



CAMPAIGN AGAINST CRIMINALISING COMMUNITIES

Briefing 3

Euskal Herria: The struggle for independence in the Basque Country and the impact of ‘terrorist’ bans

Background to the community and the conflict

It is difficult to summarise the history and roots of the struggle for independence in the Basque Country as it has one of the oldest cultures, and one of the longest standing conflicts in the world. Consequently, its history, geography and politics are blurred sometimes by genuine mistakes but mostly by political propaganda, and lies supporting the assimilation of Basque Country to the Spanish and French states. A good starting point could be an overview produced by the magazine National Geographic:

The Basque Country or Euskal Herria (land of the Basque language), as the three million Basques call their nation straddles the French-Spanish border along the western Pyrenees. Through the centuries, waves of Romans, Visigoths, Arabs, French and Spanish overran their country. But the Basques endured, often taking their traditions to the hills and forests for safekeeping. The same Pyrenees that separate Spain from the rest of Europe united the Basques.

In 1980 the three Spanish provinces of Bizkaia, Araba and Gipuzkoa were officially joined as the Basque Autonomous Community.

But the Basque Country spills beyond the official borders. Basques call their nation Euskal Herria, or “land of the Basque language”. And it is their ancient mother tongue that truly unites them. It was spoken here 5.000 years ago, before the Indo-Europeans arrived and spread out across the continent. And it is spoken today in cities and among the shepherds in the hills.

Struggle for social, political and economic rights

The Basque Country lives in the midst of an unresolved historical conflict with the Spanish state and the French state. In this context, citizens suffer violations of their basic rights, as there is no framework for peaceful coexistence that guarantees all rights to all people.

UK ‘anti-terror’ bans: supporting state terrorism

The UK government has been attempting to deter protest by migrant communities against oppressive regimes from which they have fled. A major weapon has been bans on ‘terrorist’ organisations. Through these bans, state terrorism abroad is represented as counter-terrorist activity, thus justifying and reinforcing the UK’s alliance with those oppressive regimes. Such bans attack the right of national self-determination, as well as popular support for that right across countries. The bans are used selectively as an instrument of foreign policy.

Under the UK Terrorism Act 2000, ‘terrorism’ includes simply ‘the threat’ of ‘serious damage to property’, in ways ‘designed to influence the government’ for a ‘political cause’. This broad definition blurs any distinction between military, political and civilian targets. Organizations could

be banned on the basis that their activities anywhere fit the broad, vague definition of ‘terrorism’. It also became a crime to give verbal or symbolic support to a banned organisation, or even to host a meeting with a speaker from such an organisation.

Under the 2000 Act, the Home Office banned 21 organisations including Euskadi Ta Askatasuna (ETA) the Kurdistan Workers Party (PKK) and Hamas’ military wing in 2001. The Tamil Tigers (LTTE) and the Balochistan Liberation Army were added to the list in 2006. The EU ‘terrorist’ blacklist has generally followed the UK’s lead.

More information available at:

<http://www.statewatch.org/terrorlists/terrorlists.html>
<http://campacc.org.uk/campaigns/terror-bans/anti-terror-laws-and-communities.htm>

It is difficult to say when the Basque conflict started; even historians disagree about this. Some say it dates from 1512 when Castile conquered the Kingdom of Navarre by force. Others hold that the major landmarks marking its start were the French Revolution of 1789 and the loss of the Basque provinces' fueros (historical laws and privileges) first in 1839 and again in 1876.

These developments both resulted in the forced integration of Euskal Herria into the political structures of France and Spain, setting the stage for an unhappy and antagonistic relationship between these states and the Basque Country. In more recent times, the neglect by French governments of the Northern Basque Country, the Fascist uprising of 1936 in Spain and the long-lasting dictatorial regime that it ushered in the South, are widely considered to have further exacerbated the situation.

State repression and violence

Generation after generation of southern Basques have borne the brunt of political violence and are well acquainted with the misery and suffering it brings about. There are still people living today who witnessed the evils of the Fascist army uprising and the Civil War that followed resulting in Spain's forty-year-long dictatorship.

Basques find it very hard to forget those forty years of oppression and hardship when all democratic political parties were banned, all symbols and expressions of Euskal Herria's identity outlawed. The war alone, in which over five thousand Basques faced Franco's firing squads, was responsible for many thousands of deaths in Euskal Herria, sent 100,000 Basques into exile and put 45,000 more in prison out of a total population at that time of only 1,300,000 in Araba, Bizkaia, Gipuzkoa and High Navarre.

The most recent phase of this conflict began in the midst of Franco's iron-fisted rule when the armed group ETA (Euskadi Ta Askatasuna, "Basque Country and Freedom") was founded in 1959. Since then Euskal Herria endured another half century of continuing hardships brought about by acts of political violence perpetrated by both sides in the dispute.

It is acknowledged that the Basque pro-independence movement played a crucial role in bringing down the Francoist regime. However, during the transition to democracy a major concession was made to the military. The Spanish Constitution was reformed in 1978 to guarantee the indivisibility of the Spanish nation and made it the army's duty to maintain the territorial integrity of Spain. As a result, any possibility of

recognising self-determination for the Basque Country was firmly closed.

The political party Herri Batasuna was founded as a coalition of leftist pro-independence political groups advocating for "no" in the referendum of the Spanish constitution, while ETA decided to continue its armed struggle for independence. Since that time, Herri Batasuna has been considered the political wing of ETA. Except from pursuing the same political goals, these organisations have been independent of each other.

We often hear one-side accounts of this struggle. Acts of violence and political repression from the Spanish and French state are often ignored and the political context is hardly explained to national and international audiences. However the statistics of the Basque Country are hard to ignore and constitute a constant reminder for the need of a political settlement to end the conflict:

Persecution of the Basques:

- over a thousand deaths, 6,000 injured and unresolved disappearances
- over 8,000 acts of attack and sabotage death squads
- over 30,000 arrests and 5,000 prison sentences, with more than 700 Basque prisoners today
- over 7,000 people tortured and the continued issuing of death threats
- hundreds of thousands of people deprived of civil and political rights
- political parties outlawed and newspapers and radios closed
- denial of freedom of speech and denial of cultural and language rights

A right to self-determination

The conflict in the Basque Country is a political conflict in which the Basques seek to vindicate their right to self-determination, the right to decide freely about their destiny as a people – this is a collective right of every people, established and recognised by international law. The majority of people in the Basque Autonomous Community have chosen "respecting the wishes of the Basque Country's citizens" as the most basic principle to be honoured by all sides in order for political normalisation to be achieved.

Impact of 'war on terror': 'Terrorist' bans

The 'war on terror' started in Basque Country long before September 2001. In 1997 the entire leadership of Batasuna were accused of collaboration with terrorism. Each member was sentenced to 7 years in prison for disseminating peace proposals from ETA (Alternativa democrática). However, after 2001, the repressive actions against the pro-independence movement increased drastically. Batasuna was finally outlawed in 2003.

The banning of Batasuna by the Spanish Courts has received support from all European governments. Consequently, Spain has increased its repressive policies against Basque civil society, legitimated by the EU proscribing most of the organisations working within the pro-independence movement.

The EU and Spain ban a long list of political parties and civil society organisations, affecting news-papers, youth and cultural organisations, and international solidarity groups. These organisations are accused of being part of ETA based on the Spanish governments claim that "Everything is ETA". These bans have seriously undermined international solidarity and support for Basque independence and efforts towards peaceful resolution of the conflict.

Institutions designed to support fundamental human and civil rights such as the European Court of Human Rights (ECtHR), appear to have been influenced by the security rhetoric which insists that non-violent groups should be pre-emptively repressed.

In June 2009, the Court supported the ban against the Basque party Batasuna (formerly Herri Batasuna) on the basis that its activity was part of the strategy of the terrorist group ETA because they follow the same political objective, that is, the independence of Basque Country.

The ECtHR found that the bans did not constitute a violation of the right to freedom of assembly and association, stating that they could be justified as necessary in a democratic society in the pursuit of the legitimate aim of preventing terrorism.

The court has accepted the Spanish Government's contention that Batasuna was declared illegal for reasons of 'public security'. However this decision has been interpreted by legal scholars as being entirely at odds with the functioning of democratic society: "it may have failed to establish the factual basis and therefore also its conclusions are subjected to criticism".

On the other hand, the abuses of human rights by the Spanish Government have been widely criticised. Amnesty International (AI) regularly reports the persistence of torture by the Spanish State. In its annual report for 2006, AI points to the unacceptability of detaining people for five days incommunicado, extendible up to thirteen. AI reports that "persons arrested on charges of alleged connection with ETA claimed to have suffered torture during the period of incommunicado detention". Spain has ratified the Optional Protocol of the UN Convention against Torture, but "continued to resort to practices, especially incommunicado detention, condemned by the special rapporteur of the United Nations on the grounds that they increased the risk of torture and mistreatment."

AI reports that, "in many cases", acts of torture and mistreatments "remain unpunished and do not even instigate systematic and independent investigations on their perpetrators." This impunity is documented in November 2007 report 'Salt in the Wound'. Referring exclusively to the Spanish State, Amnesty International records the absence of judicial inquiry or accountability, lack of disciplinary measures against perpetrators of violence and impunity for acts of torture.

One of the most critical issues is the lack of legal guarantees for individuals that seek protection in other European countries. While Batasuna is not banned in the UK, there have been several cases of people facing extradition orders to face spurious charges in Spain.

UK criminal lawyer, Gareth Peirce commented on the extradition of Inigo Makazaga: "We have seen reports from the UN rapporteur of torture and realised there's systematic use of torture and inhuman and degrading treatment of Basques. There's a pattern here of fabrication of evidence that's shocking. He would not receive a fair trial."

Challenging the bans: Reclaiming democracy, and long lasting peace:

Most people in the Basque Autonomous Community are in agreement with a resolution adopted by the European Parliament on the 25th of October 2006 in support of resolving the Basque conflict through dialogue, and believe that only a peaceful settlement is the only democratic solution.

This settlement would be based on the respect for self-determination as well as the recognition of the diversity of cultures, political ambitions and national projects that coexist in the Basque Country.

There is a long history of failed attempts to negotiate with the Spanish Government. However this should not be considered an obstacle as many lessons have been learned in the past. Today, the political conflict has evolved to a phase where its resolution presents real opportunities. However the continued banning of the pro-independence movement is an impediment to peaceful resolution. Banning organisations denies them political status as a crucial partner in resolving the conflict through dialogue.

The pro-independence movement has made every effort to promote a new opportunity. In a recent document the movement has reiterated its commitment to a negotiated process (the Anoeta Proposal). This proposal advocates a process of multi-party dialogue, where all political forces would participate under equal conditions.

This process would be governed by a democratic framework through which the citizenship would be able to decide its future freely and democratically. Moreover, the proposal reiterates that this process must be conducted in accordance with the Mitchell principles of non-violence.

In response to this initiative, on 5th September 2010, the Basque armed group ETA announced through a statement issued by the BBC that several months before it had taken the decision to halt “offensive military action.” In that statement ETA says it is willing to agree on the conditions required to undertake the democratic process.

Finally there is an increasing imperative for the international community to support this process. Its direct involvement will enable the opening of negotiations, the conclusion of agreements and compliance with them. The international community should pressure the Spanish and French states but, of course, also pressure the pro-independence movement.

A settlement of this long-standing conflict must come about in a peaceful context in which civil and political rights are respected and honoured by the states of the European Union. We should support demands to remove the Basque pro-independence parties from the banned ‘terrorist’ lists. Such demands defend free speech, sovereign political representation and the right of national self-determination.

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4. Euskadi Ta Askatasuna/Tierra Vasca y Libertad/ Basque Fatherland and Liberty (E.T.A.) (The following organisations are part of the terrorist group E.T.A.: K.a.s., Xaki, Ekin, Jarrai-Haika-Segi, Gestoras pro-amnistía, Askatasuna, Batasuna (a.k.a. Herri Batasuna, a.k.a. Euskal Herritarrok).
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6. *National Security – a Trump Card?* The European Court of Human Rights decisions in Herri Batasuna and Batasuna v. Spain, Etxeberría and Others v. Spain and Herritarren Zerrenda v. Spain. Jernej Letnar Čerňič EUI Working Paper, MWP 2010/02.
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8. *A First Step for the Democratic process: Principles and Will of the Abertzale Left*, <http://www.ezkerabertzalea.info/doku/principlesandwill.pdf>.
9. George John Mitchell is the U.S. Special Envoy for Middle East Peace. Since 1995, he has been active in the Northern Ireland peace process as the United States Special Envoy for Northern Ireland. Mitchell first led a commission that established the principles on non-violence to which all parties in Northern Ireland had to adhere and subsequently chaired the all-party peace negotiations, which led to the Belfast Peace Agreement signed on Good Friday 1998 (known since as the “Good Friday Agreement”).

The Campaign Against Criminalising Communities (CAMPACC) opposes all ‘anti-terror’ bans and special powers.

Our aims include: To oppose crimes against humanity, regardless of who (or what government) commits them.

For more information: <http://campacc.org.uk/>

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