, by 2003, had clearly eroded ETA’s operational capacity. Yet ETA still had the capacity to kill on a sporadic basis, and Aznar’s offensive against ETA and the MLNV, deep antagonism to the PNV, and growing intolerance of other regional demands had widened the gulf with Madrid and among the democratic forces in the Basque Country.

These unpropitious circumstances did not stall initiatives to move ahead. Most prominent among them was a controversial proposal introduced by the Basque president, Juan José Ibarretxe, for a relationship of “free association” for Euskadi with Spain.<sup>25</sup> It was complemented by the continuing efforts of Elkarri. Meanwhile, far from the public eye, a series of discreet conversations had begun between Arnaldo Otegi, the spokesperson and leader of Batasuna, and Jesús Eguiguren, the president of the Basque Socialist Party (PSE). The two men met regularly in a remote Basque farmhouse to analyze the reasons for the failure of earlier peace efforts and to explore the possibility of moving beyond the political impasse.

Any possibility of outside involvement in the Basque issue was resisted as an unacceptable infringement of Spanish sovereignty, but Basques had nevertheless begun to turn elsewhere for new ideas. Elkarri invited international experts to visit the Basque Country. It reached out to U.S.-based conflict resolution experts who had followed the Basque situation since the early 1990s and to prominent figures in the peace process in Northern Ireland. Among them was Fr. Alec Reid, a Redemptorist priest who had facilitated talks between Gerry Adams of Sinn Féin and John Hume, of the Social Democratic and Labour Party, in the early days of the peace process in Northern Ireland and had ties to Batasuna going back a decade. Meanwhile, other international actors—including the Geneva-based Centre for

Humanitarian Dialogue (HD Centre), which established contact with ETA in late 2003, and South African lawyer Brian Currin, whom Sinn Féin commended to Batasuna at a similar time—also began to get involved.

## Zapatero's Process

On March 11, 2004, Islamic extremists launched a terrorist attack on Madrid commuter trains only days in advance of Spain's general election. The PP had featured its successes against ETA prominently in its campaign, and Aznar's officials quickly declared ETA to be responsible. As evidence accumulated to contradict this assertion, the government stuck to its story. The Spanish electorate sensed that it had been lied to and, on March 14, handed José Luis Rodríguez Zapatero of the Spanish Socialist Workers' Party (PSOE) a solid electoral victory.

Zapatero's first term was characterized by the introduction of social changes and more controversial attempts to reform arrangements regulating Spain's autonomous communities. Scarred by its electoral loss, the PP offered vehement opposition. At the center of the political battlefield was dialogue with ETA, for which Zapatero sought and received the approval of parliament in May 2005.

The new peace process was framed in accordance with proposals put forward in November 2004 by Otegi, on Batasuna's behalf, in terms that built on his discussions with Eguiguren. These proposals foresaw two strands of negotiations. One was toward agreement on pacification between ETA and the Spanish and French states—including the technical issues of demilitarization, prisoners, refugees, and victims—and the other between Basque social and political forces on future political arrangements for Euskal Herria.<sup>26</sup>

Initial talks between Eguiguren and representatives of ETA began in May 2005. They took place in Geneva and Oslo in conditions of secrecy and with the benefit of facilitation by the HD Centre. They prepared the way for ETA's announcement of its first permanent cease-fire in March 2006, on the basis of confidential commitments and "guarantees" agreed upon between the parties.<sup>27</sup> From then on, the process would be beset by leaks and rumors seized upon by Zapatero's political opponents. The PP and some victims' organizations led a series of demonstrations against the government's policies. Zapatero was assailed as a traitor to ETA's victims and an enabler of terrorist violence.

ETA and government representatives met at regular intervals during the remainder of 2006. However, far from progressing to substantive talks, the parties became stuck in mutual recrimination that revealed fundamental differences in their understanding of the agreed guarantees and the political underpinning of the process. Difficulties were exacerbated by opposition from the PP, a related increase in activity against ETA and Batasuna by Spanish judges, and—behind the scenes—divisions within ETA, whose top commanders supporting the negotiations had been arrested just as the peace process was beginning. Violations of the cease-fire multiplied.

In September and October, the PSE, Batasuna, and the PNV held confidential meetings at the Jesuit sanctuary of Loyola in an attempt to move toward a political agreement. The three arrived at proposals that recognized the Basque people as a "nation" and Euskal Herria as a social, historical, and cultural reality. They agreed that decisions "freely and democratically adopted by Basque citizens should be respected by the institutions of Spain" and that these could include independence. They also agreed to promote the creation of a new "common institutional entity" encompassing Euskadi and Navarre, subject to approval in separate referenda in the two existing autonomous communities. What, in practical and political terms, this common entity would do was not specified, however.<sup>28</sup>

The Loyola agreement went further to recognize the demands of Basque nationalism than anything that had preceded it. Yet when ETA pressured Batasuna to introduce changes—the

development of a single statute of autonomy for the new institutional entity—the talks broke down. Meanwhile, on the technical track, talks between ETA and the government had also become increasingly complicated. After ETA broke its cease-fire with an attack on Madrid's Barajas airport on December 30 that killed two Ecuadoreans, the government pronounced the process finished. Yet it maintained contact with ETA through the HD Centre and, in May 2007, agreed to sit down with it again. This time, a new format allowed the presence not only of Batasuna but also of international actors—representatives of Sinn Féin and the governments of Norway and the United Kingdom—as well as the HD Centre.

Unlike those in the past, the May 2007 talks brought the two tracks on which the process rested under a single roof: Representatives of the government and ETA discussed technical issues as well as Batasuna and PSE political issues. That ETA now insisted that the Socialist Party publicly commit to a common institutional entity and a single statute and campaign for this outcome was unacceptable to the government. The talks ended in the early hours of May 22. On June 6, ETA declared its cease-fire at an end.

## Virtual Peacemaking

Spain quickly increased its pressure on ETA and the nationalist Left. Otegi was imprisoned days after the end of the cease-fire. In October, twenty-three members of the leadership of Batasuna were also detained. Two months later, ETA returned to killing, assassinating two members of the Guardia Civil in France. But arrests kept mounting up. By the end of 2009, with substantial cooperation from France, some 277 alleged members of ETA had been detained, including its leadership, as well as 195 others on charges related to *kale borroka*.<sup>29</sup>

Alfredo Rubalcaba, Zapatero's minister of the interior and the architect of government policies against ETA, explained his strategy in this period as a simple one: "By police means pursue them fully, and politically give them nothing."<sup>30</sup> The government drew on a broad consensus that ETA could never again be trusted to abide by a cease-fire and that no further negotiations would be pursued. Zapatero's critics argued that the peace process had legitimized ETA as a political actor, provided scope for it to rearm, and encouraged it to raise its demands.<sup>31</sup> But ETA was in a weakened state, and its domestic and international standing was at rock bottom. In time, the dynamics set in motion by the peace process would be shown to have had lasting impact.

The general elections in March 2008 were closely fought but returned the PSOE to power for a second four-year term—one dominated by Spain's growing economic crisis. Meanwhile, in Euskadi, a surge in support for Basque Socialists—partly as a consequence of their efforts to achieve peace—led to PNV's loss of control of the Basque government.

The end of its cease-fire had exposed internal divisions within ETA, as well as between ETA and the leaders of Batasuna. It marked the frustration of a process that had taken years to prepare. The government's campaign against Batasuna reduced its capacity to consider next steps. But when Otegi reemerged from prison in August 2008, he and others entered a period of reassessment that would lead to significant changes. This process had at its center recognition of the depth of social opposition to continuing violence and the realization that unless the nationalist Left moved beyond the armed struggle, it was "inexorably heading for a precipice of political marginalization and ideological drift."<sup>32</sup>

The path Otegi and others took brought them into direct confrontation with the leaders of ETA. It was influenced by peace processes elsewhere and had elements in common with the shift from armed struggle to nonviolent political action that made those processes possible. However, as the possibility for the kind of negotiated processes experienced in Northern Ireland or South Africa—the two processes with which the Basques had the most direct

experience—was blocked, the nationalist Left was forced to pursue a strategy not directly comparable to any of them. By mid-2009, Otegi acknowledged that the government and public opinion were both “fundamentally against the idea of negotiation.” Yet it still seemed logical that “only through some kind of negotiation” could Batasuna pursue its goals. The challenge he and others were struggling to address was how to find “some creative way to get over this impasse.”<sup>33</sup>

Otegi and a few other leaders of Batasuna maintained contact with the international actors who had been engaged in the earlier process.<sup>34</sup> In addition to members of the HD Centre, these included their old allies in Sinn Féin, Tony Blair’s former chief of staff Jonathan Powell (who had been present at the May 2007 talks in Geneva), and Brian Currin. Otegi was imprisoned again in October 2009, improbably charged with reconstituting Batasuna under ETA orders. But the work continued, now under the leadership of Rofi Etxeberria, another prominent leader of Batasuna with authority within the MLNV.

ETA let it be known that it required three things to be persuaded that the new direction was viable: consultations within the radical nationalist base, political alliances to create mass support, and international involvement.<sup>35</sup> As the internal consultations advanced, and steps were taken toward an alliance with nonviolent but pro-independence Basque parties, Currin worked hard to engineer an international statement in support of the changes under way. In March 2010, six Nobel Peace Prize winners were among those who put their names to the Brussels Declaration, calling on ETA to declare a permanent and verifiable cease-fire.<sup>36</sup>

ETA responded in September 2010 and announced a halt to its offensive armed actions; it declared a permanent cease-fire the following January, but the government remained skeptical. In February 2011, Batasuna presented the statutes for a new political party, Sortu (Create), which clearly rejected violence and ETA’s violence explicitly. For Madrid, this was still not enough: The government presented stiff opposition to the ability of any party that shared ETA’s goals to pursue them while ETA was still alive. In the Basque Country, by contrast, demands for the recognition of the changes under way were becoming more pressing.

The nationalist Left’s next move—to contest the municipal and local elections in May 2011 in a coalition, Bildu (Reunite), formed with legal political parties—was again opposed by the Supreme Court. A last-minute approval by the Constitutional Court allowed the nationalist Left to return to democratic politics energized by the obstructions that had been put in its path. Bildu won 25 percent of the vote in Euskadi’s May 2011 elections, a better result than the nationalist Left had ever secured and one that effectively ended its internal debate with ETA. Spaniards were left struggling to comprehend that a counterterrorist campaign they had believed would conclude with the “defeat” of ETA had been accompanied by a resurgence of radical nationalism.

By July 2011, members of Batasuna who led the internal debate with ETA believed they had achieved all they could without movement from the government.<sup>37</sup> ETA, though severely weakened, insisted on government assurances regarding the terms of cessation of its armed activities. These assurances centered on legalizing Sortu and securing conditions to benefit its seven hundred-odd prisoners. A maximalist demand for amnesty was still being floated, but Batasuna maintained that many measures could be taken within existing laws—bringing prisoners closer to the Basque Country, releasing sick prisoners, and revising a controversial legal measure called the Parot doctrine that in early 2006 had introduced retroactive increases to the sentences of many prisoners.<sup>38</sup>

Moving forward required an unusual form of virtual peacemaking, never acknowledged by the government, and involving communication—but no direct talks—among the nationalist Left, ETA, and the government through trusted international facilitators.<sup>39</sup> Only later would it emerge that this effort had centered on the agreement of a confidential road map that set out

steps to be taken by the government and ETA. These included early release of sick prisoners and gestures by the nationalist Left in September and October 2011 that included formal dissolution of Ekin, a hard-line group reported to act as a sort of political commissar for ETA within the MLNV. In public, meanwhile, international involvement was growing. An International Contact Group had been formed earlier in the year, and a new International Verification Commission (IVC)—its functions limited to verifying ETA's cease-fire—was announced in September.<sup>40</sup>

At the road map's center was a tightly choreographed international conference held in the Aiete palace in San Sebastián on October 17, 2011. In what appeared to the public as a hastily assembled event—but was in fact a critical step forward, carefully planned with the assistance of international actors—distinguished international leaders, with former United Nations (UN) secretary-general Kofi Annan at their head, issued a declaration calling on ETA to announce the end of its violence.<sup>41</sup> Three days later, as previously agreed, ETA responded by declaring the definitive end of its armed activities.<sup>42</sup> It was a signal moment in Spain's contemporary history—all the more significant for the fact that Spanish and French security forces soon confirmed the validity of the shift away from violence.

## A Protracted Ending

ETA and the nationalist Left had hoped to move forward on the basis of the road map they had agreed to with the outgoing government and international encouragement of the process spelled out in the Aiete declaration. This was not to be, however. The PP, with Mariano Rajoy at its head, won general elections in November 2011 with an absolute majority, and progress slowed almost to a halt. The one notable exception was the decision by the outgoing Constitutional Court to legalize Sortu in June 2012, securing the return of the nationalist Left to democratic politics.

As Spain grappled with its most profound economic and institutional crisis since the transition, few political benefits were to be gained from the appearance of concessions to ETA. The government took no steps to reverse the progress made in 2011. But under pressure from right-wing sectors of the party and victims' organizations aligned with them, it demanded ETA's unconditional dissolution. It refused to do anything—such as demonstrating flexibility toward the prisoners, even by allowing them to be relocated to prisons closer to Euskadi—that might have helped advance ETA's eventual end.

Implicit within the Aiete declaration, as well as the explicit creation of the IVC, had been the expectation that discreet international contacts with ETA would be continued. How at least some of these contacts were managed would become evident in March 2013 when it emerged that, at the request of the Zapatero government, Norway had been sheltering three members of the political leadership of ETA and facilitating their meetings with the international verifiers and members of the nationalist Left.<sup>43</sup> Faced with the government's refusal to meet with or transmit messages to ETA, in mid-February 2013, Norway had expelled the ETA members, who were said to have taken refuge in France.<sup>44</sup>

ETA's response to the government's intransigence was to do nothing. Only in mid-2013 did a possible way out of the impasse emerge: A social forum established by Elkarrri's successor Lokarri and other representatives of Basque civil society negotiated a set of proposals that—again with international assistance—ETA broadly accepted.<sup>45</sup> Little moved forward before late October, when the European Court of Human Rights upheld an earlier decision that the retroactive extension of prison sentences introduced by the Parot doctrine violated the European Convention on Human Rights.<sup>46</sup> The most visible of the victims' organizations were outraged, and Rajoy dismissed the ruling as "unjust and wrong."<sup>47</sup>

The release of sixty-three prisoners in compliance with the European Court's ruling helped difficult internal discussions advance. On February 21, 2014, the IVC reported that ETA had

sealed and “put beyond use a specified quantity of arms, ammunition and explosives.”<sup>48</sup> For ETA, this was a major step. However, the IVC’s attempt to corroborate ETA’s actions underlined the limits of a unilateral peace process and the informal structures established in its support. ETA released a video showing a small collection of weapons and ammunition laid out for inspection by two IVC members. The media heaped criticism on ETA, and the IVC members were summoned before the Audiencia Nacional, Spain’s antiterrorism court. Internally and across the broader nationalist Left, however, a taboo had been broken. ETA confirmed in a formal statement that the process to decommission its weapons, munitions, and explosives would go “to the end, to the last arsenal.”<sup>49</sup>

The episode brought with it some sobering lessons. Most obvious, that decommissioning and disarming require an entity with the authority to certify that weapons and munitions have been put beyond use and to receive any that might be handed over for destruction. In ETA’s case, the involvement of both the Spanish and French governments would be required if independent international verifiers were not to risk arrest. Spain made no sign that it would shift in its determination not to engage with ETA. But ETA kept going. In July, it claimed that it had dismantled its logistical and operational structures and taken steps to conclude the sealing of its weapons it had begun earlier in the year.<sup>50</sup>

As the end of the Rajoy government came in sight—general elections were scheduled for December 2015—ETA’s painfully slow movement toward disarmament went underground. Political competition between the Basque parties intensified in the run-up to local elections held in May 2015. These saw radical nationalists lose ground to both the PNV and the new political party Podemos and underlined the need for all Basques to complete the peace process. A few weeks before the May vote, Euskal Herria Bildu had introduced a proposal for the destruction of ETA’s weapons under the supervision of an independent international commission.<sup>51</sup> The proposal was met with stony silence from Madrid, and the government continued to arrest ETA militants when it could. It is hard not to surmise that in almost any other context—including perhaps that of a new government in Spain—such a commission would be welcomed as a practical step toward dissolving an anachronistic armed group actively pursuing ways to be rid of its arsenal.

## Lessons Learned

The tortuous progression toward its end reflected a persistent ambivalence regarding the problem ETA presented. On the one hand, ETA was an illegal armed group and a terrorist band that directly threatened the lives of Spaniards and some—mainly non-nationalist—Basques. On the other was the more inconvenient truth that ETA had long represented, as Rubalcaba had candidly observed in February 2012, “a certain guarantee for those of us who are not [Basque] nationalists.”<sup>52</sup> The persistence of ETA had prevented the formation of a broad alliance among Basque nationalists and allowed successive governments in Madrid to dismiss those nationalists’ demands. Action against ETA had therefore rested on a tacit understanding in some quarters that the continuation of ETA’s violence at a manageably low level was possibly the least bad option available.

This understanding meant that when ETA eventually ended its violence, it could not be embraced as a full-bodied success; nor was there an obvious short-term incentive for the PP government to engage with ETA to secure its end. In the long term, though, particularly in light of a resurgence of secessionist demands in Catalonia and the broader institutional crisis facing Spain, the wisdom of this decision is open to question. In 2015, Spain’s major political parties were challenged by the populist Podemos party and the more conservative Ciudadanos (Citizens) party, as well as continuing demands for independence from nationalist parties in Catalonia. Meanwhile, Rajoy’s immobility on the subject of ETA had contributed

***The persistence of ETA had prevented the formation of a broad alliance among Basque nationalists and allowed successive governments in Madrid to dismiss those nationalists’ demands.***

to a large nationalist majority in the Basque Parliament and buried the future of the PP as a regional force.<sup>53</sup>

ETA's endgame, when it eventually came into sight, was as singular as the conflict it had waged and the state had refused to recognize. No direct negotiations took place and no peace agreement was reached in a process that saw unilateral, carefully negotiated, and discreetly communicated steps, both within and by a political-military organization and the broader structures of its political and social support, directly informed by actions of the state, pressure from Basque and Spanish society, and the involvement of international actors.

Ten lessons from the Basque case stand out.

*Disagreement on the nature of the problem ETA represented had a direct impact on Spain's difficulties in establishing a clear strategy, broadly shared among all democratic parties, to address it.*

1. **It is difficult, if not impossible, to solve a problem without first acknowledging what it is.** Disagreement on the nature of the problem ETA represented had a direct impact on Spain's difficulties in establishing a clear strategy, broadly shared among all democratic parties, to address it. Good reasons for confusion were rooted in opposing perceptions and experiences of Basque history and identity that may never be resolved. But the confusion was extended and distorted by an overly simplified discourse of the war on terrorism appropriated by the government of José María Aznar. The truth, of course, was that terrorism and the Basque conflict were not mutually exclusive: ETA used terrorism to further the ends of what it perceived and experienced as a conflict. That it operated on the basis of being engaged in an obviously ideological conflict with the Spanish state could not be ignored by any attempt to resolve the immediate problem its violence represented.
2. **Robust security or counterterrorist measures have their role, but politics is required to bring sustainable peace.** Groups formed for organized resistance embark on a violent path when they conclude that no political option is available to them. If outright victory is impossible, they end violence if and when they can accept this fact and be assured that they have either a political future or another opportunity to achieve the changes they fought for. Increasingly effective counterterrorism eroded ETA's operational capacity but never succeeded in eliminating its ability to kill at a reduced level or in vanquishing the cause of Basque national liberation. It is unrealistic to think that armed groups that still command social support will end their violence without police or—when the scale of the conflict determines it—military pressure. However, to be effective, this pressure must be accompanied by a strategy for conflict resolution that allows for political goals to be pursued peacefully and democratically.
3. **The law is central to counterterrorism, but should be tightly circumscribed to the serious crimes that constitute a terrorist offense, and can also complicate a peace process.** Exceptional measures of counterterrorism bring not only operational benefits to a state's counterterrorist campaign but also risks related to protecting human rights and the institutions charged with implementing them. An expansive understanding of terrorist activities in Spain allowed for prosecutions to be based on association rather than individual responsibility and contributed to the introduction of exceptional legislation and practices (such as prisoner dispersion) that then became the norm. The PP in particular, but all Spanish governments, repeatedly used a politicized judiciary to pursue political aims against ETA and Basque nationalism. Actions such as the introduction of the Parot doctrine, the spike in arrests during 2006, the arrest and prosecution of Otegi and the others detained in October 2009, and the contested legalization of Sortu contributed to an erosion of this judiciary's credibility. At the center of the legal battle against ETA, the political parties law isolated Batasuna, curtailed its access to public finances, and eventually contributed to the pressure on ETA to call a halt to its violence for good. However, banning the political expression of a movement articulated around both a

political and military strategy hindered efforts to resolve the conflict and disenfranchised a sector of the electorate infinitely larger than could be directly linked to ETA.

4. **Victims should be afforded full respect and rights but not allowed a veto over policy decisions.** ETA's victims were for a long time wrongly neglected by both Basque and Spanish governments and civil society. This isolation was followed by robust legislation enacted to address victims' rights consistent with international best practice. The victims acted with admirable restraint—never engaging in acts of vengeance, for example. However, their elevation to a position of moral arbiter undermined efforts to develop coherent policies toward ETA or grant recognition to the victims of the state, the GAL, or other rightist armed groups. The role some victims' organizations played in the counterterrorist struggle undermined Zapatero's policies toward ETA and had a disproportionate influence over the PP government of Rajoy. Meanwhile, the legacy of Spain's inability to address the issue of victims (including Basque victims) under Franco, its fear of establishing equivalence between two sides in a conflict it did not acknowledge, and antipathy to the idea that terrorists or those associated with them could be victims too—for example, of torture—contributed to a hardening of the conflict divide.
5. **A normative approach to human rights, founded on the principle of equal protection for equal violation, could help build trust.** One of the more surprising aspects of Spain's actions was its reluctance to engage more actively on the issue of human rights, including with the international community, to minimize the nationalist Left's sense of victimization. This reluctance was perhaps evidenced most clearly by the government's failure to investigate allegations of torture or to adopt measures to prevent it recommended by international bodies such as the European Committee to Prevent Torture, Amnesty International, Human Rights Watch, and a variety of UN special rapporteurs. This failure helped degrade the human rights protections that Spain is committed to uphold and was a missed opportunity to demonstrate Spain's democratic credentials.
6. **Dialogue and engagement should not be stigmatized as “talking to terrorists” or confused with negotiation.** Despite its atypical trajectory, and its origins in the breakdown of a more conventional process of negotiation, the Basque process confirms the value of engagement and dialogue at multiple levels. Indeed, it suggests that more rather than less engagement with ETA—a closed, extremist organization inherently suspicious of outsiders but urgently in need of greater communication with those capable of giving a blunt assessment of the possibilities open to it—would have been desirable, perhaps especially during its period of greatest isolation under the Aznar government. It is, of course, difficult for democratic governments to talk to those who have been designated as terrorists, and usually necessary for them to begin to do so either through third parties or in secret. The issue, the Basque case suggests, is not whether contacts with an illegal armed group are desirable but how, when, and to what end they should be pursued.
7. **Change is difficult and requires leadership and a clear and unambiguous strategy.** ETA's long history illustrates how difficult it is for groups whose existence has been defined by the armed struggle to leave violence behind. Change when it did come was intimately related to the leadership of representatives of Batasuna and top ETA commanders and their ability to maintain internal cohesion. A unilateral process—impelled by broad opposition from civil society to continued violence and fortified by international support and the validation it received from its old allies in Sinn Féin—was, on the one hand, all that was available to the nationalist Left. On the

*Despite its atypical trajectory, and its origins in the breakdown of a more conventional process of negotiation, the Basque process confirms the value of engagement and dialogue at multiple levels.*

other hand, it allowed for autonomy of decision and action that was impervious to the disappointment of unfulfilled agreements with the government. As events between 2012 and 2015 demonstrated, it also imparted a degree of resilience in the face of Rajoy's refusal to take up the opportunities presented by the Aiete declaration.

8. **Civil society and social forces have a responsibility and role.** Civil society and broader social forces play multiple roles in the validation of, or opposition to, armed struggle. In the Basque case, organized civil society was slow to mobilize against ETA's violence. However, it became an important vehicle for wider public rejection of ETA as it actively pursued ways out of the impasse. Civil society actors led the way in articulating the demand for an end to terrorism and in denying the organization the legitimacy it required to pursue its armed struggle. Not to be overlooked in this process was the role the nationalist Left constituency played: Opinion polls over the years suggested increasing doubts within this community regarding the efficacy of ETA's violence. Meanwhile, organizations such as Elkarri and later Lokarri prioritized the role that dialogue could play as an alternative to violence and encouraged perspectives derived from other peace processes.
9. **Even when formal international involvement is not possible, international actors can fulfill a variety of useful functions.** The international involvement that reached its apogee at Aiete in October 2011 played a limited but nonetheless critical role. What might have appeared to many as at times haphazard international efforts and statements were in fact carefully planned and discreetly coordinated steps—which were largely successful—to encourage ending violence forever. International facilitation was essential to the peace process Zapatero initiated in 2005 but easier to contemplate when offered by a discreet private organization such as the HD Centre than by a state. To secure the unilateral process it embarked on in 2009, the nationalist Left made adroit use of its international contacts to boost its leverage with ETA and to develop a channel of communication with an initially skeptical socialist government. Zapatero's government maintained a public position of distance, even as very few government officials maintained relations of trust with individuals in direct but essential communication with Batasuna and ETA.
10. **A peacemaking process is necessary.** Finally, the atypical trajectory taken in the Basque case confirms the need for a peacemaking process of some kind. As ETA was readying itself to abandon its armed activity for good, it needed a way to do so with some dignity intact. Nor did the need for a process evaporate after the Aiete declaration of 2011. Although hopes for the road map the nationalist Left had agreed to with the outgoing socialist government were dashed by the immobility of Rajoy, the pressure for forward movement remained. The problem was political but also practical: An armed organization dissolving clandestine structures, weapons, and explosives on its own faces real obstacles. Rajoy and the PP can point to a degree of success in their refusal to engage with ETA, which has been forced to move forward unilaterally toward its disarmament. But the continuing arrests and lack of a response to ETA's offers to hand over its weapons kept open the possibility of splinter groups in the future—a risk made more current by the persistence of sectarian violence in Northern Ireland nearly twenty years after the conclusion of a peace agreement. Above all, Spanish intransigence meant that four years that might have been used to work toward the definitive end of ETA and much-needed reconciliation in the Basque Country have been lost. Spain's actions and inaction have instead helped ensure that Basque society will remain deeply polarized and significantly hostile toward it. The Basque "problem" is likely to persist for many years to come.

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## Of Related Interest

- *Managing Conflict in a World Adrift* edited by Chester A. Crocker, Fen Osler Hampson, and Pamela Aall (USIP Press, 2015)
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- *The Basque Conflict: New Ideas and Prospects for Peace* by Gorka Espiau Idoiaga (Special Report, 2006)



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