Towards a Basque State

nation-building and institutions

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FOREWORD

The Basque State: nation-building and institutions

FOREWORD

Ipar Hegoa Fundazioa

One of the goals of the IPAR HEGOA Foundation is to carry out studies and analyses of political and social issues of interest for the Basque Country and to encourage discussion of such subjects. Therefore, at the present time when there is much debate about the viability of Euskal Herria, IPAR HEGOA Fundazioa wishes to contribute to the discussion by offering these documents. Some will argue that Euskal Herria is a tiny country, that fragmentation makes no sense in the present era of globalisation, that what is needed now is for all of us to work together and achieve a mutual understanding, that demands for independence lead to discrimination among the members of a community, and so on, and so forth. Many factors and countless arguments are cited as reasons today for *not* creating new states; some of them are coherent arguments that make a certain amount of sense. And yet, be that as it may, thousands upon thousands of Basque citizens are still insisting that they want a state of their own. What of *their* arguments? Are these not also coherent, equally important arguments?

Whether we like it or not, the fact is that in the world today the state continues to be the chief expression of comprehensive political decision-making power. Therefore, in the contemporary Basque Country, in the current political state of affairs, we believe it is both interesting and necessary to undertake a collective exercise of thinking through the benefits, options, risks and dangers that the construction of a Basque state in Europe would entail, on many levels, including the political, institutional, territorial, socio-economic, linguistic, cultural, and in terms of identity.

The IPAR HEGOA Foundation proposes to take a long look at all the circumstances and ask how feasible a Basque state is. Thus we have brought together on these pages the opinions of numerous academics and researchers who are familiar with this range of subjects. We are well aware that there are many other specialists, besides these, who have often made extremely interesting contributions to the field. IPAR HEGOA Fundazioa has not set itself the task of bringing together contributions from every single such expert, or to present in equal measure current opinions in every discipline, or to represent every single region of our country to the same degree. Instead, priority has been given to achieving a coherent picture subscribed to by a respectable number of experts, even at the risk of leaving some geographical areas, universities or perspectives out of the picture. But this does not mean we have striven to produce a single, monolithic viewpoint: that was not our purpose. Each author was free to give their own opinion, provided only that they focus on the overall idea of the necessity and viability of a Basque state; beyond that, it is recognised that there is room for a variety of points of view.

After all, the aim of the present study was not to create a constitution for the Basque state, nor to lay down rules for what a Basque state ought to be like. Ours is a less ambitious objective, yet quite a crucial one all the same. The question we wish to answer is this: Is a Basque state viable or not? Would it or would it not be worth the effort to create a Basque state? Would Basques be willing to embark on such a project? In the event that these questions find an answer and if that answer is in the affirmative, then, and only then, would it be time for us to turn to the next set of questions, questions about the direction and purpose of such a Basque state.

The IPAR HEGOA Foundation believes that the present study addresses this matter of great interest, and that it is able to play a useful part in bringing Euskal Herria into focus in the present international situation, by gathering together a range of views now current in a

variety of disciplines; it may also help to establish the absolute and relative place of Euskal Herria within the domain of present-day states. We believe the interesting theoretical contributions set down on these pages will contribute to endowing the demand for a Basque state with substance, while also proving useful in order to lay a sound material and ideological foundation such as is necessary in order to give form to that endeavour. IPAR HEGOA holds that this is the best option for everybody who lives and works in Euskal Herria and defends the premise that at this time the Basque Country possesses the basic potentialities needed to build a state that can take its place among the states of Europe.

Thus the IPAR HEGOA Fundazioa offers, in **Towards a Basque State**, a qualified contribution concerning the need for and feasibility of a newly created Basque state. The study consists of three parts covering different subject areas: **Nation-building and Institutions, Citizenship and Culture** and **Territory and Socioeconomics.**

The present volume is concerned with the first of these areas, **Nation-building and Institutions**. In the words of the editor, **Mario Zubiaga**, this section is an attempt to address the *why* and *how* of independence. No one would say that independence is a bad thing; what is at issue is *for whom* it is good or bad. The present volume proposes a clear answer to that question: Euskal Herria, and Basques of all ideological persuasions, only stand to benefit from the existence of an independent Euskal Herria. The only thing we have gained from being in Spain and France is the loss of our freedom.

As the book's authors argue, inasmuch as a Basque state is an expression of freedom, it may be a desirable, legitimate and feasible goal. The central thread running through this book is the analysis of the kind of social and political mobilisation that is necessary for the achievement of a Basque state. The present section on its legal and political aspects focuses on the nature of independence while emphasising the importance of that task. The question to be answered is how to achieve legitimately that which is needed: what is the foundation and essence of the demand for independence? What pro-independence discourse and action can be developed to support attainment of a Basque state? What legal arguments and approaches will prevail? How can the Basque independence movement deal with new territorial trends resulting from globalisation? And speaking of that, does the state make any sense in the new situation today?

IPAR HEGOA hopes that this study will serve as a fruitful starting point for further studies on how to approach the building of the Basque state. We are extremely grateful for the interest and enthusiasm shown by those who have participated in this project and for their dedication and input. We sincerely thank the editor of this section, **Mario Zubiaga**, and all its authors.

Nation-building and institutions

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Introduction. Statehood today

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The movement for a Basque state claims that self-rule is necessary. Its first goal has often been to justify its call for independence. But in this section we will address other issues: we shall attempt to say *why* independence is needed and *how* it may be achieved. The basic answers are rather obvious. Why do we need independence? Because we want it (there is a will) and because we can do it (the political and legal means exist), because we have had it before (in the Navarrese state) and because Basque citizens, whatever their thoughts regarding nationalism, will be better off with it. The rest merely consists of a fleshing out of these basic points.

From a socioeconomic point of view or from a cultural perspective, in terms of territorial organisation or of citizenship, any country is better off being independent than ruled by others. Yet there have always been debates over the supposed benefits of independence. Peoples that already have their own state are forever giving warnings about the drawbacks and risks involved in *other* people getting their independence. However, a political community aspiring to liberation will never tell you that the situation which suits it best is that of being dominated by somebody else. On the other hand, from the point of view of the individual it is the manner of exercising autonomy that is up for debate: whether it is better to do so as a Basque citizen in a Basque state or as a Spanish or French citizen within one of the existing states. No one would say that independence is a bad thing; what is at issue is *for whom* it is good or bad. The present volume proposes a clear answer to that question: Euskal Herria, and Basques of all ideological persuasions, only stand to benefit from the existence of an independent Euskal Herria. The only thing we have gained from being in Spain and France is the loss of our freedom.

Inasmuch as a Basque state is an expression of freedom, obviously it may be a desirable, legitimate and feasible goal. The central thread running through this book is the analysis of the kind of social and political mobilisation that is necessary for the achievement of a Basque state.[1] The present section on its legal and political aspects focuses on the nature of independence while emphasising the importance of that task. The question to be answered is how to achieve legitimately that which is needed: what is the foundation and essence of the demand for independence? What pro-independence discourse and action can be developed to support attainment of a Basque state? What legal arguments and approaches will prevail? How can the Basque independence movement deal with new territorial trends resulting from globalisation? And speaking of that, does the concept of a state even make any sense in the new situation today?

THE MEANING OF THE STATE IN THE CONTEMPORARY WORLD

In this section we will examine the relationship between globalisation and the evolution of the concept of the state. We shall argue that the remodelling of the state and its new functions have in no way compromised the importance of the state. One particular *type* of state is indeed in crisis, but not the state *per se*. This leads us to claim that the state retains its value and effectiveness. The historical formation of the nation-state responded to the requirements of liberalism for a single market. In the present crisis of the legally regulated social state, the relationship between the state and the nation has acquired a new interpretation which places great limitations on the solidarity that enables national communities and the balanced

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[1] As Pako Aristi observes, something "out of the ordinary" (*desorbitante*) is required to escape from the *orbit* of a state, and end subordination to it. (*Berria*, 4/3/2010).

distribution of resources that is supposed to be ensured by the social state. Miller has explained satisfactorily how the nation helps to underpin the welfare state: a small, manageable nation.[2] As Thucydides put it, only the assembly of a small, free state is able to speak as a collective *we*, with the solidarity which will ensure its welfare. And conversely, the state and its legal apparatus can be an effective and even a crucial tool for the development of a nation's cultural identity and sense of justice. These two reasons alone would be sufficient to justify a restructuring of the relations between nations and states.

But it is a very different message that gets put out by the hegemonic discourse that is projected by present-day states. According to them, it is fine to protect stateless nations as *cultures*, but political demands for sovereignty or for a state make no sense at all in today's globalised world. Given that there is no longer any point (they say) in lengthening the present list of legitimate nation states, efforts at nation-building should be relegated to the restricted domain of particular communities with no far-reaching political projection, a domain that is acceptable to liberal multiculturalism. In this view the already existing states are to become (supposedly) neutral guardians of multicultural realities and domains where a dialogue of "differences" can unfold. In this way, ideas about creating any new states are portrayed as being not only pointless but furthermore dangerous.

This insidious argument about pointlessness that is being bandied about by the state comes in two varieties; let us consider each.[3]

CONCERNING THE CLAIM THAT THERE IS NO POINT IN ANY NEW STATES IN THE GLOBALISED WORLD

The way this argument goes is that it makes no sense to create new states in the present-day world, which is dominated by globalisation. Complex political networks are supplanting states, some above the level of the state, such as on the European level for example, others below it, in the form of the regions and other political sub-communities. Today's states are no longer real states, they are networks lacking a clear centre of power which is progressively becoming more and more indirect, horizontal and globalised.[4]

But are states really disappearing? Has the sovereign power of the state vanished in these political networks? How real is the crisis of the idea and the reality of sovereignty?

Even accepting the premise that sovergnty and its embodiment in the state, and politics generally, can be defined as a network, such networks are never neutral. Within such networks there are nodes that are powerful and others that are weak. **In the last resort, what is really in play in all this activity of interactions between state structure and political process or action is *power*.** Power to mobilise people, power to change reality. Clegg's ideas help us to understand the theoretical connection between power, structure and action.[5] We are reminded of the profound difference between Hobbes and Machiavelli: Hobbes' notion of power is embodied in absolute action. The influence of power is situated in mechanical, linear causality. Hobbes' paradigm of power is that of modernity: power as the negation of the power of others. Surprisingly, in that case Marx' model must also be located within the modern paradigm given that in it structure is made absolute. That is where the most widespread concept of the state was defined, and that is where, if anywhere, the crisis exists.

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[2] Miller, D. (1997): *Sobre la nacionalidad,* Paidós, Barcelona.

[3] Hirschmann says that the claim of pointlessness is commonplace in the discourse of intransigence or inflexibility, according to which any change in the status quo is pointless, useless and just nonsense. Hardliners habitually make use of three arguments: this one and two others, namely the claim that change is evil (any change will lead to dire consequences) and the claim that it is risky (change will theaten the things we already have). Hirschmann, A. O. (1991): *Retóricas de la intransigencia,* FCE, Mexico.

[4] "Globalisation is a process which integrates sovereign nation-states through supra-state agents and by means of different power probabilities, directions, identities and networks." Beck, U. (1998): *Qué es la globalización. Falacias del globalismo, respuestas a la globalización,* Paidos, Barcelona.

[5] For a multi-faceted contemporary view of power in philosophical and political terms see Clegg, S.R.(1989): *Frameworks of Power.* Sage Publications, London.

Machiavelli's model of power, on the contrary, seems to be a theoretical antecedent to postmodernism.[6] He is studied in all the *post*-theories, such as post-Marxism (by Gramsci and Laclau and Mouffe, for instance) or post-structuralism (e.g. Foucault, Derrida etc.). His is a model that emphasises the strategic, practical, local, contingent dimension of power. With him we are concerned with power lacking a clearly defined centre of action, and yet a power which places organisation, not individual action, at the centre of power relations. A power which highlights what is expressed, what is said (discourse), appearance, over and above de-facto control of bodies and minds. Distant from total perspectives, but without forgetting the nature of power structures and the intrinsic value of the state. The structure of the state does not determine everything, but the power of action is something that must be "achieved", and forms of organisation are instruments for achieving effective action: organisations give "power circuits" their stable, permanent character.

To quote Clegg:
Power is not expressed through subjects' wishes… or through the necessity of structures. Rather, the best way to understand power is by analysing complex power games that bring together complex organisations of actors.

Games of authority and resistance realized in complex circuits! We are talking about a power game taking the shape of rounds following universal rules but licensed by the circumstances of each particular place and time.

Moreover, **specific nodes or points in the network** can be distinguished in such a circuit of power. Thus, critical realism's definition of the state will also vary according to that strategic/relational character. For the state is a fixed, strategic area made up of multiple structural layers, a specific meeting place of strategic actors, but a changing one. In this sense, it is necessary to incorporate the view of the state expressed by B. Jessop, a follower of Poulantzas:[7]

The state must be understood as a strategic domain, as the crystalisation of political strategies, the specific political form given by structural privilege to certain kinds of political strategy and not to others.

That is the key point. This is the chief reason for independence. The state as the crystalisation of past strategies is situated in a complex dialectic between structures and strategies. As a historical product, **every state is more open to some political strategies than to others. It supports some and hinders or impedes others.**

For example, the Spanish state, as the crystalisation of certain power relations, promotes certain values, cultures and activities and stands in the way of others. Likewise, a Basque state would facilitate or place obstacles in the way of others. That would be the meaning of a Basque state and Basque independence: having our own state is the best tool for defending the values and beliefs considered important by the people at this time, such as the Basque language or social justice. This is in line, for example, with the opinion of the philosopher Rubert de Ventós: "Exceptions apart, it is better to have a minimal state than a maximal autonomy. The state is the only form of political organisation that has sovereignty, which gives a people still acquiring a state organisation a qualitative advantage."

And now, let us make mention of, and respond to, the second kind of "pointlessness" argument.

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[6] Bauman, Z. (1987): *Legislators and interpreters,* Polity Press, Cambridge. Hobbes was a jurist of authority; Machiavelli, a persecuted interpreter of that which is outside authority.

[7] Although the work by Hay that is cited is a good introduction, the primary source is more profound. Jessop, B. (1990): *State theory. Putting capitalist states in their place.* Polity Press, Cambridge.

EVEN IF WE HAVE A STATE, WHAT IS IT LEGITIMATE TO USE IT FOR?

Even if we had our own state would (say) the Basque nation and the Basque language be any stronger for it, assuming commitment is maintained to that hypothetical state's cultural diversity?

According to this second argument of those who claim that new states are pointless, the tools that might be employed if one wished to strengthen a nation rooted in the Basque language would either be useless or else unacceptable if one is committed to protecting the diversity of cultural identities in the Basque Country. For it is inadmissible today in liberal-democratic cultures to use the state as a tool for acculturation as it was used in the nineteenth century.

This argument is easily refuted. To start with, it hardly makes sense to accuse a proposed twenty-first-century state of the hypothetical use of coercive means employed by existing states for their own construction. A present-day state is not a nineteenth-century one, just as the innovative definitions of sovereignty current in the contemporary world are not Bodin's. Hence it is evident that a contemporary Basque state will not so much be an apparatus for imposing cultural unity as a tool for managing cultural diversity in an appropriate manner.

The simple question asked by those who defend the idea of a Basque state is whether such a state would make a better guardian of the cultural diversity that has developed through history in this particular region of the Pyrenees than the two states that now control it. The obvious answer is that of course it would. What political structure is better adapted to managing the equilibrium between different cultures on Basque territory? A Basque state.

As Rubert de Ventós — and Levi Strauss — remind us, political morals and quantitative topology agree about the best answer to such questions: *Small (but not too small) is beautiful!*

Carlos Ulises Moulines says the state is an adequate refuge for protecting the *special value of diversity*, hence the Basque species of being; but not just any state. Moulines, a defender of internationalist nationalism, emphasises the difficulty of ensuring the survival of small nations in hegemonic nation-states.[8] For a multi-nation state to work, the situations and relationships of the component nations have to be in equilibrium. Clearly the national identities and cultural forces within a Basque state would be more balanced than they are today in the states of Spain and France. For one thing, the crystalisation of power relations reflected in these states does not acknowledge Basqueness. That subject will be explored in detail in Chapter 4 by Asier Blas. But granting that it is possible to use it as a *legitimate* tool, is the state still an *effective* tool? In the opinion of many the state is more powerful than it has ever been, given that in the chaos of globalisation it is **the only protection offered**. As the Catalan philosopher Rubert de Ventós says:[9] "At a time when many a great many components of the modern state are becoming obsolete in the present on-line world, the state retains the legitimacy and social prestige accorded it by a monopoly of power and services." Or as Hinsley puts it: "the long-established community-state relationship in modern societies, rather than being damaged, is strengthened in the face of growing complexity."

Along the same lines, Manuel Castells says that "in the globalised world it is getting harder for the nation-state to control its budget and monetary policy, organise production and commerce, collect taxes and fulfil its social responsibilities, but it still has the capacity

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[8] Moulines, C. U. (2008): *Manifestu nazionalista, are separatista, esango nioke, estutuz gero,*Txalaparta, Tafalla.

[9] De Ventós, R. (1994): *Nacionalismos: el laberinto de la identidad*, Espasa, Barcelona.

to regulate, and control over those subordinated to it." Paradoxically, in the present situation dominated by complex multilaterality, in which the influence of international civil society is becoming pervasive, there is global delinquency and agencies such as the IMF that manage economic globalisation are coming under pressure, and demands are being made by communities wishing to protect their identity using the state's resources, the nation-state is becoming stronger and more powerful.

However, Sassen has recently pointed out that the relationship between the state and globalisation is far more complex than this. There are various widespread classical views which think of them as competing realities: globalisation has weakened the state; states are basically previously strong structures; the state is adapting to globalisation, and so forth.

Without dismissing all these assessments totally, Sassen proposes a fourth approach to help us understand recent political developments: **rather than rejecting globalisation, the state is actually a strategic domain necessary for the strengthening of globalisation** in which technical and administrative processes necessary for globalisation are carried out, relocating the borderline between the public and the private, and readjusting the internal equilibria of power. Since neoliberalism holds sway over globalisation, the very state is the tool needed by neoliberalism to enforce its global hegemony. Thus the state has become an essential tool to support a different kind of globalisation. Hence this would be the ultimate destiny of the Basque state: to become a tool in favour of our internal balance of power, a progressive ideological hegemony in our country, or a developed concept of the "public": an alternative kind of globalisation. The state is not the victim of globalisation but its guarantor: **show me the state, and I will show you what globalisation will be like**.[10] From this it follows that the Basque state has a *raison d'être* **as an example, and with all due modesty, a** *tool* **for creaing a different kind of globalisation.**

In this volume we present four views of Law and Politics, the very tensions between which are evidence of the need for a supple, dynamic articulation of forces and ideas in working towards independence. That is where the strength of the independence movement lies. If there is to be a Basque state one day, the opportunity to unite different, broad social domains and the need to do so must go hand in hand.

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[10] Saskia Sassen's work in this area is particularly interesting: see especially Sassen, S. (2007): *Una sociología de la globalización,* Katz Editores, Buenos Aires.

1. A European state in the Basqueland: on conditions for a nation to become state

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Unai Apaolaza, Andoni Olariaga and Imanol Galfarsoro approach Basque pro-independence claims from three angles of political philosophy and cultural theory. They argue that the inspiration of a collective political will is not metaphysical although it can also be found on past choices and struggles. Hence there is nothing fundamentally wrong in pointing to the memory of a long past struggle around the key demand of political self-governance. Ultimately, however, it is a subjective commitment towards the future which will always prevails. In other words, nationhood and sovereignty depend on the democratic will of the people concerned. Another argument, in addition, is that pro-independence claims are never isolated. They are also found on a multitude of popular demands and these demands are usually articulated around reclaiming political equality rather than the recognition of cultural difference as such. The consolidation of a new European state in the Basque country will signal the end of subordinate Basque cultural particularism and exceptionalism and the beginning of a new political "normality" based on the universality of such values as freedom and equality.

To be or not to be that is the question: Is the construction of a new independent European state in the Basque country really necessary in the specific context of globalization? This article seeks to answer this question from a strict pro-independence position, which is built around three main lines of argument, opinion and discussion.

The first argument is that our straightforward activist stance for a perfectly biased pro-independence political agency makes sense in the present time. This also implies that the memory of the past must also be reclaimed. The past must be reclaimed and indeed redeemed through an "ideologically" partial but unprejudiced understanding of historical memory in regards of the struggle for independence.

Then a second line of opinion points to how this struggle for independence is also accompanied with a whole series of present popular and democratic demands. In the political, cultural and intellectual tradition of the Left pro-independence movement, specific demands are distributed via what are understood as being both *possible* and *impossible* aspirations. These aspirations are both historically contingent as well as deeply embedded in a particular discursive articulation, that namely that takes place between *independence* and *socialism*.

Third, we also look at the classic scholarly division between the objective and subjective aspects or factors defining nationhood. In doing so, some conceptual and theoretical tools are provided to move away from those traditional nationalist claims underlining cultural difference over political equality. The objective of the pro-independence movement is to reclaim political equality. Rather than being an issue of insisting on cultural difference, independence is mainly a political question requiring subjective engagement. In other words, political subjectivity is based on will, which is far more important than placing emphasis on the objective differences defining the cultural nation through factors such as language, history, customs, territory etc.

In short, an open pro-independence position is central to this article (see also Galfarsoro, 2008; Olariaga, 2011; Apaolaza, 2011). Important to the whole approach is also to show how pro-independence political agency is articulated in order to achieve a "normal" statehood political nation, which, admittedly, it is not exent of some contradictions nad paradoxes.

INTRODUCTION

In his foreword to Galfarsoro's book *Against Subordination* (*Subordinazioaren kontra,* 2008), Joxe Azurmendi wrote:

> The state of the nineteenth century has not disappeared at all, rather it has renewed itself and the pariahs of the nineteenth century are now the pariahs of the twenty-first century. Sustaining that the state has ended, here and now, only serves the purpose of making it invisible and hence harder to attack its excesses by making it appear as inoffensive. It also seeks to turn the aspirations of other nations to achieve a state –or to enjoy the same degree of sovereignty – into a banned proposition.

Azurmendi's words are worth emphasizing because they grasp the contradictory approaches to the state in the twenty first century. On the one hand, Azurmendi insists on the omnipotent sovereignty of the classical state, despite the insistence on the opposite, that is, the tendency to see states as powerless entities in the era of capitalist globalization. On the other hand, he addesses the question of the possibility or impossibility of independence, the question of how full political sovereignty for "small" nations without a state is handled in the present situation.

This tension also finds an echo in wider European debates. For instance, political analyst Michael Keating (2001) advocates for a "post-state" view of sovereignty, and to resolve the problem of stateless nations, he recommends plurinational democracy. Summarising and/or paraphrasing Keating's thesis:

We are moving from the sovereign nation-state towards a situation of post-sovereignty.

In this post-sovereignty moment, supra-state, infra-state and intra-state systems radically condition the instrumental power of the state.

Hence it is one thing to have the right to decide one's future as a people/nation, and another to insist on translating this demand into a nineteenth-century-style independent state.

Although historically nationality and state have been closely linked, with the present demystification of the state that link is weakening, particularly in Europe.

Speaking of Europe, however, Slovenian philosopher Slavoj Žižek (2006) rejects views such as Keating's and also offers the real measure of the mystification hidden is such propositions:

The first myth to be debunked is that of the diminishing role of the State. What we are witnessing today is a shift in its functions: while partially withdrawing from its welfare obligations, the State is strengthening its apparatuses in other domains of social regulation [law and order, infrastructures].

In this sense, Žižek (2002, 2004, 2010) is very clear about where the key issue lies in the globalisation vs state sovereignty debate:

One often hears the complaint that the current trends of globalization threaten the sovereignty of Nation-States; here, however, one should qualify the statement: *which* states are most exposed to this threat? It is not the small states, but the second-rung (former) world powers, countries like the United Kingdom, Germany and France: what they fear is that, once fully immersed in the newly emerging global Empire, they will be reduced to the same level as, say, Austria, Belgium, or even Luxembourg… Globalisation means that Scotland wants independence or at least more autonomy; you Basques, as well… That's a good thing in itself. These new entities that want to secede don't want just an old nation-state, but a new autonomous entity with much more free space, and in culture too. That is a very interesting phenomenon. Globalisation doesn't mean that we are all going to end up eating hamburgers; it means that it will be easier for you, for example, to express your identity internationally. That is the good side of globalization. So we should take advantage of that opportunity. We shouldn't be afraid of it… The leveling of large and small nations is a beneficial consequence of globalization.

Put this way, the size of stateless nations matters little and cannot be used, as it all too often is, as an argument against independence. To demand the participation with full rights of small nations such as the Basque country in Europe makes perfect sense. Besides, there is no other real alternative: the only way to be independent, that is, to be free, through a state, as a nation, is within Europe. That is to say, independence can only be achieved within the economic, legal and political structures and processes which prevail in Europe but in so doing access to independence of new European nations together with the insistance on a new social Europe is clearly instrumental to the purposes of transforming Europe itself.

In that sense, independence cannot be seen or portrayed as an impossible, utopian dream, which is to say that the "pro-independence utopia" that sociologist Manuel Castells (2011) proposes is not utopian at all. As the pro-independence movement activates political agency on the road to achieving full sovereignty, independence itself cannot be understood as some sort of *impossible*, materially unattainable heavenly "utopia"; certainly not in the sense that, say, socialism, or justice, freedom, equality, peace and so on are "utopian" and/or "impossible".

On the contrary: the independence of the Basque country is *possible*. It is possible precisely because independence is not tied to any metaphysical domain of philosophical speculation but only to achieving the right to fully manage a given political space or territory. The independence of the basque country is hence not only possible; according to Žižek, the very credibility of the European Union is at stake here, since the European Union will only become fully credible when the direct participation of small nations is secured.

1. INDEPENDENCE? YES PLEASE!

Martin Luther King once said that, in politics, when you are told "Wait" it means "Never". To say "wait" is a conventional approach of 'pragmatic' politicians and public figures who also count themselves as promoting a pro-independence agenda. Claiming to duly understand politics, which would be nothing else but the practical *art of the possible,* the emphasis is then always placed on insisting that we must wait because the right time has not yet come, it is too soon, even useless (if not suicidal madness) to reclaim independence today. In addition, the same delaying tactic and argument goes on as follows — you see, calls for independence face two big issues: One is that we are living in the era of globalisation and therefore the economic dimension of global capitalism *neutralises* the political independence of nations (the state) everywhere; the other refers to the particular case of the Basque country, and it is that, even historically, the call for independence has always been badly timed for it also seems that Basques have never been really enthusiastic about independence. Hence, in order to invalidate the legitimacy of any claim to independence, a main argument always remains, at this moment, that the right conditions to achieving it must mature gradually, rather than jumping into independence too hastily.

The main problems with both of these arguments are the following: granted, in the context of the present world economy, national states today generally lack the power enjoyed in the past in order to maintain the autonomy of an internal market within national borders. However, in the new world geopolitics the issue is not economic as such but political and also symbolic. To recall Žižek's earlier quotations: the state can hardly control the ongoing world economy (I. Wallerstein, 1974, 1979) yet if we look at the "big" Western traditional historical states, while they have clearly abandoned their chief "social" responsibilities (welfare state), the state apparatuses (ideological and repressive, Althusser, 1976) are nevertheless becoming stronger (see Giorgio Agamben's *State of Exception,* 2005).

In addition, while the very traditional historical states built in the West during the eighteenth and nineteenth centuries are clearly reorganising themselves, more and more studies also confirm Žižek's second intuition; namely that small nations need not fear globalisation because their economic viability is not in danger of being undermined at this point.[11] Given that small nations are by and large economically viable, when it comes to the point of winning enough political support, the main challenge is thus symbolic. To use a linguistic metaphor, or to be more exact one based on morphology and phonology, the problem, then, is how to persuade the majority of citizens that we need to move from being a phoneme (that is, a noisy "region" without grammatical or semantic significance and/or meaning) to being morphemes or lexemes (that is to say, to be fully meaningful units that are capable of having their own formal and semantic value in the sentence or grammar of world nations).

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[11] See for example *The flotilla effect. Europe's small economies through the eye of the storm (2011),* a report for Jill Evans MEP by Adam Price with Ben Levinger, which is a study of the case of Wales carried out at Harvard University; and see also closer to home, Nekane Jurado's *Independencia: de reivindicación histórica a necesidad económica* (Txalaparta, 2009). It is also worth mentioning the "wounded narcissism" that Žižek ascribes to the manner in which the once "great" states are now reorganizing themselves (2002: 121-122; 2004: 26-27).

In this context, it seems that optimism is increasing notably as, in general terms, the present situation favours the ca(u)se of independence: globalisation in no intrinsic problem, the traditional "big" post-Westphalian Western nation-states are not what they were any longer, the independence processes of Eastern European nations have been traumatic, no doubt, but mostly successful, and in the West itself various stateless nations are immersed in sustained pro-independence processes as we speak (most notably Scotland and Catalonia. In this context, moreover, the values of smallness and proximity are also strengthening in the wake of the recent global economic and financial meltdown. As a consequence of all these conditions, the building in the Basqueland of sufficient democratic support to the political idea of national independence and hence the achievement of a pro-independence democratic majority is perceived as increasingly feasible.

2. LOOKING BACK: BELIEF AND FIDELITY

From the above follows that the conditions for being successful in achieving independence are becoming increasingly favourable in the present time. Yet from the viewpoint of understanding political praxis in historical terms (Rosa Luxemburg, 1996; Walter Benjamin, 1968, 2002) the failures of past attempts must also be taken into consideration and should not be forgotten.

With the benefit of hindsight those attempts were, undeniably, mis-timed and premature. However, to reach maturity, or to arrive at the right time, those early efforts to achieve independence served to open the way. The main point here is this: one cannot wait for the right time to embark on a successful attempt. If one is *waiting* for the right time it will never come. In this sense those who for years and decades have steadfastly opposed becoming independent *too soon* have been opposed to independence *tout court.*

In other words, the economic, political and social project inscribed in the proponents of the "pragmatic" *art of the possible*, (past and present, including those projects articulated around notions of "economic nationalism", the "Basque city" and so on) is one of *independence without independence*; one, that is to say, of placing independence in the realm of the *impossible*, like justice or freedom, say, which work rather as 'utopian' and regulative ideas for action, and not in the realm of the *possible*, which is all too simply what reverts to the political management of (sovereign) national institutions.

In short: The most important dimension in the process of achieving independence today, yesterday or tomorrow, is the impossibility of articulating an *objective* political discourse. The subject of independence cannot establish an objective distance with the process he or she is taking part in. In fact, it is the very independence process which constructs and embodies the subject of independence. Hence, since the moment of independence is realized through subjectivity, through the will of the engaged subject, what is *impossible* is to decide when the right time for independence has finally come.

This clearly undermines the position of those "in favour" of an independence based on the pragmatic *art of the possible* and situate independence in the domain of the *impossible*. In the face of this "realistic" position the *fidelity* of entire generations of "unrealistic" people who have believed in the *possibility* of independence, who have sustained "subjective" positions in favour of independence over long decades is commendable. Only in retrospect can be said that these attempts may have been badly timed or premature. But even if we observe — and accept — retrospectively that their attempts were plagued with errors and miscalculations, we should not forget that the meaning of those badly timed, premature attempts is to be found in the failure with which they met. Yet, simultaneously, it is the failures of those badly timed, premature attempts that have also helped to create the conditions of possibility for future attempts at reaching independence.

What follows from the above is that the process of independence must be repeated over and over again.

3. ARTICULATIONS: POPULAR DEMANDS AND DEMOCRATIC DEMANDS

Our argument so far is that an unambiguous political movement for independence has been configured as a specific historical actor. This is particularly the case over the past forty or fifty years since a constitutive articulation took place between the notions of national independence *and* social justice (socialism). Reference to Alain Badiou's concepts of truth, event and fidelity among others, to Ernesto Laclau's (and Chantal Mouffe's) notions and ideas of articulation, antagonism, hegemony, contingency and demands, and later to a general overview about the evolution of the national idea are instrumental here to clarify certain ethical-political, "ideological" and historical dimensions impinging upon the past and present of the Left pro-independence mouvement's in the Basqueland.

Following Badiou (1988, 2005) this political mouvement has been able to name and account for a particular Basque *situation* brought about in a specific, historically contingent manner. It is in this way that the Basque *situation* as defined by the pro-indepedece Left both constituted and articulated a new political *truth* in the Basque country. This political truth can then be turned into an *event* retrospectively. In other words, the political *truth* of the pro-independece Left can be defined as an *event* in the Basque *situation* in that a completely emancipated society (universality) is sought. As already mentioned, political freedom (independence) and social justice (socialism) constitute the central defining articulation of the pro-independence Left. In that sense, in the particular Basque *situation*, belief in the *truth* of universal emancipation supports the *fidelity* of specific *operators* or social actors favouring and articulating the interrelationships between the particular of national liberation and the universal of social justice. In this way we, the *operators* of the Basque *situation*, in so far as we are subjectively constituted, we are likewise organised around an operative or active ethic of emancipation.[12]

In addition to Badiou´s vocabulary (regarding the truth of a situation and the fidelity to an event…), the notions of (discursive) articulation and contingency, which are also prominent in the above arguments stem mostly from Laclau and Mouffe (1985). These notions refer to the doubly constituted political arrangement of the Basque pro-independence Left. To this it must be added now that this political movement can also be understood further through Laclau's (2005) understanding of what *popular* and *democratic* demands are. Clearly popular demands, such as national *independence* and social justice (*socialism*), and democratic demands are not exactly the same. Through constant articulations (debates, struggles and so on), both *independence* and *socialism* are the expressions of popular demands which are always interrelated. In this sense, although they constitute two different logics of *emancipation* (national liberation and social equality), each is a reflection of the other in equal measure.

To be more precise, the popular demand for "socialism" names an interest and an ideal (or utopia) revolving around the democratic demands of social justice and political equality. In

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[12] To understand the notion of the Basque situation as truth through Badiou's ethics, see I Galfarsoro (2011:124-129) from which we extract the following quotation: "Or to put it another way: Evils correspond to that truth, and according to Badiou they are furthermore of three kinds. In our case, for example, it is alreadly clear: we have progressively developed the truth of historical and contingent articulations between independence and socialism through certain specific situations and particular circumstances. That is our truth and that is our Good. That is where our fidelity lies; a fidelity to an event that occurred four or five decades ago and which has since been developed with large doses of discipline and organisation. But by the same token we also need to be aware of the Evils corresponding to the Good of this truth of ours. These Evils which are always lurking around the Good of our liberatory truth, our particular Good, are:

-ONE- *Terror*, which can derive from falling into the "ethnic simulacrum", as the result of underestimating the importance of the marks and signs of universality (such as socialism, internationalism, political equality) at the expense of particular interests (independence and national idea only, cultural specificity and so on).
-TWO- *Betrayal*, which occurs (and has occured often) when one loses the nerve or resolve and constant commitment needed to take the truth of our situation all the way to its ultimate consequences.
-THREE- *Disaster*, which comes from distorting the power of our truth and ends in the totalization of the liberatory situation."

All in all, what is important to consider in this disussion is that, as Badiou points out, *Evil, if it exists, is an effect of the Good itself gone awry* (*E* 61). In other words, the possibility of Evil appears to be a question of a perversion which nonetheless is not located outside the ethic domain; on the contrary, Evil pertains to the ethic domain itself (*E* 72-87) (pp. 127.-128).

practice, however, while demands for equality and rights do embrace a universal(izing) concern for freedom, in specific terms they are embodied through the logic of difference and particularity. In other words, the demands for "impossible" utopias such as social justice and equality are carried out through the particular struggles of a multitude of identity politics and social movements including the labour movement, the feminist struggle, the fight for gay and lesbian rights, the youth movement, the ecologist movement, anti-racism, or the struggle for immigrants' rights.

With the proliferation of so many (mostly identity based) democratic struggles there is, however, an obvious danger. We are specifically referring here to the risk of falling into an all-out (multiculturalist) celebration of diversity leading to a centrifugal dispersal of struggles spiraling out of control.[13] In this context, to secure that *unity-in-difference* prevails a fundamental task of the Left pro-independence movement is precisely to articulate politically and thereby give these dispersed popular demands the necessary coherence and consistency.

In the Basque *situation*, the popular demand for *independence* is understood as a political objective which falls, clearly, in the realms of the *possible*. This struggle for independence is articulated by establishing a clear and precise line of antagonism between the Basque people/country and the two surrounding oppressive states (French and Spanish states). In other words, based on an clear sense of collective will, the pro-independence movement draws a sharp divide as it identifies two main opposing political structures in the struggle for a new political and social hegemony.

A self-centred as well as centering pro-independence force is set in motion by formulating a specific antagonism. In this way, by naming two absolutely and completely irreconcilable political positions, popular identity is strengthened. Similarly, this political movement centred around a particular pro-independence struggle embraces likewise the universal struggle. It does so precisely by coordinating an endless array of democratic demands, which give concrete form to abstract ideals such as social justice and equality. Thereby it is also the task of the Left pro-independence movement to limit the risk of "infinite dispersal" (S. Hall, 1993) among democratic demands and giving such struggles a coherent form. In other words, the popular demands of the Left pro-independence movement become an effective means for articulating the contradictions that emerge in the practice of a multiplicity of democratic demands.

Hence it is important to emphasise that the articulations, contradictions, theoretical positions and political *praxis* taking place in the various interweaving domains of these popular and democratic demands make up *the essence* of the movement for independence; or to use a genetic analogy, the articulations and tensions among the popular (independence and socialism) and democratic (social movements, multiculturalism, feminism etc.) demands make up the basic political, cultural and intellectual DNA of the pro-independence Left in the Basqueland.

4. MORE ON THE TRUTH OF THE LEFT PRO-INDEPENDENCE MOVEMENT

The main thesis outlined so far is that the core contradiction in the Basque *situation*, the central conflict as it were, is that taking place between the popular demand for independence and the surrounding dominant states. This thesis assumes a committed subjectivity, that is, it assumes fidelity to the truth of the cause of independence. This is to say that for the nature and history of the specific and concrete conflict of the Basque situation to appear in the way

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[13] Also, this process often creates almost insurmountable contradictions of difficult solution. For instance: concerning internationalism and gay rights, we should defend Palestinians' demands, yet at the same time we should ask the government of Israel (because of a western mentality?) to grant gay Palestinians asylum because we also oppose homophobia in Palestine.

we have described it, fidelity to a committed political subjectivity itself only emerges from an engaged perspective. In other words, we can only know what the elements, features and traces of the central conflict and main political contradiction in the Basque *situation* are from our own *interested perspective*.

This sense of engaged subjectivity is often disqualified as follows: — "Your viewpoint is partisan and hence is completely distorted: it does not describe the true situation". — The answer to this standard dismissal of engaged politics is the following: — "Your supposedly 'objective' and 'impartial' view of the nature and situation of the conflict is not truly neutral either, it is thoroughly partial and always has been." In any case, partisanship and partiality are not an issue for analysis. On the contrary, a duly acknowledged perspectival gaze constitutes a *sine qua non* condition to name, situate and describe the truth of the Basque ca(u)se and *situation.*

It has also been claimed that the truth of the pro-independence movement is based on, and articulated around two main axes of intervention: the "possible" of national independence and the "impossible" of social justice. The articulation between the *possible* and *impossible* expresses two major dimensions.

On the one hand, we have the pragmatic viewpoint ("art of the possible") according to which achieving actual independence is always postponed as an "impossible" utopian dream. Albeit apparently realist and pragmatic this position is wrong! For there is also and "art of the *im*possible" which consists in, and refers to the ways a political utopia *proper* regulates our actions. In this sense, it is not "independence" but "socialism" which implies the truest of democratic demands and transformative political agency in favour of values which are ultimately "impossible" to achieve fully. In other words, values and ideals such as "freedom", "equality" and "justice" function as core reference points which can never be fully realized. "Justice", for example, understood as the correction of the basic, structural, ontological injustice of the universe, must be considered to be an impossible *a priori*. As soon as a political movement declares that it has totally and completely brought about justice (or plans to), it immediately lapses into totalitarian disaster. Here, for example, it would also be a catastrophe for the pro-independence movement to believe that national emancipation will also bring the complete materialization of democracy, social justice and freedom.

On the other hand, a quick look at contemporary history also provides good evidence that independence clearly belongs to the domain of the possible, whereas socialism has become increasingly the domain of an impossible utopia. When the Basque pro-independence movement articulated itself in terms of popular and democratic demands some forty to fifty years ago, socialism was formulated in practice in countries like the Soviet Union and Cuba, whereas independence seemed very far away for stateless nations, and especially for the Basque country. Forty years on, very tangible steps leading to independence are being taken and it is perceived that Basque independence clearly belongs to the domain of the possible in the near future. On the contrary, with the end of real socialism or the disappearance of the Soviet Union, the need to reformulate socialism is acute as the very idea that socialism will come about through revolution has been eradicated, plunging the traditional Left into a profound crisis. In this context socialism has moved from the terrain of the possible and of something that was actually realized, albeit under disastrous and catastrophic forms, to the terrain of the impossible or of a regulatory utopia, particularly through reformulations of the communist hypothesis/idea of communism, notions of the commons and various other articulations of communism with hermeneutics etc (see Badiou, 2010; Žižek & Douzinas (ed.), 2010; Negri & Hardt, 2009, Vattimo and Zabala, 2011).

As a consequence, whereas socialism is "impossible", independence is not only possible and attainable today; as it will be argued below, independence is also necessary. It is necessary not only because independence is certainly another effective political tool for

moving towards social justice and equality; but also because it is instrumental for Basques to stop being narrowly-defined as an *ethnic* formation, subjected to a particular form of cultural and linguistic domination. In other words, independence is necessary to be treated simply and plainly as *civic* citizens who are open-minded, cosmopolitan and universal precisely because organised within a fully sovereign democratic state.

In this respect, the underlying argument that is developed from now on is based on pointing to the inadequacy of a common academic distinction traditionally established between *ethnic nationalism* and *civic patriotism*. This distinction usually posited in terms of a sharp binary between ethnic petty-nationalisms and civic democratic states is nonsense since, historically, a basic and dominant ethnic and linguistic substratum has long been inscribed within the civic state itself. Regarding this point, therefore, rather than setting *demos* and/or *civitas* on the one hand as opposed to *ethnos* on the other, it is more appropriate to represent these not only as being integrated into each other (Tomás Urzainqui, 2004; Xabier Arregi, 2006) but also as an opposition devoid of all scholarly interest.

5. OBJECTIVE OR SUBJECTIVE CRITERIA - A HISTORIC OVERVIEW

Certainly, the modern independence movement was built around the core opposition between *ethnos* and *demos/civitas*. Basque nationalism proper emerged at the end of the nineteenth century as a socio-political and cultural grassroots movement in the shape of a popular and defensive reaction against modernization and its consequences: emigration, urbanization etc. Over the last two to three centuries, a wider pro-Basque (cultural) movement had already adopted different forms. These forms corresponded to the different ways in which nationhood has been defined since the eighteenth century and the ways in which political strategies were knit together and evolved. This (proto)nationalism has been characterised from its beginnings, and still is today to some extent, not only by its overall reactive nature but also a tendency to focus more on objective factors, such as race, tradition, language or history, than on subjective criteria such as will or consciousness. [14]

In other words, for two hundred years Basque patriotism has repeatedly given form to its political aspirations by emphasising objective factors, looking back to cultural sources. Drawing on Gayatri Spivak's post-colonial *subaltern*, Joseba Gabilondo (2006) has referred to these as forms of *strategic essentialism*. Throughout the nineteenth century and up until the 1930´s it was mainly, although not only, race, laws and land which were strategically used to delimit the contours of a separate Basque nationhood. From then onwards, twentieth-century Basque nationalism evolved to a point whereby the 1960´s saw how the national discourse was strongly based on, and articulated around language and a new revolutionary and internationalist dimension: anybody who lives and works in the Basqueland is Basque, etc. Since the 1990´s, in addition, a democratic component has taken centre stage: the right to self-determination. In this context, although the *democratic* discourse based on the centrality

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[14] A short review of some key authors confirms this. To begin with, *apologist* Manuel Larramendi (1690-1766) approached the defence of the Basque language and sense of separate nationhood in the historical context of a people led by the local elite facing the slow loss of what were known as historical rights or *fueros*. This defence of Basque *exceptionalism* was also carried out against the champions of equality in the time of the Illustration (or what were known then as the Azkoitia aristocrats). Likewise Larramendi's *apologia* or staunch defence of the Basque language (which he named as the forerunner of the first 72 languages in the Babel tower) is also a defence and a proclamation of the Basque race understood as a different entity from Spain. Larramendi's (pre)nationalism may likewise be thought of as rooted in the defence of the *fueros*. A similar assessment is usually made of the efforts by Arturo Campion (1854-1937) and Sabino Arana (1863-1903). It was Arana, in particular, who successfully reformulated the political issue of Basque difference by turning the debate on the *fueros* into a modern national questionTo do so, however, Arana justified his call for freedom in terms of history whilst also emphasising race, traditions, personality, language etc. By doing so Arana sustained that Basques were historically and objectively distinct from the Spanish, and, as a matter of fact, so did Campion albeit by reclaiming Navarrese history, etc., with no hint of racism and taking into account the entirety of the country — Navarre or Euskal Herria — unlike Arana. Later on in the twentieth century, Jon Mirande's (1925-1972) approach makes use of the same discursive devices although with a vengeance: he preached brute force and the Nietzschean Übermensch, the old ethnic-Basque savage mind, as the remedy for a moth-eaten people plagued by the decadence of Christian ideals (democracy, pacifism…). Later, in the 1960s, sculptor Jorge Oteiza (1908-2003) sought for the Basque soul, or style, starting from aesthetics in order to proclaim some kind of essence.

of will has gained force, the dimension of language as a structuring factor of nationhood and a historical perspective based on the reference to Navarre as a founding state have again been brought to the fore. Thus the ways of presenting the Basque national project has evolved and, as always, includes contradictory discourses nowadays. In this way, it continues to be defined and based both on objective factors such as customs, history, language and land, as well as a liberation strategy based on the construction of a pro-independence political subject.

In this overall context, however, the very fact that such so call objective factors are still prevalent in the construction of a national consciousness also prevent the possibility of a political perspective centred fundamentally around the idea of will. As a consequence, nationhood (understood chiefly as *ethnos*) prevents the development of a political identity (*qua demos/civitas*). Our central predicament is that while recognising the validity of objective components it is the subjective dimension of nation building that must be reclaimed fully.

6. FROM NATIONALIST ETHNOS TO PRO-INDEPENDENCE DEMOS

It is widely accepted nowadays that nation building, the building of the people as *demos*, and state-building must proceed hand-in-hand since if any of these dimensions is missing then the resulting edifice is rather shaky. When so, however, and such is the case of the Basque nation, we believe it is important and necessary to defend the virtues of political agency based on the will of the people to build, and become citizens of a new state. In this context, as a continuation of the distinctions already discussed between civic patriotism and ethnic nationalism, *demos/civitas* versus *ethnos*, and *subjective* versus *objective* factors, it is also worth emphasising another point of detail, which we believe is important even though at first glance it might appear as inconsequential. We are referring to a shift that is taking place in the way some people tend to call themselves "nationalist/patriot" (*abertzale*) whereas others are now defining themselves as "pro-independence" (*independentista*). This is far from trivial for whereas the former position does not imply the eventual achievement of a concrete political objective the latter does. We now propose to analyse this difference in greater depth.

What does the *Spanish* nationalist discourse do? Like any other nationalist discourse, it delimits the nation, that is, the nationalist discourse lays down who is part of the nation and who is not. Thus the nationalist discourse specifies what conditions must be met to be part of the subject referred to as the nation. As we have already pointed out, these conditions change over time. In the Basque country we are regularly accused of having just the same essentialist nationalist discourse. Whereas it is true that such an essentialist discourse *has* certainly been present in our political tradition, it must also be pointed out that such stance was always defensive in character. As already seen, at first the condition for belonging to the nation was race, later it was culture, still later language and by the end of the sixties, the condition that had to be fulfilled was to live and work in the country regardless of the initial place of origin. The result of those different *abertzale* discourses developed over a long period of time has been that, ultimately, no single condition for belonging to the nation has (pre)dominated completely.

But the question remains this: what is the point of delimiting the nation anyhow? And to answer this question we must first ask what kind of identity nationhood represents. Nationhood, or national identity, is a political identity. Why? Because it refers to a subject who wishes to influence society through specific political proposals, thus nationalist discourse delimits the group of people who wish to exert an influence on politics. As we have seen, it often does so through objective factors such as race, culture, language or history, that is, through conditions which are external to will. Hence, if we concede that nationality is a political identity (and most of the theorists of the subject concur on this) then linking identity

solely to, say, a language or a culture, besides of being absurd would still not provide us with a political identity but only with a linguistic or a cultural identity. Therefore, if we were to delimit nationality to factors other than the will of the people, nationhood would no longer be a political identity.

This is not to deny the importance of language: it is a powerful factor and also a key symbol in the process of national building but it does not determine nationhood. If language was to determine national identity it would produce an essentialist identity by not taking into consideration the desire to belong to a nation. Simplifying the argument, we might say that such a nationalist discourse would mean that to be in favour of independence, for instance, one must be a Basque speaker, or belong to Basque culture, or be racially Basque or Navarrese. Thus different nationalist discourses presuppose that by meeting certain linguistic, cultural or other conditions one would automatically support a certain political goal.

Basque nationalist discourse has attempted to define the political subject of the nation for over a hundred years. However, the fact that nationalist discourse has tended to base nationhood on objective factors only demonstrates that it is was based on a resistance strategy, not a strategy for achieving political objectives - A strategy for proving that Basques exist. This is why it focuses on marking out differences and objective factors (an example of this would also be to resort to history when asked what we are). But delimiting difference by means of objective criteria does not allow us to develop a political identity, among other reasons, because there is no single, exclusive way to understand and practice Basqueness. There are as many ways as there are people who want to build and support Basque national identity.

Therefore, a tension may be noted here between nation-building and state-building. In that tension, we propose that at this stage of the political process much more emphasis should be placed on the subjective dimension. A political strategy which merely limits itself to resisting will never achieve its objectives. To be able to achieve political goals, we must go beyond merely affirming our existence. We have to emphasise the purpose of that existence. We do exist, but the issue is to understand this existence (this Basqueness) in a different manner. Trying to define what the difference of an entire political subject consists of in terms of some objective feature closes the doors to expanding such political subject.

If we wish to work effectively toward achieving independence, the political subject that we call the nation must define itself in terms of a political goal, that of independence, not through objective factors.[15] That would make it possible to liberate the potential of the independence movement; the only requisite for being pro-independence would be just that: to want independence (or to wish to be a citizen of the Basque country), nothing more.

7. CONCLUSIONS

Shifting from a nationalist to a pro-independence discourse means changing from a situation where the nation and the political subject is determined by tradition, history and folklore to one in which it is decided by will (which is not to say that a nation does not have a history). In this sense, the process of independence shapes the subject of independence, which is discursively articulated and organized around a clear antagonism between the proponents of independence and the French and Spanish states, including those who remain loyal to these states in the Basque country. In addition, popular demands for independence, and also for

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[15] The same mistake is repeated, for instance, in the already alluded to book by Nekane Jurado *Independencia: de reivindicación histórica a necesidad económica* (2010) when she proposes, redundantly, a case for "Basque identitary socialism". Is there any such thing as a "Spanish identitary socialism"? What is wrong with "pro-independence socialism"?

social justice, reflect a number of democratic demands (ecological, linguistic, internationalist, historical, sociopolitical, sexual, cultural etc). There are many different motivations for supporting the goal of independence. Rather than setting them against each other, they walk hand-in-hand on the road towards independence.

There is no denying that it may be appropriate to privilege a single objective factor to reinforce the pro-independence subject. However, whatever factor this might be, it cannot be the only one for articulating a political strategy on the road to independence. In fact even these factors have to be made to fit a legal, social and political reality that it is not of our own making. We do not make up these external *rules*; they are often determined by social, economic and political paradigms which are not of our choosing, and also by Europe. For instance, international legislation specifies what objective criteria are required for statehood (these are a territory defined in administrative terms and the capacity to enter into relations with other states, according to the Montevideo Convention of 1933). Looking outward, therefore, objective criteria may no doubt be instrumental in order to meet the requirements of international legislation on the road towards independence. But there is also the primacy of the subject seeking independence and which decides at each stage what constitutes the crucial structuring link in the chain, whether it be the history of Navarre, the Basque language, feminism, ecology. In other words, political practice also determines the direction that the political subject takes.

To achieve independence, finally, the relationships between certain levels of governance / government will always be fluid. This is so in as much as the very territorial areas at stake are difficult to define and delimit. For example, what is Euskal Herria: is it the "Basque region of Spain" as BBC parlance stipulates, or is it a nation with the right to claim full membership as a new European state? And for that matter, what is Europe? Is it not a region (in the same way that the Middle East is called a region, say)? Or pushing the argument a bit further: is not Europe a mere province in the contemporary context of globalization? In subaltern or post-colonial studies, for instance, Dipesh Chakrabarty (2000) certainly claims that within the new geopolitical relations of globalization Europe must be "provincialized".

In this sense, then, if we admit that Europe's central place in world affairs is indeed "history", if we forget Europe's "heroic" imperial past and accept the need to provincialize Europe, what is the meaning of all these "metropolitan" warnings that we Basques need to get over our narrow provincialism? Nowadays these rather arrogant calls stemming from the supporters of what were once considered to be "big" European nation-states mean absolutely nothing!

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2. The Basque state throughout history: Navarre as the centre point of the Basque national memory

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Luis Mª Martinez Garate and Angel Rekalde approach their subject in terms of historical memory. The pursuit of a Basque state is nothing new: it is rooted in a collective Basque identity which has taken shape over many centuries. One of the most crucial links in that historical memory is the Navarrese state, the only state that the Basques have ever possessed. In recent years, aspirations for a Navarrese state have resurfaced, viewed as a Basque state of the past waiting to be reborn in the future. In this chapter, the authors remind us of the relevant teachings in this respect that will need to be remembered in a future political project.

1. A LOOK AT HISTORY AND MEMORY

1.1. History as memory

Fundamentally, the view taken by countries of their own history has generally tended to be based on their evaluations of what has happened. Historical events were either "good" or "bad" depending on their consequences for society. This is reminiscent of what we now call "historical memory". Historical memory not only reminds us of past events but draws attention to them. When it proclaims injustices or losses the loser's memory encourages liberating actions. The memory acknowledges the events but also bears an important relation to the places where the events occurred; such places are "sites of memory" (*lieux de mémoire*).

Thus events that led to defeat, or the historical sites where they took place, evoke in people on the losing side feelings of a demand for reparation, especially when injustices were committed. On the victors' side, on the other hand, there is an active promotion of forgetting and distortion of the facts; and what is it that they want to be forgotten? The events or places that are perceived by the gaze of the losers. By achieving the victors' objective, a second defeat of the losing party is brought about: first, said Walter Benjamin (1938), comes the historical defeat per se; second, the forgetting thereof and the triumph of the winners' viewpoint.

To illustrate this, we can take the invasion and occupation of Navarre from 1512 to 1530, a basic part of historical memory of Navarre over the centuries. Noain, Amaiur and Hondarribia [which the Spanish call *Fuenterrabía* — Translator's Note] are sites of memory where historic defeats took place. There are more recent examples too, such as the *Gamazada* in the nineteenth century, or Intxorta, Gernika and Durango in the war of 1936-37, along with countless others in the course of the Franco dictatorship such as the Aberri Eguna demonstrations in Gernika and Bergara or the fight against the nuclear power station of Lemoiz.

1.2. History as science

History was developed as a science in order to get away from the biased social perspective on the value of events and sites. Its objective was thus to achieve an objective narrative concerning what happened in certain times and places. The structuring of the telling of history, the historical narrative, must be based on a method of research, which is obliged to meet certain criteria which lend support to history as a science. The reading and interpreting of sources, archives and documents of all sorts must follow strict guidelines to avoid two pitfalls in particular, no matter how difficult that is: one linked to the present time (*presentism*), the other to the goal (*finalism*). There are two varieties of the former: *historical presentism* and *social presentism*, both of which consist of presenting events of some remote, historical period in political or social terms that make sense to us today. There was a case of historical presentism in 2006, in Iruñea [aka Pamplona — Translator], when the Government of Navarre organised an exhibition to commemorate the centenary of the reign of Antso the Great (alias Sancho III), in which the historical reality of the country known throughout the world as the historical Basque Country or Euskal Herria, the geographical limits of which expanded or contracted according to the vicissitudes first of the Kingdom of Pamplona and subsequently of the Kingdom of Navarre, was spuriously squeezed into the Procrustean bed that corresponds to the borders of the present-day Autonomous Community which also bears the name of Navarre! A map that formed part of the exhibition merrily superimposes on the northern part of Antso the Great's mediaeval kingdom the present borderline between the modern states of Spain and France, which was established in 1659 following the Treaty of the Pyrenees, subjected to a significant "adjustment" in 1868, and last revised as recently as 1984, when the Erronkari-Arette road was built.

Another dimension of historical presentism consists of judging historical events in terms of criteria deriving from present-day conflicts and using modern social, cultural and political categories. A case in point is the claim that the kings and queens of Navarre did nothing to support the Basque language. Such an assertion overlooks historical changes when treating the language itself as a tool for social, cultural and other forms of unity. But that became an issue from the sixteenth century onwards, after Spain had swallowed up most of Navarre. In that period, the cultural and linguistic renaissance took place in the part of the kingdom that remained independent, the cultural awakening being linked to queen Marguerite and the language movement to queen Joan III of Navarre (Jeanne d'Albret).

Another common error when retelling history is finalism, where history is portrayed as a one-way process guiding us surely and inevitably towards the present situation as if it had been preordained. Those who advocate the "Spanishness" of Navarre have never failed to wield such arguments as proof that becoming part of Spain was always Navarre's "destiny".

2. A LITTLE BIT OF HISTORY

2.1. The historical subject

2.1.1. The country
It is important to clarify who the historical subject is. Of course, we are talking about the group of people known ethnographically and sociologically by the name of the "Basque people" or the "Basque country" [*herria* means both "people" and "country" — Translator's Note] since the time of the Roman historians. Now then, like any other country, the Basques have undergone social and political developments, partly shared with other peoples surrounding them, yet with some unique characteristics of their own as well.

Countries are for the most part defined or perceived in relation to other, comparable countries. When relations and processes make necessary a more sophisticated and more effective structure in comparison to those of so-called "primitive" societies, and when the group in question has the ability and capacity to achieve one (Ariznabarreta, 2007), the result is the creation of a political institution and ultimately of a state.

2.1.2. The political organisation of Navarre
This sort of process took place all over Europe following the disintegration of the Roman Empire. The peoples who occupied those territories, almost all of which originated from the invasions of *barbarians*, were distinguished, from the High Middle Ages on, by certain political structures which in many cases have evolved directly into entities that still exist today. According to specialists in the history of that period, such as Adrian Hastings (2000), the political map of twelfth-century Europe differed little from that of today.

Most European states grew out of peoples whom Roman civilisation considered *barbarians*: Franks, Goths, Britons, Normans etc. Our case was a rare exception. Our country is one of the very few that did not arise from the invasions that took place as a consequence of the fall of the Roman Empire. Two defining components of our country could well have their roots in neolithic Europe. One is the body of consuetudinal laws referred to by specialists as the Pyrenaic Law System which gave rise to and underlies public institutions (Orella Unzue, no date; Urzainki, 1998 and 2003). The other is the language.

The situation of Basque society in the period is fairly clear. From the mentions of the Vascones by Roman, Frankish and Visigothic authors (e.g. Frankish and Visigothic chronicles refer repeatedly to the "domination of the Vascones"), we surmise that a decisive event must have taken place. On his way home following the failure of his Saragossa campaign, Charlemagne demolished the walls of Pamplona (the Basque Iruñea), the capital city of the Navarrese. This tells us two things of interest. First, there was already a well-fortified town of importance which was moreover this people's capital. Secondly, the *Vascones* demonstrated sufficient social organisation and military prowess to confront and defeat Europe's most formidable army of the day at Orreaga (the French *Roncevaux*).

Not long afterwards the Kingdom of Navarre emerged into history, under the rule of Eneko Aritza. This new state was born with a notable characteristic: in its origin there was no invading people, none of the Romans' *barbarians*, as in the origins of most European nations. This was a country that had been established on the same territory for a long time, perhaps a *very* long time, undoubtedly at least since the Neolithic!

As the Kingdom of Pamplona, Nafarroa reached the culmination of the political ascent that began in Orreaga with the reign of Antso (*Sancho* to the Spanish) III, the Great, in the early eleventh century, whose realm reached from the River Atturri (*Adour* in French) to the Duero, and from the Ribagorza regions of the Pyrenees all the way to the Urdiales coast. Its defeat by Castile at Atapuerca and grave internal dissent gave rise to the first great crisis of the Low Middle Ages, leading to the royal assassination at Peñalén behind which lurked Castilian interests.

2.1.3. Kingdom, state and nation

The second part of the process resulted in the new player, this political structure or state or at the very least pre-state, which took on the characteristics of the original society, also beginning to act upon its own structure, creating it within the people. The states started to "nationalise" their own population or that of the territory they occupied. This happened in Navarre after the death of Alfonso I (Alfonso the Battler) who left no provision for a successor in his will, which placed the kingdom in the hands of the military orders, whereupon the kingdom was restored by Garcia Ramirez IV, during whose reign a new political era began in which the kingdom's political organisation adopted a system reflecting Pyrenean Basque social culture. This period reached its culmination in the time of Garcia Ramirez's son and heir, Antso VI (*Sancho the Wise*), whose reign was long and momentous.

Lacarra (1976) notes, concerning the situation that arose at that time:
> The Kingdom of Navarre was restored in 1134 by a small clique of the nobility, supported financially from the start by the bishop of Iruñea/Pamplona, members of the bourgeoisie (Lizarra) and possibly the odd monastery (Iratxe). Count Ladrón's family's loyal support made it possible for Garcia Ramirez the Restorer's titles to include those of ruler of the territories of Araba, Bizkaia and Gipuzkoa… Each of these territories had its own particular characteristics and… he governed them through different titles and forms of authority. External pressures from Castile and, in particular, from Aragon **encouraged the development of greater unity and the creation of a national consciousness.**

The "national consciousness" Lacarra is talking about is a far cry from the "national consciousness" that culminated in the nineteenth and twentieth centuries. Nevertheless we can clearly discern a pre-national consciousness in many of the historical events that took place in Navarre from the thirteenth century onwards.

As the centuries went by, pressure on the conquered peoples from state institutions gradually increased all the way down to the nineteenth century, by which time the pressure was very strong and set going an unstoppable process of dissolution and assimilation into

the conquering nation both of countries which had never attained to statehood and those which had, but had been overrun through either conquest or occupation. That conquering nation, now their master, went straight at it to destroy the vanquished people's language, culture and property, indeed their entire heritage, or else they placed these at the service of the occupiers without consideration or respect (see e.g. Weber, 1983).

2.2. A brief history of Navarre

Think of Navarre initially as a cluster of territories, politically disperse nowadays but which for many centuries all formed part of the kingdoms of Iruñea or Navarre, or else had close relations with them, as in the case of Lapurdi and Zuberoa (in French called *Labourd* and *Soule*), for example. Navarre was the highest complete political expression of independence in the history of Euskal Herria. That is not to say that it placed limits on itself.

With regard to the language, listen to the great Basque writer Axular in 1643:
Badakit halaber ezin heda naitekeiela euskarako mintzatzen molde guztietara. Zeren anhitz moldez eta diferentki mintzatzen baitira euskal herrian. Nafarroa garaian, Nafarroa beherean, Zuberoan, Laphurdin, Bizkaian, Gipuzkoan, Alaba-herrian, eta **bertze anhitz lekhutan**.
I also know that I cannot cover all of Basque's ways of being spoken. For people speak in many manners and differently in the Basque country, in high Navarre, low Navarre, Zuberoa, Lapurdi, Bizkaia, Gipuzkoa, the land of Araba [or *Álava*], and **many other places**.

And a collection of articles subsumed under the general title *Castillos que defendieron un reino* [Castles that defended a kingdom] (Sagredo, 2006, 2007, 2009), show clearly how, from a political perspective, the kingdom's territorial extent was wider than that recognised today as Euskal Herria, Vasconia or the Basque Country.

2.2.1. Historical development

This brief review of the landmarks of our history begins with the organisation of a state when Antso Ramirez IV restored the Navarrese state in 1134 (Martinez Garate, 2010). Most of the work of building the kingdom occurred during the long reign of son Antso VI, the Wise (1150-1194). The kingdom went from being "of Pamplona" to "of Navarre", which speaks for the high level of development of an advanced political culture in comparison to the feudalism of surrounding kingdoms such as Castile.

Various characteristics, such as territorial jurisdiction over the entire kingdom, a view of the kingdom as consisting of the entire Navarrese population or unfettled royal appointment of the public administration rather than the establishment of vassalages based on feudal privilege, set off this state of ours as showing originality and distinctiveness. This period also witnessed the creation of towns or *villas* and the spread of commerce. In his reign the Basque language was designated as *Lingua Navarrorum*. There were military reverses in battle against the Castilians, and by their opposition to Diego López de Haro the Rioja region and parts of present-day Bizkaia fell to Castile, although the Durango district was kept within the Navarrese kingdom until 1200.

The same situation continued under his successor, Antso VII (the Strong), with further territorial losses to Castile. The Durango district, Trebiño and Araba all fell in 1200 to Castile, which ended Navarre's access to the coast; and Castile took over the area today known as Gipuzkoa. In this fateful year for the subsequent history of Navarre, the kingdom was divided and the population of the territories occupied by Castile lost their political condition of *Navarrese* subjects and were subsequently labelled as *Basques* (in Spanish, *Vascongados*), a denomination which only refers to their ethnic, linguistic and cultural identity; whereas the Navarrese subjects of the independent kingdom continued to be referred to as Navarrese. Only the latter retained this political label; on the other hand, all were equally Basque.

After Antso VII's death in the thirteenth century, the dynastic line passed to the House of Champagne; the most important Navarrese kings it gave were Theobald I and Theobald II. On account of their far more Frankish and Germanic than Pyrenean roots, when they came to Navarre they did not share in its social and political traditions. This made it necessary for the "kingdom" to set down its "customs and traditions" in writing, resulting in the creation of a written code, a sort of constitution of the kingdom (as we would call it today), which came to be known as the *ancient law* or *Fuero General de Navarra* [General Charter of Navarre]. Later in the century, in 1274, queen Joanne I of Navarre married Philip IV (the Fair) of France, whereafter a single monarch would wear both crowns for some years to come. During this period the kingdom was ruled by governers who were no more in tune with the kingdom's political culture than were the kings and queens by whom they were appointed.

In addition to the writing of the Fuero, one of the most interesting developments of the period in pre-democratic mediaeval Europe took place in Navarre. It has been studied systematically by Pedro Esart (2007) in a book titled *Los infanzones navarros* [the *infanzones* were a local denomination for the "barons" or "hidalgos", members of the lesser nobility without individual titles — Translator]. There were several assemblies of *infanzones*, the most famous of which met at Obanos. Its motto was *Pro libertate patria, gens libera state* "For the liberty of the fatherland, free people arise!", which expressed a movement of resistance to kingly excesses. The *infanzón* assemblies played a crucial part at times, such as in the decision to break away from France upon the death of the son of Louis X (le Hutin), the last common king of both Navarre and France, without an heir. It was an opportunity for the Navarrese, since the Salic Law which excluded women from the throne was in force in France — but not in Navarre. Taking advantage of royal indifference, in 1328 the *infanzón* assembly at Larrasoaña managed to "force" Louis X's daughter Joan to be their queen; she reigned as Joan II in conjunction with her husband, Philip Count of Évreux.

In 1328 the *Cortes* met at Gares [in Spanish called *Puente la Reina*, "Queen's Bridge" — Translator]. The thesis of contract reached its highest point and manifested the political maturity of Navarrese society, which dictated its laws to its princes and princesses rather than receiving them from them as in neighbouring monarchies. In practice, there was a contract between the Navarrese people, the kingdom and the monarchs, whereby the dynastic representatives promised to comply with and enforce the country's laws, charters, traditions and customs. If they failed to do so they could be divested of their administrative responsibilities. Lacarra (1976), comparing this procedure with the tradition in England, concluded that such a degree of public control as this seldom arose in the course of the institutionalization of power in Europe.

Consequent upon the Castilian conquest of the kingdom's western realms, the local notables started warring among themselves, embarking on a series of blood feuds known as the War of the Bands (*bando-gerrak*) between competing alliances of noble families. There were two main *bands* in the area under consideration: that of the Ganboa family (*Gamboinos*) who were loyal to Navarre, and that of the house of Oinaz (*Oñacinos*), who sided with the crown of Castile. Constant fights between them continued right up to the late fifteenth century, when Castile's king Henry IV, supporting the *villas*, established a political regime for the three Basque provinces [i.e. Araba, Bizkaia and Gipuzkoa — Translator]. That regime, which was subservient to the political interests of Castile, was eventually enshrined in the Basque *Fuero* (charter) system, which was idealised and justified by Esteban Garibay, the Spanish monarchy's official chronicler, at the end of the sixteenth century.

As a result of the recovery of the kingdom in 1328, thanks to the Évreux dynasty and the *infanzón* assemblies, innovative reforms were carried out fifty years later which were laid down in the mid-fourteenth century by the Cámara de Comptos, one of the most

important European institutions for the control of public taxation and state spending, during the reign of Charles II of Navarre (Charles the Bad). Charles II's many debts were entwined with most of the conflicts and intrigues of Europe in his day. He was involved in the Hundred Years' War between Britain and France and in the in-fighting between Henry of Trastamara and Peter the Cruel in Castile. Then there was his interference in the internal rivalries of the French monarchy over control of Normandy, for which he was imprisoned in Paris. After his release he supported the Paris bourgeois uprising led by Étienne Marcel against Charles, the dauphin of France's king John II. Amidst the events of the Hundred Years' War, Charles II was taken prisoner by the English. In the course of his turbulent political career Charles II managed to endanger not only his own person but the entire kingdom.

Under his heir, Charles III (Charles the Noble), Navarre achieved a period of peace. In 1423 the so-called Privilege of Union united the three sections of the Navarrese capital: the borough of San Cernin, the town of San Nicolas and the city of Navarreria (from the Basque *Nabar-herria*, "Navarrese town"), between which there were frequent skirmishes. This act helped to unite the city of Iruñea (or Pamplona) permanently and achieve a lasting peace. Charles III's heir was his daughter Blanche (or Blanca of Navarre), who married the wily and ambitious John II of Aragon (John the Faithless). After the queen's death, Navarre was subjected to a drawn-out dispute for the throne between John II and his son Charles, Prince of Viana. By the end of John II's long reign, Navarre was in a very bad way. Following the arrival in 1483 of the Foix family, Catherine and her husband John of Albret undertook the modernisation of the kingdom's political structures, in line with the Europe-wide renaissance of the period (Adot Lerga, 2005).

King Ferdinand II of Aragon, known as Ferdinand the Catholic to Spanish historians, was the son of John II of Aragon with his second wife Juana Enriquez, the daughter of a Castilian admiral. He married queen Isabella I of Castile and entertained high ambitions which were not quelled until he began the conquest of the Kingdom of Navarre in 1512; by 1529 the military occupation of most of its territory was completed, although he did not live to see it since he died in 1516. This constituted yet another milestone in Castile's period of expansion, and it was at this time that it attained the political structure to be known as Spain. Castile was moved by imperial ambitions to complete the drive against the Muslims in what it called the *Reconquista* by occupying Granada. Meanwhile, Castile also set its expansionist sights beyond the Atlantic coast, starting with northern Africa, continuing with the Canary Islands and finishing in America. Within Europe they followed a similar course, conquering and occupying states of strategic value: part of Navarre, the most important areas of the Italian Peninsula (on the pretext that both of these provided "dangerous" protection to France) and the Netherlands. At the same time as this, Portugal's imperial expansion was taking place in Africa and the East, but its real interest was commercial rather than territorial, in contrast to Spain's ambitions in Europe, the Canary Islands and America.

Following the conquest and occupation of High Navarre and its incorporation into Castile, the part of the kingdom north of the Pyrenees which remained independent (Low Navarre) formed a small state together with the territory of Bearn, which achieved cultural eminence. The list of personalities who passed through it or exerted influence include Leonardi da Vinci (Capra, 2008) and European religious reformists and intellectuals. This was the period of cultural renown of queen Marguerite de Navarre, Jeanne d'Albret and her son Henry III of Navarre (IV of France) (Fevre, 1955). Encouraged by the state's political vigour, Basque made its appearance as a national language and language of culture through a spate of authors, the most notable of whom are Etxepare, Leizarraga and the venerable Axular. Of particular significance here was the translation into Basque of the New Testament in 1571, which queen Jeanne III commended to Joanes Leizarraga.

Translating the Bible into modern vernaculars has always been taken as a major landmark in modernisation, as in the case of Luther's German translation which was printed in 1534.

After Jeanne d'Albret's son Henry III of Navarre became Henry IV of France, he governed both kingdoms simultaneously. He achieved religious balance and tolerance in France through the Edict of Nantes (1598). Together with his financial superintendent the Duke of Sully, a Huguenot, he drew up a *grand dessin* for Europe, a concept of European unity the purpose of which was to halt the imperial ambitions of the Spanish House of Austria. He was assassinated in 1609 by the Catholic fanatic Ravaillac. The French monarchy continued in the line of absolutism from the reign of his son and heir Louis XIII, who occupied Low Navarre, Lapurdi, Zuberoa and Bearn militarily on the pretext of religious conflicts in the area, and in 1620 he issued an Act of Union which incorporated Navarre and Bearn into the French crown, thereby putting an end to the kingdom's independence and simultaneously reducing the *fueros* of other Basque territories within the monarchy. The absolute monarchy established a strict unification in France which was to culminate in the French Revolution; in 1789 France eliminated all remaining traces of the *fuero* system on Basque territories.

As we have said, once warring between the bands in the Basque provinces now under Castilian dominion (the *Vascongadas*) came to end, i.e. from the fifteenth century on, with the victory of the *villas* suported by Castile, a system of legal charters or *fueros* came into effect in these Basque regions. The period that followed saw the rapid growth of iron-making and shipbuilding, fishing and commerce, but also witnessed social conflicts. Examples in the seventeenth and eighteenth centuries are the widespread Salt Rebellion in the iron works and the *Zamakolada* uprising in Bibao and other parts of Bizkaia. Among the signposts of economic development are the Consulate of Bilbao, dating back to the sixteenth century, and the Compañía Guipuzcoana de Caracas, which were economic associations of "friends of the people".

The French Revolution deeply affected events on the side of Vasconia south of the Pyrenees in the late eighteenth and early nineteenth centuries. For one thing, there was an indirect, ideological impact involving the theoretical tenets of the revolution: these influenced Godoy, and the thinking of Spain's Charles IV, and also the manner of understanding the concepts of monarchy and state. But there was also a more direct and highly significant influence among Spanish historians and intellectuals who adopted a theoretical position contrary to the *fuero* system and the pacts upon which they were based. In addition, there was a direct impact from post-revolutionary France through the effects of the wars waged by its institutions. And so we come to the Revolutionary Wars from 1793, which in 1812 led to Napoleon.

The Spanish attack on the *fuero* system was harsh, and when Spain's Ferdinand VII died without an heir, in 1833 the Carlist uprising ensued, which favoured Ferdinand's brother Carlos María Isidro as Spain's new king, especially in the Basque Country. The resulting Carlist Wars, which were two in number in Vasconia, three in Catalonia and Spain, mobilised a great war effort: the population and territory of High Navarre suffered the most, being the largest in area. The *fuero* system was abolished as a result: those of High Navarre where there was still a kingdom, through the misnamed "concerted" law of August 1841, after the First Carlist War; and in the Vascongadas area, in August 1876, following the Second Carlist War.

Apart from the political defeat, the other price of these wars was countless deaths, imprisonments and flights into exile, along with demographic loss and social disintegration, with a rise in crime and banditry. The language was also drawn into the crisis: Basque suffered a great setback, particularly in High Navarre and Araba. An interesting positive dimension of the period was the involvement of the population of the

Aquitainian or northern part of Vasconia in these conflicts, repeatedly offering their Carlist neighbours from the south a place to take refuge and replenish supplies. This was none other than an expression of the ancient unity of the Vascones in the middle of the nineteenth century!

The aftermath of the Carlist Wars was a chaotic and acrimonious situation which fuelled an important cultural movement in High Navarre which reinvented historical memory and the love of the Basque language and, generally, the nation's heritage. It was led by the Navarre Basque Language Association which brought together many influential personalities including Campion, Iturralde Suit, Olabe, Oloriz and many others.

The sleight of hand that had been performed between the Spanish state and its new province of Navarre under the false title of a "concerted law" in 1841 was repeated at the close of the nineteenth century. According to the new law, High Navarre had to pay a tax quota to the state each year. A Spanish minister, Germán Gamazo, attempted to modify this and met with a loud response from Navarre, giving rise to the social and political phenomenon that came to be known as the *Gamazada*. The reaction took the form of large public demonstrations with mass support; 100,000 Navarrese signatures were collected protesting the move, and there were other actions. Three people died in demonstrations in Donostia, and one in Biasteri. One of the most important events was the reception of envoys from Madrid by Navarrese representatives at Castejon (Navarre) for negotiations which included two Bizkaians, Luis and Sabino Arana Goiri, who shortly afterwards took a great leap forward in the way Basque nationalism was understood. They placed it in the context of the pro-nationalism movements then spreading around Europe, leaving behind the Carlistas' regional outlook. Declaring that *Euzkadi euzkotarren aberria da*, "Euskadi is the country of the Basques", they defined Vasconia as a nation, with all that this implied concerning its right to independence, a right which was starting to be debated internationally.

But the Arana Goiri brothers' point of view was a little off-centre. They failed to perceive that the source of the Basques' independence, which they defended, was not each region separately, it was the fact that these belonged to a European state that had existed for centuries, the Kingdom of Navarre. This misconception about the history of Vasconia led them to make another mistake. They recognised the name Euskal Herria to designate the ethnicity, culture and language of Basques, but not as a political entity. Based on a questionable etymology, they decided to invent the political denomination *Euzkadi*, not realising that Euskal Herria already had its own political name. That name was Navarre.

2.2.2. Paradigms for interpreting our history

Ever since Spain's conquest of the south of the kingdom, High Navarre, in the sixteenth century, in the modern and contemporary period the idea of Vasconia has been interpreted in three different ways in Navarrese society. Although these have succeeded each other choronologically, all three viewpoints persist, side by side, in our country's collective representation. For short, we might call these three views the "*fuero* paradigm", the "Bizkaian paradigm" and the "Navarrese paradigm".

The first of these, the *fuero* paradigm, presents the relations between Vasconia and the occupying state as independent pacts with each province. To start with, there is the presentation of the primitive relations between what have historically been called the Kingdom of Castile and the *Vascongadas* Provinces as "pacts" of vague and ancient origin; but in reality they are measures to achieve governability following conquest, with Castile calling the shots. And incorporation of the kingdom into Castile following the invasion of 1512 is described as an arrangement "between equals", also "pacted". The first champion of this version of events was Garibai, who was from Arrasate, speaking from the provincial point of view in the sixteenth century as chronicler of Philip II's monarchy. The same

viewpoint was held by the Jesuit Moret, official historian of the Kingdom of Navarre. Larramendi, a Jesuit, was also influential in the eighteenth century, as were many of the Carlists' ways of thinking in the nineteenth and early twentieth century.

The second paradigm emerged after the loss of the Second Carlist War; this is the "Bizkaian" or "Sabinian" paradigm. Sabin Arana Goiri was aware of the national movements then taking place in Europe and elsewhere in the world; he had sent a telegramme supporting Cuban independence and got put in prison for it. He did not reject the *fuero* heritage but took it a further step, injecting it with a nationalistic content. Arana's perspective was Bizkaian, and he did not take the Navarrese question sufficiently into account, but he did accomplish a huge leap forward by declaring that the Basques are neither Spanish nor French, but only Basques; they constitute a nation, and therefore they have a right to independence; they are entitled to have their own state.

The third paradigm was foreshadowed by Xaho in the First Carlist War in his book *Viaje a Navarra durante la insurrección de los vascos*), which underscores the centrality of Vasconia, of Navarre, in the Basque world. He also declared that the Kingdom of Navarre was the greatest political achievement of Euskal Herria. Here was a sovereign country, the equal of any European kingdom or state of its time. Today that viewpoint is expressed even more explicitly and it is the basis of what we shall call the "Navarrese paradigm".

The *fuero* paradigm reflects the historical reality of a divided Vasconia conquered, occupied and fragmented as a result of successive conflicts, which nevertheless somehow managed to maintain its own social and, in some degree, political structure. In the Modern Era, the *fuero* regime can be described as "the last dregs surviving from the defeat of our own sovereign state".

Euskal Herria was subjected to pressure from two sides: in the north, the French Revolution completely annulled Navarre's, Lapurdi's and Zuberoa's *fueros*; in the south, policies to abolish the *fueros* were pursued. Confronting that pressure, Arana's *abertzale* position moved closer to that of nationalists around the world in his era.

The Navarrese paradigm subsumes both of these and surpasses them with its political content, which is none other than the Basque state. It has the popular perspective of a country whose citizens, as the historical subjects of the challenges of the modern world, wish to address them from the vantage point of an independent state. Citizenship is seen from a territorial point of view: the Navarrese state is understood as a basic element perpetually generating identity; as a meeting point emanating its language and social or political culture. But a meeting point for whom? With individuals with different languages and cultures, who in coming to live and work here will make their contribution. Moreover, this paradigm places the Basque issue on the international stage, rather than presenting it as an internal affair of the Spanish and French states.

3. MEMORY, IDENTITY AND POWER

3.1. The value and function of memory and history

The value of history resides in what it tells us about the process that has made it possible to construct the present-day *us*, with language and the heritage we possess; with the social and political culture which defines our society, and also with the struggles in which we are participants and, too often, victims. In short, history consists of explaining and understanding, here and now, who we are and why we are as we are; and it must be useful for protecting the future that we need to build. It is a way to clarify identity; and although of

great importance, it is paid little heed by people whose identity is not in doubt because it is protected by their state. A people unaware of its identity has no future!

Some vanquished peoples have turned their memory into myth. History helps to correct such myths. Furthermore, the victors, after they have overcome the vanquished by force, falsify memory and conceal it, and it is that memory which history, in particular, helps to bring to light. As Albert Balcells puts it (2008), memory and history perform two functions in social processes. The same applies to sociology and political science: they have purposes that go beyond social or political action. Thus the science of history has a similar goal to social and political science, whereas memory is closer to social and political action. History is basically driven by reason, memory by sentiment. Memory is based on witnesses, is expressed through rites and ceremonies, and appeals to feelings; history, on the contrary, speaks through science.

There is a danger that history, in its endeavour to divest memory of myth, may encourage a sceptical conformism in society which has a great facility to incorporate new myths, but myths created as a policy of power, and uncritically. The historical memory of those defeated had a capacity for disobedience and mobilisation, but conformism provides them with a new "memory", the "memory" of the victors which only gives rise to meekness and conformity.

3.2. Identity and memory

According to Paul Ricoeur (1990), as quoted by Noiriel (2007), there are two sides to identity. One he called *mêmeté* (sameness), the other *ipséité* (self or identity). The first of these means that A and B are "the same", i.e. A is the same as B, as opposed to C which is different from both of them. The second notion is created by one's consciousness which assumes continuity over time; in other words, it is memory. Thus the members of a group that considers itself a group claim a common origin and prove its continuity through history.

The former perspective looks at the question from the viewpoint of simultaneity, that is, focusing on a specific point in time: the present, basically. The latter takes a diachronic view, on a historic plane, basing itself on historical memory. Both perspectives obviously centre on the individual, the person themselves; but both are based, particularly the latter, on a social structure which is built up over time.

3.3. A holistic view of identity

When defining the set of features that make up the identity of a group of people, whether it be a country, a nation or something else, this is widely assumed to be a set of juxtaposed elements, such that it includes social and individual aspects, but that these can partly diverge without contradicting the essence. That elements can be removed one after another like the layers of an onion until the essential core is reached. I think we can peel away an onion's layers one by one until we end up with nothing: no onion. An onion, like identity, *has* no core. The removal of successive layers is not equivalent to the layers' importance when defining identity. In each individual and each society, it is the order of layers and their precise significance that distinguish it from other individuals and other societies.

The secret is that all the layers, or nearly all, must be present, because the layers are interrelated in such a way that if we separate one we may be removing parts of another and in the end neither of them will be of any use. An identity does not consist of unconnected parts, it is made up of a set of interdependent characteristics; their sum total and the

relations between them are what define a social culture or a political culture, but also a way of being in the world that is characteristic of each society or individual.

Aspects of identity include very important elements of creation of social and political culture: the Kingdom of Navarre, whose sovereignty spanned many centuries, with its own legal and administrative system; its own ways of supporting the community, such as through the *auzolan* system of local community work; and its own language, of course: Basque. Limiting the concept of culture and its evaluation to just knowledge — whether it is scientific, technical, ethical or artistic — ends up castrating it, to a large extent. To be sure, these are all parts of a heritage and hence also pertain to identity. But no one of these, taken by itself, comprises a culture.

3.3.1. Historical memory

We began by considering the importance of historical memory in any society. Historical memory is a basic element for building its identity. More important than the set of perceptions of events that marked a country's development (its military victories and defeats) are the basic things out of which any society is built, such as its own language. Landmark events form part of an identity: in the Basque case these are such things as the Battle of Orreaga; the conquests by Castile, especially those of 1200 and 1512-1530; Maroto's betrayal at Bergara at the end of the First Carlist War; the war of 1936 with its battles and the bombing of defenceless citizens; the almost totally independent government of Euzkadi; the repression of the Franco years and popular resistance, and so on.

3.3.2. Sites of memory

Many of the events mentioned are linked to specific locations: landscapes, towns or villages, etc. In the politics of memory, Albert Balcells says, "the historian may act as a historical counsellor, but not as someone vouching for the scientific validity of the options chosen." The choices are ours: we have chosen Noain and Amaiur, Gernika and Lemoiz. In our opinion the kernel of our identity consists of the way we recount and talk about our history and events of the past and the way we see them from the viewpoint of today; that is, how we perceive from the perspective of our memory.

Physical buildings can reflect the construction of a state, as with the palaces of Iruñea, Lizarra, Erriberri (*Olite*) and other towns, and those of Armategi-Buru. So can religious buildings that played a key political role such as Pamplona Cathedral. Popular institutions such as *auzolan* (neighbourly community work) which form part of our social culture are associated with tangible venues, such as silos, places of assembly, town halls, churches and sanctuaries.

3.3.3. The language

The language is another fundamental component defining a society. The Basque language is the primary element of our identity.

Although its language forms part of the particular culture of any society, it does more than that. The language provides a representation of peoples' deepest essence, completes it, and responds in a profound way to its relationship to the forces of nature and to other peoples. Language is a direct force of production, a tool that can be adapted for the extraction, production, creation, storage and transmission of any kind of skill or *know-how*.

On the symbolic level language makes it possible to represent images of natural forces and myths by means of which a people can symbolise their presence throughout the course of its history. Language makes sense of the way social relationships are established, and is itself built out of those relationships. Language establishes a manner of seeing the

world and the relationship with nature, a particular way to perceive space and time (E. Sapir, 1921; B. L. Whorf, 1956).

Besides Basque, several Romance languages must be considered languages of the country: historically, these include Navarrese (replaced by Castilian, especially following the conquest), Bearnese or Gascon, Occitan, and French, the latter having displaced the former almost entirely.

3.3.4. Social and political culture

Basque social and political culture have been so intimately bound up together that they do not lend themselves to being separated mechanically. While many features of Basque social culture have had a political representation in history, others have not. To a large extent the Basque Country's political culture derives from the efforts to nationalise its state, i.e. Navarre (Lacarra, 1976). It was also fed into by the work of the *fuero* institutions, for although they served the Castilian crown until the fifteenth century, the Spanish monarchy from the early sixteenth century and the French from the seventeenth, they continued to produce a political culture although conflict with the forces of occupation progressively increased.

Basque social culture is also manifested as a culture of solidarity, and of responsibility, trust, cooperation and loyalty. It is also a culture of work, even obsessively so: things "have to be done by whatever means it takes". And it is a culture of expression and action with no time for vague theorising. Basically it is the culture of the community. One of its particular expressions is the system of communal work, *auzolana*, carried out for the good of the community, and unpaid.

A culture of perseverance, confidence and loyalty are the hallmarks of societies that have proved capable of success in complex, long-term projects. Such projects include the commercial and industrial business concerns built up in the course of the eighteenth, nineteenth and twentieth centuries, and last but not least, the cooperative movement. The famous *word of a Basque*, a promise to be counted on, is a basic component of this social culture, thanks to which, combined with a knack for putting practice before theoretical contemplations, Basques have risen to challenges and realized feats as great as the creation of the nation-wide *ikastola* movement of Basque-language schools and the powerful Arrasate (*Mondragon*) system of cooperative companies, against all odds, in the middle of the Franco regime.

The Basques' penchant for solidarity was demonstrated in the exodus of missionaries after the war of '36 [i.e. the Spanish Civil War which was followed by the vicious persecution of Basque nationalists — Translator] and the subsequent secularization of the western world and the Second Vatican Council; in their support for freedom struggles in South America, Central America and many other parts of the world; and in the creation of an endless list of NGOs. Basques' capacity for solidarity is also revealed in other ways: in the proportion of voluntary blood and organ donors, for instance, the provinces of Araba, Bizkaia and Gipuzkoa, together with Rioja and High Navarre, stand out from the other parts of the Spanish state.

The same culture of solidarity was manifested in the final years of the Franco regime and the subsequent *transition* (wrongly referred to as "*democratic*") through strikes and labour struggles. Although those movements were significant, they did not have sufficient political clout to achieve a truly democratic structure in the Spanish state following the death of Franco, rather than merely a unitary one.

This culture has much to do with the Basques' tendency towards group organisation and, in towns of any size, their *street dynamic*. It can be perceived in the way they carry out

their countless collective social activities. Basques love clubs and associations, ranging from culinary societies, hiking groups or sports associations all the way to cultural and political organisations. It is also shown by their readiness to organise any kind of festive event, no matter whether it is in support of the language, of the culture, or just for fun. It is significant that there are so many Basque choirs and so much group singing. Popular architecture with its special social areas also bear witness to a collective culture which puts social life first. Not to mention the very existence of the *koadrilak*, the system of the permanent circle of friends, which is yet another way in which Basque culture manifests these characteristics.

According to Juan Antonio Urbeltz (2011), historically the Basque people are an egalitarian society characterised, like other egalitarian societies, by a lack of heroic figures. Another implicit feature of this society is the important role of women. One symptom of this is their clear disdain of authority from above and of official titles or qualifications. The ability to confront official authority, or indeed any authority, with consuetudinal traditions is enshrined within the fuero system in a concept of exemption from royal commands expressed by the standard formula *Sea acatado pero no cumplido* "Let it be heeded but not fulfilled". For example, they did not comply with Spain's and France's military recruitment laws. Obligatory military service (the *quintas*, cf. Esparza, 1994) was here the consequence of the breakup of the Basque *fuero* system, which was what remained of the Basques' historical sovereignty. In the 1980s the great majority of young men who evaded Spanish military service as *insumisos* were Basques, undoubtedly as an echo of that social culture).

This Basque social culture, which brings out a sense of group and community, is manifested in these and many other ways.

In many ways political culture is linked to social culture and is merely an extension of the latter, above all in projects related to the *res publica*. The most important characteristic of Basque political culture is the capacitate to self-organise, regenerate and reconstruct in contexts of a power vacuum or a crisis.

In this respect the capacity of Basques to organise their authority and territory when circumstances have been favourable is remarkable. Such was the case in the nineteenth-century Napoleonic War: Javier Mina and Francisco Espoz y Mina built a Navarrese Basque army which laid the foundations of a political organisation at a time when the Spanish monarchy was in crisis. This army held the country under its sway. In the Carlist Wars (1833-39 and 1872-76) political organisations were created throughout the region of the Basque Country with all the trappings of independent states of the period, with its own administration, army, treasury, currency and international relations. Indeed, the southern Basque Country knew no fewer than three different periods of political self-organisation when it was for all intents and purposes independent of the Spanish crown.

This is reminiscent of the Champagne dynasty's accession to power in Navarre in 1234 through marriage to a daughter of Antso VII (the Strong) following his death and the end of the local-born dynasties. This family's political culture was a Frankish or Germanic one with power emanating from the chiefdom. This arrangement clashed head-on wth the Pyrenean culture system. The situation resulted in two politically momentous events in the history of Navarre during the period of Champagne reign: the drawing up of the General Fuero and the rise of the Infanzon Assemblies as an expression of the kingdom's discontent with the new forms of government and a demonstration of its own recipe for political culture.

Another event of interest around about the same time took place after the union of the Navarrese and French crowns through the marriage of queen Joan of Champagne and Philip IV (the Fair) of France. Following a disastrous period for the Navarrese government, Navarre used the excuse of the application of the Salic Law to the French royal successiong

to get back its independence after the death of Charles the Bald, thanks to the Infanzon Assembly which had his niece Joan, who was married to Philip d'Évreux, declared queen of Navarre. They were crowned king and queen in the *cortes* of Larrasoaña in 1328.

The political reorganisation of Navarre's Castilian-occupied western territories in 1200 involved a period of fighting between "warlords". The so-called *Ahaide Nagusiak* (the "elder kinsmen"), the nobles who headed warring bands with their enlisted fighters, some loyal to the pro-Navarre house of Ganboa and others to the pro-Castile house of Oinaz (known respectively as the *Gamboinos* and the *Oñacinos*), emerged the victors in the struggles for the *villas* and, with the support of the Castilian crown, established the Vascongado Fuero System. This system and the institutions that it created inherited the political culture of the ancient Pyrenean legal system and their institutionalisation in the twelfth century as the Kingdom of Navarre.

This capacity became most evident in times of crisis. Its political consequences were most striking in the situation that arose on the occasion of the 1512-1530 invasion and occupation of what was still nominally the Kingdom of Navarre. On paper at least, its unilateral, forced annexation by the crown of Castile at the Cortes of Burgos in 1515 honoured many of its own institutions and legal system, including its own Cortes. Although these institutions and laws were in practice forced into subservience to Spain's imperial interests, the degree of self-rule that Navarre preserved and its highly developed political culture seasoned by long experience dealing with adversities led to a set of circumstances worthy of attention. To begin with, consider the vigour of the institution of the *cortes* of the kingdom itself, which maintained much more intense activity than the corresponding institutions in Castile in the centuries during which it survived after conquest. Thanks to the political maturity peculiar to the Navarrese, they were capable of responding to the challenges of the day by creating new institutions which demonstrated a surprising degree of vitality and effectiveness, such as the *Consejo Real* or the *Diputación del Reino* (Huici 1963 and 1996, Sorauren 1998). The institutionalism of the kingdom following the invasion and occupation of 1512-1530 resulted in a much more complex and comprehensive system than in the Vascongada provinces in the fifteenth century, yet they shared many common features.

In the last war to which Vasconia was subjected, that of 1936-37, there occurred an event of not only symbolic significance but real importance, although short-lived and affecting a smaller area than events in the nineteenth century. The self-organising capacity of Basque political culture was proved once more in 1937 wartime Bizkaia when a Basque government under the presidency of Jose Antonio Aguirre was set up, seemingly effortlessly, with all the attributes of an independent, self-organised state.

With the victory of the Fascists in Spain there followed a long period of dictatorship under Francisco Franco, during which the penchant for organisation returned to expressing itself through the emergence of a broad, vigorous civil society outside the bounds of the Spanish state apparatus, manifested on a variety of levels and in a multitude of forms. This is where the grassroots Basque school system of *ikastolak* comes in, and the Arrasate (or *Mondragón*) network of business and financial cooperatives, and countless other projects besides. National Basque newspapers such as Egunkaria and Egin would not have come about without a strong civil society with a well-engrained political culture. Nor would it have been possible, following the inadmissible moves by Spain to close both down on trumped-up charges, to set about the immediate reconstruction of these two projects in the form of two new newspapers, *Berria* and *Gara*.

3.3.5. Land and landscape

The land is another major component of identity as the setting within which each society develops, and it determines the overall ecological relationship between the beings

who inhabit it and the features of the terrain in both morphological and climatic terms. The territory *is* the country. Societies not only stand in a close relationship with their land but are part of a permanent loop of feedback and symbiosis with it. The territory upon which a human group settles determines many enduring aspects of their social organisation, especially with respect to work and property, while their social organisation in turn transforms it, turning it into a landscape, and imposes order on it. Each is forever altering the other, and there is no such thing as a stable society without a territory.

The landscape is the synthesis of a population and a territory that makes it inhabitable and permits social development. In this sense many landscapes can be considered "sites of memory". Thus Orreaga, which was seen to be a primary event of historical memory, is also the original "site of memory" of our sovereign political entity. Others include the Bardena region which for centuries knew only a pastoral lifestyle based on transhumance, the seasonal movements back of forth of people with their livestock; St. Adrian's Pass in Zegama (Gipuzkoa), as a reminder of the ancient routes; or the host of lookout towers from which Basques watched for whales approaching the coastline. Yet another is without a doubt Gernika, both the town and the historic Meeting House.

3.4. Identity and political power

Today, all the existing states operating around us are finding it more and more necessary to insist upon, or even reinvent, their own identity as a basic factor of social cohesion. The problems arising from globalisation and the migrations consequent upon the west's domination and control over the countries of the so-called third or fourth world have reinforced and accelerated a process which commenced in the nineteenth century when the nation-state began to stretch its muscles and nationalise the societies within the scope of its control.

States tend to reinforce the "national" identity of the society or societies over which they exercise power. They are well aware that memory, focusing on particlar events and places, is one of the chief factors that strengthen such a sense of identity. In the case of the Basque Country as in that of Catalonia, we live in a country that is ruled by the states of Spain and France. We know that this situation arose out of processes that were anything but peaceful: wars, occupations, forced migrations, persecution of the language and the culture, and abolition of original institutions which have been supplanted by others. Memory, events and places, says Albert Balcells (2008), constitute "a tool for mobilising, educating, identifying the group and making it visible in public". France and Spain impose their own events and places which they wish to become "memory", while subjecting those of the peoples they have dominated to oblivion, contempt or distortion. Hence the maintenance or recovery of those memories, where they were the fruits of defeat, are liberating elements of the greatest significance.

The downtrodden nations that aspire to a place in the international arena as a political subject and who wish to be counted, have a say, and exercise their vote need to understand that obtaining their (our) own state is a necessary condition for achieving that. However, let there be no mistake: it takes a tremendous degree of social unity to be able to bend the will of the "unnamable" ruling states, Spain and France. To overcome their wish to dominate and occupy, it is essential to be completely convinced about the constitution of each particular identity and have an acquaintance with and a capacity to interpret one's own history and heritage. Memory, the memory of events and of places, is a fundamental element in this respect.

Identity, in a complete sense, is a basic element for the survival of any people in the world today, and most particularly for a dominated society. It is furthermore a fundamental factor when looking at a liberation struggle if there is to be any chance of success. The

appreciation of a historical memory of events and places is a liberating factor of the utmost importance. Without sovereignty there can be no democracy, and a dominated society cannot be democratic. The worst thing that can happen to a dominated society is for it to come to think of itself as a "minority" within the dominant "majority". One path that is guaranteed to lead us into that trap is the loss of the landmarks of our own memory.

The leadership that may be achieved through social and political conflict may determine the sense of all these concepts, but always from the perspective of obtaining our own state, the achievement of which, i.e. in our case of the state of Navarre, is the only effective guarantee of the development of an identity without fear born of domination, in a united, democratic society capable of confronting its present challenges.

3.5. A permanent demand as an aspect of identity

One thing characterising the history of Basque society, structured from a political point of view in connection with the state of Navarre and following the conquest of its western territories (known as *maritime Navarre*: Urzainqui & Olaizola, 1998) in 1200 and the kingdom in 1512-1430, for High Navarre, and 1620 for Low Navarre, is the continued demand for its lost independence or, where applicable, of the political institutions which, although imposed and subordinated to Spanish interests but obtained and justified as armistice pacts, implied a different political approach from the usual practice of the Spanish crown with a basis in the *fueros* and originating from its own legal system, also known as the system of Pyrenean Law.

In 1454 the Prince of Viana, Charles, son of queen Blanche and granson of Charles III, the Noble, wrote a work titled *Chronicle of the Kings of Navarre*, which refers to the events of 1200 in a way which clearly conveys the idea of a military conquest considered unjust by the heir to the Navarrese throne 254 years later. There is not a single word about "voluntary surrender" or "pacts". The continuity of nationalist demands based on historical memory of invasion thus dates back at least to the fifteenth century. It took a different form in the western territories invaded in 1200, where the demand was limited to the system created by Castile after the end of the wars of bands and the consolidation of the *villas* as centres of power.

It may be concluded that while the demands in the different parts of southern Vasconia had a common basis, they translated into two different forms of expression, a fact that was first taken advantage of by Castile, and from the sixteenth century onwards by Spain in an unabashed manner, doing everything in their hands to spark confrontation between Basque and Basque. Behind the band wars between pro-Navarrese *Gamboinos* and pro-Castilian *Oñacinos* was an internal division produced by occupation. In the war of occupation that began in 1512, Spain used mercenary troops from many parts of Europe — as did Navarre — but it made a special point of paying Basque troops to fight agaist the legitimate kings and institutions of Navarre.

Early in the seventeenth century the Zuberoan Arnaud Oihenart, author of the famous *Notitia Utriumque Vasconiae* (1656), wrote several works concerned with the conquest of the Navarrese kingdom. In 1625 he published a *Déclaration historique de l'injuste usurpation et retention de la Navarre par les espagnols*. Then he composed a *Mémoire touchant l'usurpation de la Navarre*, which was later given the name *Navarre injuste rea; sive de Navarre regno contra ius fasque occupato*. Oihenart lived in the town of Donapaleu, where he was a *syndic*, and he considered himself Navarrese. He tried to obtain access to the document archives about the invasion of 1512 that were kept in Iruñea (*Pamplona*), but was denied permission by the Spanish authorities.

It is interesting that again the outcry against the injustice of occupation should come here, as in the case of the Prince of Viana, from people who have lived in a free Navarre. Louis XIII decreed the union of two kingdoms, Navarre and France, thereby greatly diminishing the weight of Navarrese institutions and those of Lapurdi, Zuberoa and Bearn. But the claims of Oihenart as someone completely independent of the Spanish system of occupation speaks for the continuity of denunciations of the unjust occupation of High Navarre.

The direct, frontal attack on the *fueros* system in the late eighteenth century gave rise to a new meeting of minds across Euskal Herria, witnessed in particular in the First Carlist War, when the western and eastern territories of the south presented a united front, under general Zumalakarregi, to the Spanish troops loyal to princess Isabella. The northern lands contributed to the effort with provisions and logistical support.

After defeat in the wars of the nineteenth century and the virtual abolition of the *fuero* systems in Navarre and Vascongadas, the demand that was most heard was for "complete restoration of the *fueros*", i.e. a return to the situation prior to the Convention of Bergara in 1839. At the same time, a sea-change commenced with the new ideas of the Arana Goiri brothers which evolved into a set of national demands in the modern sense, although without any explicit reference to the unjust conquests and occupations of 1200, 1512 and 1620.

With increasing acceptance of the Navarrese paradigm. the present-day demand views the Basque situation as a matter of international relations that has arisen from an unjust occupation and "transfer" (Hobbes 1651, Urzainqui 2003). In this way an important step forward has come about, framing the question in legal terms of International Law, rather than as a mere internal problem for Spain and France.

4. CONCLUSION

When interpreting, explaining and trying to understand phenomena in any field of human knowledge, it is best to adopt an approach that allows us to account for the known facts as well as possible and anticipate new facts with a minimum margin of error. It is best to choose and employ whichever paradigm is most adequate and accurate at the time.

The approach that has been referred to as the Navarrese paradigm is the best one for understanding the *Basque problem*, providing as it does the historical clues to our society's conflict with the two states that rule its land and its people. This is the view that presents its historical reality as a people who have been capable ever since the Middle Ages of building an independent kingdom, a state that was 'nationalised' quite early on.

It is also the approach that most clearly and directly situates the Basque situation in a Eureopean context. It is the approach that frames the issue as an international conflict in which the absolute — later imperialist — powers, one Castilian/Spanish and the other French, snatched away a nation that existed as a state by means of conquest, colonisation, acculturation, replacement of institutions and, in some cases, populations.

In either of the other paradigms, the *fuero* paradigm and the Bizkaian paradigm, the Basque conflict is perceived as an internal political conflict, either within Spain (on the Iberian side) or inside France (on the Aquitainian side), whereas the Navarrese paradigm restores its international dimension.

Looking ahead towards the future, it facilitates a civic view of the national project, not based on Old Regime structures like the *fuero* paradigm or on ethnicity and language like the Bizkaian paradigm. It places us in a context formulated in terms of citizenship, founded on rights and obligations defined by law, in their universality and territoriality, a constitutional state and constitutional patriotism: basic elements for the exercise of Law available to any nation in the twenty-first century.

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3. Legal aspects of the Basque state building process: secession and legal-political consolidation

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Independence is an actual possibility, not just the dream or unrealistic fantasy of a few. A Basque state is an attainable political goal. In this chapter, Zelai Nikolas, Jon Iñarritu and Iñigo Urrutia present legal arguments that show why this is possible. Granted a political will, the required steps towards a state cannot proceed without legal instruments. These are the same means that are employed all over the world as a matter of course to implement countries' democratic wishes. There is a formal side of attaining independence, called separation or secession, but the actual key to independence is unity among its regions, without which it will not come about, because in the last resort an independent state is the product of social, political and legal state-building.

INTRODUCTION: LEGAL ASPECTS OF STATE-BUILDING

If there will be a Basque state it will be essentially the fruit of the free and democratic decision of the Basque people, through a democratic process: a process based on the free will of its citizens. In a democratic society the people are sovereign, and citizens' human rights must be guaranteed in order for them to be able to make their decisions in freedom. The process of working towards an independent Basque state must therefore be founded on the Basques' free will and receive an adequate legal underpinning, just like any other democratic option. The legal basis of this choice will be explored in this chapter.

Currently, in the EU two processes are running in parallel. On the one hand, the significance of statehood is diminished in the EU regional context. This effect is clearly evidenced in the context of the economic down-turn in which we not only observe the economic intervention of some EU member States over others (as Ireland, Greece, Portugal, Italy, Spain, Chipre), but also political interventions from some EU member States forcing other States to take internal political decisions in the name of the EU integration process. States in the contemporary Europe must share their prerogatives particularly with supra-state actors, especially with the EU. Nevertheless, on the other hand, in the European "post sovereignty era"[16] some European regions are seeking for their independence. This is the case of Flemish, Scottish, Basque and Catalan Regions. This first paradox shows how state sovereignty is constrained by the European integration, while EU members, either States or sub-state political communities, resort to the traditional goal of sovereign statehood.

Someone could think that the achievement of the secessionist goal is now easier than in the past. However, that is not the case, at least in Spain. The Spanish Constitution not only expressly affirms the existence of a single and unique Spanish nation,[17] but also vests exclusive competence for holding referendums in the national government[18] and arguably authorizes the use of military force to combat any attempt at secession.[19] In the wake of the Catalan government's call for an eventual independence referendum, the Spanish government insisted that such a referendum would be illegal under the Constitution, and vowed to prevent it[20].

In this study we will focus, firstly, on the reasons that could explain the political effervescence of national movements demanding peacefully and democratically their self-government, placing particular emphasis on the Basque case. And secondly, we will focus on the legal aspects of the Basque state-building process taking into account the most recent rulings of the International Court of Justice and other Courts on the democratic processes seeking independence.

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[16] Michael Keating, *Plurinational Democracy: Stateless Nations In A Postsovereignty Era* (Oxford: Oxford University Press, 2004) 27-28.

[17] *See* Article 1.2 and 2 of the Constitution of the Kingdom of Spain, of 28 December 1978 (hereinafter the Spanish Constitution) (describing the Spanish state as "indivisible").

[18] *See* Article 149.1.32 of the Spanish Constitution (attributing the following competency –power- to the central State "Authorization of popular consultations through the holding of referendums.").

[19] *See* article 8.1 ("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.").

[20] *See* the Opinion of the Spanish Council of State no. 147/2013, 28 February 2013, concluding that there are sufficient legal grounds to contest before the Constitutional Court the X/5 Resolution of 24 January 2013, of the Parliament of Catalonia approving the Declaration of Sovereignty of Catalonia and the Right to decide of the People of Catalonia. Following the Council of State "the Declaration of sovereignty and the right to decide for the people of Catalonia has been approved by the Parliament of Catalonia; the Parliament of Catalonia lacks the capacity to make a recognition of sovereignty. The content of the Declaration is not compatible with articles 1.2 and 2 of the Spanish Constitution, since these articles state that national sovereignty belongs to the Spanish people, as well as the unitary character of the sovereignty." (para. V).

Democracy is a dynamic concept, one which is intimately bound up with the peaceful coexistence of a society. Thus, with coexistence as the core principle, twenty-first-century democracy ought to recognise as natural the process of creating a Basque state, and it follows that in the rule books of the mother-states such a process should find legal backing. In other words, just like other peaceful political options such as federalism or centralisation, a political project in favour of independence with a democratic roadmap should be acknowledged and supported, since it is after all only the natural consequence of Basques' basic rights: the right to freedom[21] and the right of assembly[22].

In the pursuit of this goal, a key part has to be played by a broad, updated concept of democracy (which has been recognised in the doctrine of the European Court of Human Rights in Strasbourg,[23] and which the theory of liberal democracy which prevailed in the twentieth century to benefit the economic and political elites needs to be able to negotiate its way around) and a broad, fundamental consensus among the Basque proponents of peaceful coexistence.

So in the present political period, Spain and France, in their role as mother-state, should recognise the validity of the Basque Country's bid to attain formal independence because that is what democracy is about, and they must also acknowledge the right of Basque society to decide freely, whatever the outcome of that decision may be, including independence.

Another pillar of the democratic process of state-building in this new political phase into which we have entered is Euskal Herria's internal unity; given that the goal of the Basque state is the internal unity of Euskal Herria in cultural, economic and social terms, in the meantime, until formal independence may be achieved, cultivating Basque unity through the strengthening of ties among Basques will help us to survive as a people. So in this new period ways and means of developing intra-Basque unity will acquire special importance.

Eventually, it is our opinion that endeavours to achieve the formal goal of a Basque state (formal independence) and efforts towards the materialization of the features characterizing a Basque state (material independence) need to converge in a democratic process in favour of a Basque state. These are complementary facets of one and the same goal, and material independence can drive forward the process of Basque state-building and help to bolster its cause, both in our dealings with Spain and France and before the international community.

This article therefore has two parts. In the first, the formal side of state-building will be explored, examining the conditions that must be met on the international level to gain statehood and the ways to achieve them, by studying some existing examples.

In the second, we will look at the material aspect of state-building and consider how to go about intensifying relations among Baques to strengthen Basque unity, such as intensifying cooperation and networking, while bearing in mind the experience of Basque self-government over the last few decades.

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[21] Article 5 of the European Convention on Human Rights proclaims the right to freedom; Article 10, freedom of expression.

[22] Article 5 of the European Convention on Human Rights declares the right of association and assembly.

[23] According to the Court of Strasbourg, pluralism is a basic characteristic of democracy. The main goal of the freedom of expression and the freedom of association is to defend that pluralism. See (for example) ECtHR 1998\23, ECtHR 1999\64, TE ECtHR DH 2005\113, ECtHR 2006\29.

1. THE FORMAL ASPECT OF STATE-BUILDING

A. International law, sovereignty and state territory

Let us start with an undeniable observation: new states are coming into being all the time. It is only very recently that the international community recognised South Sudan as a sovereign state. The birth of new states is merely the reflection of political and legal evolution of the international community. Thus it is necessary to analyse conditions for independence, processes of achieving it and classical concepts such as recognition by third countries as factors and categories that are subject to constant revision.

The very notion of sovereignty, which had an intellectual origin and has become the basic principle of the modern state, is an idea that is constantly evolving, not only in its internal aspect but as a changing concept that is forever being questioned in connection with international relations and processes, particularly because classical theories present sovereignty as a reflection of states' territorial integrity and unity.

Formal law usually presents the strictly classical aspect of sovereignty, especially in constitutions. The closest (or narrowest) relationship between sovereignty and unity is the core concept of the jurisprudence of the highest interpreter of the Constitution in Spain, the Constitutional Court.

In the unconstitutionality appeal proposed by the President of the Government against the Basque Parliament Law 9/2008 of 27 June "convening and regulating a popular consultation for the purpose of ascertaining public opinion in Autonomous Community of the Basque Country on commencing negotiations for achieving peace and political normalisation", the Constitutional Court said that:

> "[T]he appealed law presupposes the existence of a subject, the "Basque people" holder of a "right to decide" likely to be "exercised" [art. 1 b) of the contested law] equivalent to the holder of sovereignty, the Spanish people, and able to negotiate with the State constituted by the Spanish nation the terms of the new relation between the state and one of the Autonomous Communities in which it is organised. The identification of an institutional subject provided with such qualities and authorities is, however, impossible without a previous reform of the current Constitution. In reality, the content of the consultation is no other than the opening of a procedure of reconsideration of the constituted order which would have to conclude possibly, in a "new relation " between the State and the Autonomous Community of the Basque Country; that is, between whomsoever, in accordance with the Constitution, is today the formalised expression of a system constituted by sovereign wishes of the unique and indivisible Spanish nation (art. 2 SC) and a subject created, within the framework of the Constitution, by the powers constituted in virtue of the exercise of a right to the autonomy recognised by the fundamental norm. This subject is not the holder of a sovereign power, exclusive to the Nation constituted as a State… The procedure which it wished to open, with the scope pertinent to it, cannot refrain from affecting Spanish citizens as a whole, as this would address the redefinition of the system constituted by the sovereign wishes of the Nation, the source of which is constitutionally simply that of formal revision of the Constitution"[24].

True to the Spanish state's traditional aspiration to uniformity, the only holder of sovereignty, the Spanish nation, is linked to territorial unity interpreted in the strictest possible sense. But, was American independence allowed in the (unwritten) constitution of the United Kingdom? Serbia did not recognise Kosovan independence but did that stand in the way of the states of the European Union recognising Kosovo as an independent country? Was the declaration of Kosovan independence compatible with the applicable rules, established by the United Nations?

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[24] Constitutional Court Ruling 103/2008 of the 11th of September, 4 legal basis.

Let us emphasise that the International Court of Justice did not consider that the Kosovan act of secession was contrary to international law, even though it led to a completa break[25] with the transitory regime established by the United Nations.[26] A successful secession shrinks the territorial reach of the former parent state's sovereign authority and establishes a new sovereign in its place.[27]

According to international law, acts of secession are not legal or illegal; the accordance (or not) with international law will depend with formal aspects, the procedures and the legal titles but not with the previous legal situation. Acts of secession are evaluated under domestic law, while international law is only concerned with regulating secession's consequences.[28] Even though a state's territorial integrity is not a direct impediment, it may still be an indirect one if inappropriate means are used to achieve secession; such would be the case when third states recognise an organisation that has achieved independence through illegitimate methods, because that recognition may be considered an attack on the territorial integrity of the mother-state.

History clearly shows that secession processes only occur in accordance with the constitution of the mother-state in exceptional circumstances. The diversity of states in the modern world is the product of processes very different to this which often include changing or tearing up the existing constitution. From the point of view of the international law it is only relative that the secession process brings about a change in the preceding situation. The **democratic legitimisation of the process** should be a relevant factor.

In every secession process there is a clash between two principles: the territorial integrity of the mother-state is one; the other is the legal basis upon which the act of secession is based on. Let us look at each of these in turn from the perspective of the latest developments in international law.

B. Territorial integrity of the state

It has been argued that a right to external self-determination cannot be implemented because its application is incompatible with a state's territorial integrity. This position can be challenged on legal grounds, however, since it places on the same level hypotheses which must be considered on different levels: while the right to self-determination is recognised in international law as a right of *peoples*, guaranteeing states' territorial integrity is a function of *states* and is not applicable to entities seeking self-determination. If this were not so, the result would be a complete paralysis of the present structure of states (i.e. a complete locking of the present status quo). Not only is such a static scenario incompatible with rights recognised in international law, but it would also pave the way to acts forbidden under international law: for instance, when states employed violence against subject peoples illegally, the latter would have no legal recourse. In actual fact, international organisations do not object to self-determination on the sole basis of the principle of a state's territorial integrity.[29]

To understand this better, let us begin with the widening of the rule that supports the protection of a state's territorial integrity.

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[25] See International Court of Justice. *Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo* (Advisory Opinion), General List No. 141, 22 July 2010, henceforth *Kosovo AO*.

[26] Resolution 1244 (1999) of the UN Security Council.

[27] *See* Lea Brilmayer, "Secession and Self-Determination: A Territorial Interpretation", 16 YALE J. INT'L L. 177, 178 (1991).

[28] James Crawford, *The Creation Of States In International Law* (Oxford: Oxford University Press, 2nd edition, 2006) at 390.

[29] Witness the resolutions of the Security Council enthusiastically approving the creation of new states, such as Resolution 1272 (1999) on East Timor, paragraph 3).

a) The rule of protection of a state's territorial integrity: expansion and secession

The notion of territorial integrity is employed by very few international instruments[30]. Furthermore, in those texts which refer to it, it is clearly formulated as an instruction to states to ensure territorial integrity in order to rule out the use of violence between states.

The principle of territorial integrity of states is well established and is protected by a series of consequential rules prohibiting interference within the domestic jurisdiction of states.[31] The principle of territorial integrity is traditionally interwoven with the fundamental principle of the prohibition of the threat or use of force. The principle appears to conflict on the face of it with another principle of international law, that of the self-determination of peoples.[32] Even though these two principles sometimes come into conflict, the fact is that both the international community and international institutions waive considerations of territorial integrity when it comes to self-determination. In fact state practice shows that territorial integrity limitations on the right of self-determination are often ignored, as seen in the recognition of the independence of Bangladesh (from Pakistan), Singapore (from Malaysia), and Belize ("despite the claims of Guatemala"). This view is in line with the dominant opinions of scholarship. Following Georges Abi-Saab "[I]t would be erroneous to say that secession violates the principle of territorial integrity of the State, since this principle applies only in international relations, i.e. against other States that are required to respect that integrity and not encroach on the territory of their neighbours; it does not apply within the State".[33]

In the same way, as the ICJ has highlighted, in the case of declarations of independence outside the context of the international law of self-determination (even during the second half of the twentieth century), the practice of the states does not point to the emerge in international law of a new rule prohibiting the making of a declaration of independence in such cases.[34] The ICJ considers that there is no emerging prohibition of secession as arising from the principle of territorial integrity.

In the *Kosovo AO* the International Court of Justice underlines the substantial relevance of the principle of territorial integrity in international law[35] and interprets its subjective scope using as a basis two relevant texts: the General Assembly resolution 2625 (XXV) of 1970, entitled "Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations" and the Final Act of the Helsinki Conference on Security and Co-operation in Europe of 1 August 1975 (the Helsinki Conference).[36] The conclusion of the International Court is that

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[30] Article 2(4) of the United Nations Charter stipulates that "[A]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations." Article 2(4) of the United Nations Charter does not affect directly individuals or peoples, but rather, the relations between States. The other important international instrument that refers the territorial integrity is the Helsinki Final Act (adopted on Aug. 1, 1975), requiring the following: "[T]he participating States will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State …". The Helsinki Final Act condemns the use of force against territorial integrity: the use of external force or threat of use it against the territorial integrity and political independence. Nevertheless the Helsinki Final Act does not unconditionally advocate for the absolute maintenance of territorial integrity. Chapter 1 specifically holds that "[f]rontiers can be changed, in accordance with international law, by peaceful means and by agreement."

[31] *See* Malcolm Nathan Shaw, *International Law* (Cambridge: Cambridge Univ. Press, 2003) p. 443 *et seq.*

[32] *See inter alia* ICJ, *Burkina Faso v. Mali*, ICJ reports, 1986, pp. 554; 80 ILR, p. 469.

[33] Georges Abi-Saab, "Conclusion", In Marcelo Kohen (Ed.) *Secession: International Law Perspectives* (Cambridge and New York: Cambridge University Press, 2006) p. 474.

[34] *Kosovo AO*, supra note 14, at paragraph 79.

[35] Affirming "[t]he Court recalls that the principle of territorial integrity is an important part of the international legal order and is enshrined in the Charter of the United Nations, in particular in Article 2, paragraph 4" (*Kosovo AO*, supra note 14, at paragraph 80).

[36] As regards the first of these texts, the General Assembly reiterated "[t]he principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State". This resolution then enumerated various obligations incumbent upon States to refrain from violating the territorial integrity of other sovereign States. In the same vein, the Final Act of the Helsinki Conference on Security and Co-operation in Europe of 1 August 1975 (the Helsinki Conference) stipulated that "[t]he participating States will respect the territorial integrity of each of the participating States" (Art. IV).

"[t]he scope of the principle of territorial integrity is confined to the sphere of relations between States".[37]

The principle of defending states' territorial integrity is a principle with external consequences (i.e. between states), not one that directly affects anything within a state. Although it has no direct effect there, it does have indirect consequences: when, for instance, one state supports secessionist movements within another state, or in the event that a secessionist movement employs means forbidden by international law (hence the prohibition of violence), alleging the principle of territorial integrity of the mother-state would be a way to declare acts of recognition by third states of the secessionist organisation illegal. Hence it is of absolutely fundamental importance to look at what ways and means of bringing about secession are "legitimate". To that question we now turn.

b) Does the rule about states' territorial integrity apply to non-state players?
In recent times, particularly since the events of 2001 in New York and Washington, it has been argued that the *ius cogens* status of the prohibition of the use of force against the political independence and territorial integrity of states also extends to protection from threats from within. Mainly since the beginning of this century, the classical conception of the legal neutrality is challenge by those thinking that the increasing threat posed by terrorist or other groups should lead to a new interpretation extending the rule prohibiting the use of force to non-state entities.[38] It is argued that non-state entities, must be subject to the obligations of international law, including the principle of protecting states' territorial integrity. This theory considers actions by non-state entities against their states' territorial integrity to be violations of international law.

However, the International Court of Justice has refuted this theory. Again, take the Kosovo ruling. In it, the International Court maintained the classical theory, placing emphasis of the *neutrality* of international law with respect to declarations of independence or acts of secession undertaken by non-state entities.[39]

The court's doctrine is straighforward: inernational law does not forbid secession, and the acts of state entities are not governed by international law. The neutrality of international law regarding acts of secession was confirmed. However, it should be emphasised that we are talking about neutrality, not support. Secession is not forbidden but that alone does not make it legitimate. The international community (made up of states reflecting the present status quo) is reluctant to recognise secessionist movements. It might be said to be predisposed against them, for it is made vulnerable by the instruments and procedures whereby secession is achieved.

If international law is required to maintain neutrality over cases of acts of secession by non-state organisations,[40] two questions are raised. First, what is the role of the right to self-determination? What purpose does it serve? Secondly, why has the UN Security Council intervened in some secession issues? The former question will be dealt with in the next section; now let us address the latter.

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[37] *Kosovo AO*, supra note 14, at paragraph 80 (*in fine*).

[38] *See* Oliver Corten *The Law Against War: The Prohibition on the Use of Force in Contemporary International Law* (Hart Publishing, 2010) *in toto*; T. Franck, "Terrorism and the Right of Self-defense" AJIL 95 (2001) 840; C. Tams, "Swimming with the Tide or Seeking to Stem It? Recent ICJ Rulings on the Law on Self-Defense" RQDI 18 (2005) 275.

[39] The court's ruling stated that "[t]he Court considers that general international law contains no applicable prohibition of declarations of independence. Accordingly, it concludes that the declaration of independence of 17 February 2008 did not violate general international law" (para. 84, fn. 7, *Kosovo AO*).

[40] It should also be pointed out that the "neutrality theory" has not been questioned in international agreements concerned with the protection of minorities although it has been specified that it applies specifically to "protection of states' territorial integrity".

In come unilateral declarations of independence, the Security Council has passed resolutions, such as in the cases of Southern Rhodesia, Northern Cyprus or Republika Srpska, for example. In these cases the basis of the resolution was not the declaration of independence itself but the fact that the declaration was made using violence or with a threat of violence. This shows clearly that **acts of independence or secession accompanied by violence must be considered contrary to international law**. Hence if third states were to recognise the secessionist organisation they would incur in an international violation.

This leads us to the conclusion that **although the protection of territorial integrity falls to the authority of states, non-state entities are subject to international law**. The protection of states' territorial integrity must be linked to relations between states, but the prohibition of violence (as a peremptory norm) and the procedure for procuring secession comes under international law and applies to all subjects, including non-state entities.

C. Is there any right to secession?

In terms of international law, secession is subject to certain considerations, the most important of which are as follows.

a) The legal title: the leap from the right to self-determination to secession

The right to self-determination is a constantly evolving right which will continue to develop in the future. We should note that this right has not undergone the same development in all geographical or historical contexts. Self-determination is a principle of international law; it is also a right of peoples which places *erga omnes* obligations on states.

International law has codified self-determination in numerous documents, but surely the clearest expression of the right to self-determination is that which is given in the International Covenant on Civil and Political Rights adopted by the UN General Assembly in New York in 1966, which states in the first part of Article 1:

> 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

In Europe, the right to self-determination is similarly acknowledged in the eighth point of the Helsinki Accords, the final act of the Conference on Security and Co-operation in Europe (afterwards known as the OSCE), on the 1st of August, 1975.[41]

Application of the right to self-determination has been selective and limited in many respects.[42] Nevertheless, the extent of the right to self-determination and the conditions governing it are still debated, with different positions being held regarding the validity of this right when applied to non-colonial contexts. The upshot is that both international law and the international community are divided about this, and the International Court of Justice has yet to rule on the matter.

Since the nineteen-sixties, the development of the concept of self-determination has opened up the right to independence for stateless countries and peoples under the rule of third states. Self-determination has been used to achieve decolonisation within the UN's legal framework.[43] Now when the International Covenant codified self-determination in

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[41] The Final Act of the Conference on Security and Cooperation in Europe, Aug. 1, 1975, 14 I.L.M. 1292 (Helsinki Declaration), Point VIII.

[42] Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge, New York: Cambridge University Press, 1995) at 317.

[43] This was the aim of Resolution 1514 (XV) of the 14th of August, 1960 by the General Assembly, "the declaration on the granting of independence to colonial countries and peoples," and others that followed in its wake.

New York in 1966 it defined the domain of this right broadly, going well beyond the narrow colonial context. This set of documents boldly and universally recognised the right to self-determination in such a way that it would continue to apply after the era of decolonisation was over.

The right to self-determinantion has had clear implementations outside the colonial context. There is a clear statement that the right to self-determination is a right that can be applied outside contexts of decolonisation in a ruling of the International Court of Justice on *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*.[44] **The right to self-determination implies freedom of peoples to decide their political status.**[45]

Even though decolonisation may be considered a common expression of the right to self-determination, there have been many developments thereof outside the colonial context of late. Apart from the Bangladeshi example, following the end of the Cold War there have been numerous examples, such as German reunification, the breakup of the Soviet Union and the secession processes it entailed in Georgia, Moldova, Azerbaijan etc.), the breakups of Yugoslavia and Czechoslovakia and Eritrean secession from Ethiopia, to name only some.

These diverse examples are a reflection of the evolution of the notion of self-determination. However, such diversity has given cause for a redefinition of the basic principles of self-determination and the development of new theories about what the role of international law should be in cases of secession.

In the view of some, self-determination is a right of peoples which asserts that every people can freely choose its own political regime and allows it protection from oppression. The right to self-determination is linked to the defence of human rights. In a word, **self-determination is none other than the right to live in a democracy.** Self-determination allows a people to join itself politically to another people if it so decides. Just as individuals have a right to freedom to express themselves, peoples have a right to govern themselves, and in periods of the territorial state, control over the territory is considered to be a consequence of this.

In the view of others, however, **secession is seen as a remedial measure**, and a remedial right, whereby *if* a mother-state fails to guarantee the most basic human rights of a people or systematically blocks its development, it is legitimate for that people to recur to secession. Remedial secession is seen as an option for special cases. The refusal of internal self-determination could pave in special circumstances the way for resorting to this special option. However, in order for this exceptional route to be taken, another procedural condition must be met: despite endeavours to achieve a political agreement, all such attempts should have been quashed. What is more, current international law requires that violence should not be resorted to and that there should be a democratic process.

Self-determination is a variegated category. When within the state, it presents a clear profile (internal self-determination understood as decentralisation); whereas looking beyond the state it may be seen as a last resort leading to secession. This raises the question: is self-determination the only route to secession? In other words, is there any way of achieving secession apart from the right to self-determination? And if so, what is the point of the right to self-determination? How does it help us?

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[44] ICJ Advisory Opinion of 9 July 2004, on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, paragraph 88, page 39, and paragraph 122, page 184. This clearly states that today self-determination is an *erga omnes* right (cf. *East Timor* (Portugal v. Australia), 1995 I.C.J., page 102, paragraph 29).

[45] In the case of the Western Sahara the court of justice stated that the right to self-determiantion "requires a free and genuine expression of the will of the peoples concerned" (op. cit., paragraph 32).

Although neither the principle of external self-determination nor the remedial character have been resorted to in many secession processes that have taken place in Europe, the international community has recognised such states. We could look to the break up of the former Yugoslavia as an example.

The Quebec case[46], and specially the ruling of the Supreme Court of Canada concerning Québec's secession is of particular interest.[47] The Supreme Court of Canada, after finding that Canadian domestic law did not support a right to unilateral secession,[48] explained that under international law, "the right to self-determination of a people is normally fulfilled through internal self-determination within the framework of an existing state."[49] After that, the Court went a step further drawing on "the principles of federalism, democracy, constitutionalism and the rule of law, and respect for minorities" enshrined in the Canadian Constitution to outline a process of negotiated secession.[50] although Canadian domestic law does not condone unilateral secession..

> "..a clear majority vote in Quebec on a clear question in favour of secession would confer democratic legitimacy on the secession initiative which all of the other participants in Confederation would have to recognize."[51]

The democratically expressed will of the people of Quebec to secede would oblige the rump Canadian state to engage with Quebec in negotiations concerning possible separation, at least as a way for obtaining the acceptance of the result by the international community. From its wording two important conclusions can be drawn: first, the Supreme Court of Canada proclaimed the **"democratic legitimacy" of a hypothetical secession process**, provided that a clear majority of Québécois support it by answering a clear referendum question. Secondly, based on that legitimacy it is required a negotiated process.

Although it did not pronounce itself in such clear terms, the International Court of Justice applied the same theory in the case of Kosovo, stating that international law does not preclude secession: there is no rule that prohibits it. Secession is an internal affair. But having said that, it also stated that international law completely rejects acts of independence carried out undemocratically or through violent means. Thus **the International Court of Justice asserted that international law remains "neutral" on acts of secession carried out in a democratically legitimate way.**

Bearing this in mind, let us dwell on the non-univocal nature of the relationship between secession and the right to self-determination. Secession may come about as a result of self-determination, but not only in that way. **Secession can also be based on democratic principles without using the right to self-determination.**

Definitely, the way opened by the Supreme Court of Canada leaves open the possibility of negotiated secession.

At this point it is important to insist on the recognition of third states as a fundamental factor. This will be discussed in the next section, but for now let us say that the point of the right to self-determination is to pave the way to direct acknowledgment or recognition by

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[46] An approach to the context in William J.Dodge, *Succeeding in Seceding? Internationalizing the Quebec Secession Reference Under NAFTA,* 34 TEX. J. INT'L L. 287, 287-96 (1999). For an in-depth consideration of the possible contours and consequences of Quebec's secession, see Robert A. Young, *The Secession of Quebec and the Future of Canada* (McGill-Queen's University Press, 1998) *in toto.*

[47] Reference re Secession of Quebec, [1998] 2 S.C.R. 217.

[48] *Id.,* paras 32-108.

[49] *Id.,* para 127.

[50] *Id.,* para 148.

[51] *Id.,* para 150.

third states on the basis of self-determination. But that does not mean that no acts of secession that do not resort to the right to self-determination can be recognised. In such cases, as in Kosovo, recognition may come (notwithstanding the opposition of the mother-state) on the basis of democratic legitimisation of the process.

b) Conditions for statehood: the Montevideo Convention and recognition
The clearest statement of the criteria or conditions defining a state is found in the Montevideo Convention of 1933[52], which established the rights and duties of states, defined the state and listed criteria for statehood: namely, a permanent population, a defined territory, a government and the capacity to enter into relations with other states.

In the European Union further criteria have been added: the creation of states must come about in a democratic manner, and all new European states must endorse the principles of legality, democracy and the defence of human rights (including those of minorities).[53]

Article 3 of the Montevideo Convention explicitly states that "the political existence of the state is independent of recognition by other states." According to this premise, being a state does not depend on recognition from third states but on meeting criteria associated with statehood. This is known as the *declarative theory of statehood*. The Badinter Arbitration Committee[54] which was set up to advise on Yugoslavia took the same line, stating that statehood does not depend on third states. Recognition from other states neither adds to nor subtracts from statehood in any sense.

Another theory, the *constitutive theory*, challenges this idea, arguing that recognition has a constitutive function. According to this theory, the state is to be regarded as a person of international law if and only if other states recognise it as a sovereign state.

In practice, international law manifests a certain amount of merging of these two approaches. To have dealings with other states as a sovereign state, one must first recognise its existence. Up to a point, it is possible for some states but not others to recognise a new state that has come into being through secession, but that does not make it any less of a state. Naturally international law does not force states to recognise other states, and it often happens that states that have sought recognition by means contrary to international law are denied it, as happened in the cases of Rhodesia and Northern Cyprus.

Bearing these things in mind, international recognition is indeed important. This was referred to as a *certification mechanism* in the section on political science. Given that secession means, *ipso facto*, the disruption of the former territorial integrity of the mother-state, the way in which secession is achieved is of particular importance for recognition by third states. In the case of a secession achieved by illegitimate means, recognition by third states may be considered an attack on the territorial integrity of the mother-state, which international law forbids.

Things seem clearer, in this regard, if secession is founded upon the right to self-determination, since this will provide a more straightforward motivation for acknowledgment or recognition by third states. For even for those who claim that there is a general argument against the effectiveness of secession internationally, the right to self-

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[52] 1933 Montevideo Convention on the Rights and Duties of States, Montevideo, 26 December; 165 LNTS 19.

[53] Cf. the *Declaration on the 'Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union'* approved by the Extraordinary Council of Foreign Ministers of the European Union in Brussels on the 16th of December, 1991.

[54] The Arbitration Commission of the Conference on Yugoslavia (commonly known as Badinter Arbitration Committee) was a commission set up by the Council of Ministers of the European Economic Community on 27 August 1991 to provide the Conference on Yugoslavia with legal advice. Robert Badinter was appointed to President of the five-member Commission consisting of presidents of Constitutional Courts in the EEC. The Arbitration Commission has handed down fifteen opinions on "major legal questions" raised by the conflict between several republics of the Socialist Federal Republic of Yugoslavia (SFRY).

determination trumps that argument and provides a direct line to recognition. Taking as our departure point the premise that there is no all-round prohibition against secession, if criteria justifying external self-determination are met, it will be possible to attain the right or entitlement to statehood, which will therefore merit recognition. In short, when secession goes hand-in-hand with the right to self-determination, international support in the form of recognition is a given.

If, on the other hand, secession is not linked to the right to self-determination (as might be the case in Kosovo), international law cannot be said to prohibit making it effective. Even if the conditions of external self-determination do not occur, secession is not forbidden as a consequence, it is merely not entitled to privileged consideration in that case; and the privilege will be even less forthcoming if the mother-state refuses to recognise the secession. Even so, in cases where secession is not privileged, third states may still recognise the entity that has seceded as a state. That is what happened in the case of Kosovo. Kosovo, which did not take self-determination as a basis and seceded without the approval of the mother-state, has been recognised by eighty states including the USA, the UK and France. Kosovo's secession was not made good through self-determination but through a democratic procedure whereby secession was carried out.

Returning to the Canadian Supreme Court's ruling, the significant implication is that **while the position under international law is important, the attitude (now or in the future) of the international community towards the democratic legitimacy of the way in which the act of secession is achieved is equally important.** In the last resort the latter, once a critical mass is reached, will be the decisive factor giving a secession future viability.

c) The secession procedure
International law **has not ruled** on how to carry out acts of secession. Naturally international law offers no objection to an agreed secession, nor to a secession based on the constitutional rules. The latter might come about in two ways: through the exercising of a right to secession already recognised (directly or indirectly) in the constitution (such as the Ethiopian constitution), or by means of a constitutional amendment. An agreed secession will be the result of a negotiation process in which international law has nothing to say, since it is an internal affair.

Assuming the other possibilities, let us consider a secession without the consent of the mother-state: here the references in international law are few and far between and most are indirect. We have mentioned the initial bias against it in international law (except in the cases of colonisation and military occupation), and also the fact that there is no dictum expressly forbidding it. All in all it may be said that international law offers no guidelines concerning secession procedures, apart from those involving decolonisation or grave infringements of human rights. Indeed, filling that vacuum is going to be one of the big challenges for international law in the future.

For want of another alternative at the present time, we are going to have to treat secession principally as a process relevant to internal law, in consequence of the *theory of neutrality* of international law. International law does not prohibit secession but neither does it encourage it (save for exceptional cases), for a basic reason: international law has not focused its attention on non-state entities. All the same, that does not mean that it is acceptable for non-state entities to go about this in any way they like. In fact, international law establishes **procedural limitations**, the most important ones of which are:

– The prohibition of violence. This principle is considered a peremptory norm, hence it is completely applicable within the state. For the same reason, it is a principle that is of course completely applicable to the mother-state.

– The procedure for implementing secession must be legitimate and democratic: a clear majority must express itself through democratic means in favour of this outcome.

– One must have entered upon a negotiation process seeking to reach an agreement and unilaterality is only acceptable if and when all attempts at negotiation have proved fruitless. That is to say, the unilaterality only could emerge after a constitutional break.

D. What ways to become a state are recognised internationally?

The preceding section explored the scope of the rule that protects a state's territorial integrity and the conditions for achieving secession. Now we will run through the available ways for a state to come into being in international terms, bearing the above in mind. First of all we must account for the relationship between the right to self-determination and secession.

Current international law does not regulate the terms of secession. Secession is a factual issue, not a legal one. Secession becomes a legal reality if a state authority over a given population and territorial unit is successfully and effectively established, and not otherwise. Secession may or may not be linked to the right to self-determination.

– In the event that self-determination is taken as the legal basis of secession, this right will make it easier for the seceding entity to meet the conditions for statehood, since it adds legitimacy in the eyes of the international community. That is, it provides the international community with a direct way to get involved through recognition, giving it a way round the constraint against interference in a state's internal affairs. Resorting to an international right makes it easier to obtain recognition from third states because the international character of the right makes those states' involvement permissible.

– But secession can take place without appealing to the right to self-determination. In the latter case, recognition from third states will need to find other grounds of legitimacy to permit recognition without incurring in interference in other states' internal affairs. The referendum route may carry political clout internationally since recognition from third states will be based on democratic legitimacy, i.e. the will of the people. So democratic legitimisation may open the way to recognition of the effectiveness of a new state.

That said, here are the ways for a state to come into being on the international scene:

a) Secession processes and decolonisation
In the context of decolonisation, secession processes present themselves as a consequence of use of the right to external self-determination. In decolonization contexts, the option to secede is linked to the right to self-determination.

b) Remedial secession: self-determination as an option in the event of grave violations of human rights
According to the theory of remedial secession, secession is legitimate as a last resort in the face of grave injustice. The remedial nature of the right to self-determination has been recognised by the International Court of Justice[55] and also quoted by the Supreme Court of Canada.[56]

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[55] ICJ Advisory Opinion of 16 October 1975 on Western Sahara (1975 I.C.J. 25), paragraphs 55-60, pp. 23-26. See also the case concerning Northern Cameroon (Cameroon v. United Kingdom) 1963 I.C.J. 3; Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America) 1986, I.C.J. 14; Certain Phosphate Lands in Nauru (Nauru v. Australia) 1989 I.C.J. 12, 1991 ICJ 3; and East Timor (Portugal v. Australia) 1995 I.C.J. 90.

[56] Supreme Court of Canada Re Secession of Quebec, footnote 11, paragraph 134.

Situations that would justify remedial secession include the following:

– When the mother-state's actions threaten the survival of members of the seceding group (such as the Kurds in Iraq), or when human rights (such as those referred to by Article 27 on civil and political rights) are gravely and continually violated. It must be a thoroughly persecutory regime.

– When the seceding people's land was taken over illegitimately by the mother-state (as in the case of the Baltic republics).

As in the preceding case, the international community may impose requirements on the new seceding state in order to be recognised. Some of those requirements or conditions might be a legality principle, protection of democracy and human rights including those of new minorities (bearing in mind that the majority group of the mother-state usually constitutes a minority in the new state), and also the acceptance of humanitarian agreements.

c) Pacted secession
In this scenario secession comes about through negotiation and eventual agreement between the mother-state and the entity seeking secession. In such cases international recognition of the new state is usually unproblematic. Montenegro and Greenland are examples.

d) Unilateral secession
In unilateral secession, secession occurs without the consent of the mother-state. As we have seen, although international law upholds the principle of states' territorial integrity, this principle does not imply that secession is out of the question. The position of current international law is one of "neutrality" regarding acts of secession that come about without violating rules that constitute peremptory norms. Secession is not forbidden either explicitly or implicitly. As was shown with Kosovo, unilateral secession cannot be said to be illegitimate, or legitimate either, from the viewpoint of international law. In any case, the crucial issue in such cases is international recognition (i.e. by third states). The international community takes a cautious view of secessions not approved by the mother-state because they may be interpreted as involving the mother-state's territorial integrity.

Democratic legitimacy has been acquiring special importance for international recognition, particularly since the ruling of the Supreme Court of Canada on Quebec. If secession results from the response of a clear majority to a clearly posed question, the mother-state will be obliged to address the people's petition and to do so before the international community as well. Evidently, if a request to third states for recognition is made in those conditions, legitimisation of the process and democratic principles will inevitably be significant factors.

E. Constitution and secession
Apart from the cases where international law provides for the right to self-determination, some states do acknowledge the right of some non-state entities within them (regions, nations or republics) to self-determination, i.e. the right to secede. That right is registered in various kinds of legal clause or formulation, such as explicit recognition in constitutions or other components of a basic constitutional system.

It has often been claimed that secession is not foreseen in the world's democratic constitutions, but as we shall learn, that is not quite true. As we just saw, secession is forbidden in most constitutions through clauses about the unity, national integrity or indivisibility of the state, but in other states (which we shall now look at) the right to self-

determination of non-state organisations in the state's midst, that is, the ability freely to decide their own future, is recognised.

a) Explicit recognition in constitutions
Most of the world's constitutions contain references to the unity, integrity and indivisibility of the state. But in both the past and the present we observe expressions of recognition of the right to secession (external self-determination) in some of the world's constitutions.

Historically, there were statements in "communist" and "socialist" constitutions about external self-determination — in the constitutions of the USSR[57] and Yugoslavia — although in practice the federal republics encountered obstacles to their implementation.

Given these obstacles, the republics of the USSR took other routes to secession; in Yugoslavia things were even more difficult and armed conflicts provoked by secession processes have continued almost until today. The Yugoslav constitution provided for the right of self-determination for internal peoples but not for the republics. Montenegro was the only exception so it took the constitutional route; "secession" was recognised in the 2003 constitution of the state of Serbia and Montenegro.

As we have said, and as was made clear in the 1999 report of the Vence Commission,[58] in the constitutional law of most states the right of secession is not recognised. Indeed there are only two states in the world today whose constitutions acknowledge the right to secede: Saint Kitts and Nevis, and Ethiopia.

Saint Kitts and Nevis. This Caribbean two-island state established, in its constitution of 1983, the terms under which the island of Nevis could leave the federation. Article 113 stipulates that a referendum must be held three months earlier, a proposed constitution for Nevis must be presented to the citizens, and a two-thirds vote in favour of the referendum was required. In 1998 a referendum was held but the percentage of votes in favour of independence fell short of the number required.

Ethiopia. The 1994 constitution of this multiethnic African state, which is made up of nine federated states and at least fifty nationalities, recognises the right to secede of "nations, nationalities or peoples" and sets out the procedure to be followed.

b) Explicit recognition in other basic components of the constitutional system
Recently, the right to secede has been acknowledged in other ways in certain states.

Northern Ireland (United Kingdom)
Ireland became independent in 1922, but the region of Northern Ireland remains a part of the United Kingdom. This state of affair led to a political and armed conflict between the Catholics (Irish) and the Protestants or Unionists (British) over the region's status. The Good Friday Agreement was signed in 1998 to put an end to the conflict. The agreement recognises that the people of Northern Ireland can freely decide their own future provided that the status of Northern Ireland is linked to either the United Kingdom or Ireland.

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[57] The constitution of the USSR sets out, in Articles 70 and 72, the right of republics to secede freely, and a secession procedure was approved on the 3rd of April, 1990 as the Law of Secession Procedure of Republics of the Union, but the conditions set out in the law were so difficult to meet that it came to be known as the "law of non-secession".

[58] Commission Europeenne pour la Democratie par le Droit, «L'autodetermination et la secession en Droit Constitutionnel». Rapport adopté par la Commission lors de sa 41 Reunion, 199. The Venice Commission was made up of the heads of the constitutional courts of the member states of the European Union.

Greenland (Denmark)

Greenland is an island belonging to Denmark located in the Arctic Ocean. Legislation on home rule was passed in 2008 and came into effect the following year, acknowledging Greenland's international status as a country and establishing, in Article 21, a procedure for obtaining independence.

That procedure requires the respective parliaments of Denmark and Greenland to reach a mutual agreement followed by a referendum in Greenland, and lastly, approval in the Danish parliament. But the requirement for approval is not seen as an impediment, just as a formula whereby respect for the Danish constitution is upheld.

Aside from these cases, as this is being written the Faroe Islands are in negotiations with Denmark to draw up a new law of autonomy in which a key issue is recognition of the right to opt for independence and its formulation within the new legislation.

c) Implicit recognition
Apart from explicit references to the right to secede in constitutional legislation, there are cases where there is a hinted or implicit nod towards the existence of such a right.

Quebec (Canada)

Quebec, a French-speaking province of Canada, has historically maintained its own culture and identity. Two referenda took place on self-determination, in 1980 and 1995, in both of which the choice of remaining inside Canada won by narrow majorities.

In this case the government consulted the Supreme Court of Canada on three questions about a hypothetical secession and Quebec's right to secede. In its ruling, the court established the democratic legitimacy of the secession liked to three conditions: *the question on the referendum must be clear, there must be a clear majority of votes in favour and the secession process must be pacted with Canada.*

In the light of this ruling the Canadian government passed a law regulating a secession procedure for Quebec known as the *Clarity Act* (S.C. 2000, c. 26). In spite of the high discretionary margins of the law, the way for independence is recognized in that law.

The conditions established by the Canadian supreme court set an important precedent, and several international bodies, including the European Union, the Council of Europe and the United Nations have subsequently adopted similar terms, applying them in other instances, such as the question of Montenegro, with further specification of the terms.

Scotland

Although the United Kingdom's constitutional legislation does not expressly recognise independence, this is acknowledged *de facto* in public statements by UK government representatives. Despite a debate over procedures, nobody questions Scotland's *right* to regain independence. The Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland signed in Edinburg on 15 October 2012 has clarified the situation stating that the United Kingdom Government and the Scottish Government have agreed to work together to ensure that a referendum on Scottish independence can take place. It clarifies also the formula for doing that and states that the governments have agreed to promote an Order in Council under Section 30 of the Scotland Act 1998 in the United Kingdom and Scottish Parliaments to allow a singlequestion referendum on Scottish independence to be held before the end of

2014. The Order will put it beyond doubt that the Scottish Parliament can legislate for that referendum. It will then be for the Scottish Government to promote legislation in the Scottish Parliament for a referendum on independence. The governments are agreed that the referendum should meet the highest standards of fairness, transparency and propriety, informed by consultation and independent expert advice. The referendum legislation will set out: the date of the referendum; the franchise; the wording of the question; rules on campaign financing; and other rules for the conduct of the referendum. The details of the agreement between the governments are set out in the memorandum and draft Order, which form part of the agreement.

The First Additional Provision to the Spanish Constitution and the recognition and protection of Historical Rights

Herrero de Miñón (1998:333) argues that the Basque territories covered by the historical charters known as *fueros* are parts of states which retain some of their original features. In this interpretation, the territories possessing *fueros* have conserved the Basque Country's original sovereignty and identity as a country throughout the centuries, from which it follows that Euskal Herria has the character of a country vis-à-vis international law, and can quite legitimately exercise the right to self-determination.

Lasagabaster (1999: 195) pointed out, however, that the procedure for this attractive theory has yet to be properly developed. According to Herrero de Miñón, it would be sufficient to proclaim independence and then win elections with an absolute majority, but such a procedure makes no mention about international recognition. This notion would run into difficulties respecting the northern Basque territories.

F. Secession and the European Union: separation or succession to EU membership
a) Self-determination in the European Union: What view would the EU take of secession?
The question of how the European Union would deal with a hypothetical secession is being raised, now that future scenarios for stateless nations within the EU are up for discussion. The answer is uncertain, for several reasons. One is that there is no set of rules in effect in the EU covering this question, and there is also a lack of precedents. So let us consider some possible reactions of the European Union to such an event.

The European Union is a *sui generis* entity, a hybrid system which combines some of the characteristics of international organisations with others reminiscent of a federal model (Jauregi, 2009). At present the EU is made up of twenty-seven states, which are the basic repositories of power. The 2009 Treaty of Lisbon allows for member states wishing to do so to leave the EU through TEU Article 50. Within that context, the status of stateless European peoples is an internal affair of the member states and they are treated as being of a regional nature; people's constitutional future is a matter for internal decision within the states. Consquently, the EU cannot interfere in this area.

The European Union therefore neither formally recognises nor denies the right of stateless peoples to secede.

However, *secession and self-determination* is a "hot topic" in the EU, paraticularly of late.

Several of the twenty-seven member states only recently attained or recovered the status of states on the basis of the right to self-determination in what has been referred to as the *third wave* of creation of states: Lithuania, Latvia, Estonia, the Czech Republic, Slovakia, Slovenia, and of course reunified Germany (as of 1989), not to mention the

candidate states of Serbia, Macedonia, Croacia and Montenegro after the breakup of Yugoslavia.

At the request of the United Nations, the European Union played an important institutional role in connection with the breakup of Yugoslavia. To advance in the construction of a *New Europe*, the European Union participated directly in the democratisation and recognition of the new states (a process called Europeanisation) for the sake of conflict resolution (Letamendia, 2008).

"Europeanisation" commenced between 1991 and 1993, when the Council of Ministers of the European Economic Community set up an arbitration committee to provide advice on Yugoslavia. Known as the Badinter Arbitation Committee, it was made up of heads of the constitutional courts of the member states. This committee did important work, especially in the independence process of Montenegro (2006)[59] in which the EU itself monitored the secession process, establishing the "democratic standards" that were to be applicable therein.

The conditions established for the secession of Montegro were that the formulation of the referendum question should be clear, support expressed in the referendum should be at least 55% of all votes, and the process should be agreed to by Serbia and Montenegro. Notice that, whether on purpose or by accident, these conditions coincide with those established by the Canadian Supreme Court for Quebec.

Within the European Union, let us also recall the assistance given by the EU (in the period of the EEC) in the German reunification process and its general flexibility, especially when interpreting treaties. Note also the EU's constructive attitude in the ending of hostilities in Northern Ireland though the 1998 Good Friday Agreement and the significant funding of PEACE programmes to strengthen the peace process (FILIBI, 2010: 46-55).

Also, we should bear in mind that EU institutions, and the European Parliament in particular, have pronounced themselves in favour of the self-determination of peoples in numerous declarations and rulings, both in cases of decolonisation[60] and in other cases.[61] In the case of South Sudan, not a case of decolonisation, it recently declared that "one of the principles of the European Union is the right of peoples to self-determination". And lastly, it is very significant that in 2010 the European Parliament approved a declaration urging all member states to recognise the independence of Kosovo.

Although self-determination is a commonplace topic of discussion in the European Union, so far its attitude has been somewhat equivocal: when an opportunity to help resolve a conflict arises it is constructive, encouraging democratic conditions and interpreting rules flexibly; when agreement is reached between the parties, as in the cases of Germany, Northern Ireland or Greenland it either remains on the sidelines or expresses itself favourably. We consider the democratic conditions or standards established in the case of Montenegro particularly significant because they were the same ones established by the Canadian court for Quebec, suggesting that in future cases these may constitute a strong precedent.

b) What would happen in the EU if Euskal Herria achieved independence?
If Euskal Herria achieved independence, in theory two things could happen: it could find itself outside the European Union and have to apply for entry (separation), or it could

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[59] Montenegro formally declared itself independent on the 21st of May, 2006.

[60] E.g. East Timor (DOC 219 30/7/1999), Western Sahara (DOC 104, 14/4/1999).

[61] South Sudan (DOC 167 01/06/1998) or Chechnya (DOC 17, 22/1/1996).

automatically succeed to membership. (No doubt other outcomes are also possible given the lack of precedents.)

The theory of internal enlargement of the European Union (the Basque state *succeeds* to EU membership)

The theory of internal enlargement, which is founded on two legal documents, says that if, through democratic means, a region of an EU member state should secede or the breakup of a member state should take place, the newly emerged state or states will continue to be members of the EU, inheriting the mother-state's rights and duties.[62]

According to the theory, in its decision to accept the new state the European Union ought to give priority to democracy. Therefore the EU would be obliged to respect a decision made by the majority of the citizens of a country within its territory. Otherwise, the EU would be penalising European citizens for creating an independent state, which would be unjustifiable from a democratic perspective.

But the chief concern of the EU upon accepting the new state would be to ensure the continued rule of EU law, and particularly to make sure that the new state respects the rights of its citizens and fulfils its duties towards the EU. Therefore, according to this theory, the most opportune and reasonable solution would be to support the new state's succession to membership in the union from the moment it attains independence. There would be an extra reason which makes it possible this option: the case of Brussels. If the theory of internal enlargement does nott apply, a hypothetical secession of Flanders could leave the EU capital outside of the EU.

If so, the new European state would be required to meet the following criteria: a) it must express a wish to "continue" being a member of the EU; b) it must accept the principles laid out in Article 2 of the EU Charter; c) it must be able to fulfil the duties arising from EU membership. If the new state fulfils these conditions, it would be logical for it to become a member of the European Union without having to leaving the EU or having to negotiate entry.

As far as procedure is concerned, the new state's steps would be as follows: a) declare independence; b) inform the EU of its intention of succession; c) establish jointly with the EU a set of provisional rules to apply while the viability of the succession is being studied; d) acceptance of the state's permanent membership in accordance with the procedure prescribed in TEU Article 48.[63]

Separation and applying for membership *ex novo*

The theory of separation and new application rejects the idea of internal enlargement and "automatic succession", holding instead that in the event of a new state coming into being through secession or the breakup of a state within the EU, the newly formed state would automatically be considered a non-member of the EU which, if it wished to become an EU member, would need to go through the usual application process by means of the

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[62] This conclusion is based on the following characteristics of the European Union:
a) The priority given by the EU to democratic principles: the defence and promotion of democracy.
b) The EU, as a democratic state, legally recognises the subjective rights and duties of the citizens of the member states, hence they are granted European citizenship.
c) The EU has no rules covering such instances in its internal statutes, being a *sui generis* institution which combines characteristics of an international organisation and a federal structure. In federal structures, even in the absence of explicit provisions, there have been cases of internal enlargement with the creation of new states, cantons or federated administrative divisions, such as the Canton of Jura in Switzerland and the state of Maine in the United States of America. Thus there are reasons to suppose that decisions on state succession in international organisations may be applicable here. The main international reference on succession of states, the 1978 Vienna Convention, promulgates the principle of continuity in the case of successor states, according to which the new state will be subrogated to the mother-state's rights and duties.
d) In the history of the EU, pragmatism and flexibility have characterised its approach to issues within it involving territorial integrity, as in the cases of German reunification and the exit of Greenland (a region of Denmark) from the EU. *Vienna Convention on Succession of States in respect of Treaties.*

[63] Including all the provisions listed in Appendix 1 below.

procedures established in TEU Article 49. Otherwise, the state in question will not belong to the European Union, like Norway or Switzerland.

The main supporters of this theory are those who have studied the independence option for Scotland, where it is backed by centralist politicians with an interest in dampening enthusiasm for secession.

They argue that the Vienna Convention of 1978 would not apply to internal enlargment of the EU and consequently there would be no automatic succession of the new state to EU member status because membership is regulated by Article 49 of the Maastricht Treaty. So according to this theory, no consideration would be given, in the case of a new state, to the fact that before independence it belonged to the European Union, nor would the European citizenship of its inhabitants be taken into account.

They also claim that there would be another reason for denying the possibility of internal enlargement: the new state needs to be recognised by *all* EU states both as a new state and a new member of the European Union. In view of the case of Kosovo, whose independence has still not been recognised by six member states, this *might* present an obstacle.

At present, some EU states are not prepared to accept the secession of certain other European countries on account of their interest in blocking secession movements within their own borders. This raises a scenario where a new state that is formed through secession or breakup would be excluded from the EU and forced to follow the procedure prescribed in TEU Article 49 in order to enter the European Union. This involves long, drawn-out negotiations, a process which often takes years, until it is finally demonstrated that the candidate state meets all the Copenhagen criteria[64] established in 1993.

However, it would seem reasonable to take into consideration that the countries that are likely to wish to secede in the foreseeable future — Euskal Herria, Catalonia, Scotland, Flanders and so on — have already been in the European Union for decades now and there is every reason to believe that they *will* meet the requirements. Logically, then, the negotiations should not take that long.

Regarding these two perspectives, we may conclude that practical experience in international politics has shown that in cases of state succession, political solutions usually prevail over details of international law because in such cases a flexible, pragmatic approach is usually taken. This means that other intermediate situations may occur, establishing a solution *ex nunc*, while in the twenty-first century, democracy takes priority.

2. THE FORMAL ASPECT OF STATE-BUILDING

A. The importance of a dynamic that favours Basque unity

The unity of a society helps to protect and develop its identity and thus support their survival as a people. The material aspect of state-building seeks to tighten the network among Basques so as to develop and strengthen Basque unity.

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[64] The Copenhagen criteria are that the country must have achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities; the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union; and ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.

It has been demonstrated that the more unity there is in a society, the greater is that society's capacity for economic, cultural and social development. However, today Basque unity comes up against the impediment of Spanish and French unity, *their* unities being forced on *ours*, so that Basques often encounter legal, economic or cultural obstacles impeding the natural pursuit of relations among Basques in fields such as culture, the economy, education and so on.

This quest for Basque unity has been called nation-building. In its founding political manifesto (1999)[65], Udalbiltza defined nation-building as a dynamic, democratic process which is favoured by relations between the local councils of all of Euskal Herria. This dynamic makes it possible for the representatives of town councils to undertake coordinated measures in certain areas, such as language, culture, sports, environment, territorial ordinance, economic development and welfare.

B. Why material independence?

Why do we refer to the process of strengthening Basque unity, also known as nation-building, as "material independence"?

To start with, because by strengthening Basque unity, awareness of *being Basque* is developed; it becomes all the more obvious and important to those with a **Basque consciousness** that Basque society needs its own legal and political structure in order to be able to survive and develop as a people.

Next, because in consolidating Basque social networks the **territorial integrity of Euskal Herria** makes itself felt. As we observed when exploring the formal aspects of independence, the definition of a territory is a necessary condition for formal statehood. Moreover, if a formal demand for a Basque state is pursued without ensuring majority support for independence in the different regions of the Basque Country, there is a danger of some Basque regions remaining outside the territory of the Basque state by their own decision. Once the status of a state has been attained it would be very difficult for those regions to be incorporated into the Basque state later, since the international rules would require that the new state adhere to the principle of territorial integrity according to which the Basque state could not do anything that involved changing the borders of another state. The best it could do would be to offer cooperation in cultural, social and economic affair, mediated by the mother-state.[66]

And lastly, because strengthening Basque unity **may favour the process of Basque state-building** since the Basque regions form part of a shared geographical zone (Europe's Atlantic seaboard), and is furthermore one of the most active areas in that zone, displaying the greatest capacity for growth. Thus by strengthening Basque unity, this zone of Europe is itself strengthened and the Basque people and territory may come to play an essential role in Europe. This leaves the Spanish and French mother-states without grounds for limiting and obstructing relations between the regions of Euskal Herria. Indeed, from the European perspective, promoting relations between the Basque regions is positive and it will make sense for it to offer the facilities this requires (such as cross-border cooperation or the eurozone). It would be interesting to see what a Basque state could offer to Europe and European development by stimulating growth along Europe's Atlantic seaboard.

There are thus various reasons for thinking about this aspect of material independence, and it would be advisable to study in depth what conditions need to be met to promote this dynamic aspect of independence.

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[65] http://www.udalbiltza.eu/web/files/pdf/adierazpen_instituzionalak/1999/adierazpen_instituzionalak_1999_eu.pdf

[66] As, for instance, in the situation of South Tyrol in Italy, or of Hungarians in Romania.

But the material approach to independence also entails risks. If the mother-states facilitate means of achieving Basque unity, this may have a negative impact on some citizens' sense of the urgency of formal independence. That may be how Canada has succeeded in cooling down Quebec's pro-independence movement; however, the relationship that Quebec and the Quebecois have with Canada is very different from Euskal Herria's relationship with Spain and France, and democratic culture in Canada is far ahead of that found in Spain and France, particularly in matters of national diversity. Yes there is a risk of slowing progress towards formal independence by means of material independence; but it is up to us, and no one else, to manage that risk and make clear the limits that the lack of freedom imposes.

C. Tools for developing material independence

The goal of material independence depends on consolidation of relationships between Basques. This goal can be achieved using a number of tools.

a) Normal cooperation between Basque institutions and with other Basque entities

For the past thirty years cooperation between Basque institutions and Basque entities has not proceeded on a normal basis; we might say that it has been deliberately disrupted. Obstacles have existed both on the institutional level[67] and in relations between entities; relations involving people with Basque surnames have automatically met with suspicion. The worst case of this was the treatment of Udalbiltza [an organisation for Basque town councils], going so far as to trump up formal charges against some leaders as "terrorists",[68] although the charges were eventually dropped, we are glad to say.

Regardless of these obstacles, some support of cooperation between the southern and northern Basque Country did come from cooperative work across the border with support from the Council of Europe (1980), the most striking example being the 1995 Bayonne Agreement. There have been many initiatives along these lines, and experience has been gained from them, but as Letamendia (2004: 314-319) has pointed out, there have been many stumbling blocks along the way. Since 1999, Navarre is no longer participating in the Basque-Aquitaine cooperation area; the participants in cooperative ventures do not all have the same powers and resources; and finally, there are funding issues.

There have also been plenty of examples of cooperation between other entities in the Basque field throughout this period, thanks to which a number of political and social entities operating all over Euskal Herria have taken shape, including the political parties Batasuna, EAJ-PNV and Eusko Alkartasuna, the ikastola schools and and the union LAB. Furthermore, cooperation between the north and south of Euskal Herria has increased through the cooperative movement, the Basque Chamber of Agriculture, Gaindegia, twinnings between towns promoted by Udalbiltza, and so on.

In this new period, what institutional and general cooperation among Basques doesn't need is "artificial" impediments[69]; quite the contrary, since such cooperation is positive for

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[67] Some examples of such deliberate obstacles on the institutional level are the fact that an agreement between the governments of the Basque Autonomous Community and the Navarrese Autonomous Community was ruled out by Spain's Supreme Court in 1996; normal reception of EITB broadcasts are not possible in Navarre; and bureaucratic obstacles blocking the provision by the government of the BAC of funds to ikastola schools in Navarre and the northern Basque Country.

[68] The Audiencia Nacional, Spain's national court, eventually exonerated all the accused and set them free in Ruling 2/1011.

[69] At the present time, cooperation between regions of the Basque country is subject to legal limits and subject to official control as if it were somehow a bad thing. For the southern Basque Country, Article 145 of Spain's Constitution prohibits federations between Autonomous Communities and makes the licensing and control of cooperative agreements between Autonomous Communities subject to the decisions of Spain's Supreme Court; while in the case of the north, any cooperation with the southern Basque Country is completely centralised and must go though the Prefecture. Besides the northern regions do not have the financial autonomy granted to Basques in the south: by means of economic agreements, certain taxes in the Basque Autonomous Community and the Autonomous Community of Navarre are "concerted" with the Spanish government and collected by Basque institutions, after which Spain's quota is paid out of the takings to cover the competences retained by the state. These differences make it more difficult to establish equal cooperative arrangements between the south and the north of the Basque Country that funcion in a normal manner.

the development of Euskal Herria there ought be adequate structures and aid to assist it. In order to remove such artificial barriers, for one thing the regulations should explicitly open the door to cooperation inside the Basque area, and there should be an end to using institutional cooperation as a way to create hurdles for cooperation between other entities. Instead, institutional and sectorial cooperation should work hand-in-hand, creating mutual synergies and sharing resources as efficiently as possible.

b) Consolidation through law
Closer relations and networks among Basques might be promoted by Basque regulation through laws passed by the Basque Parliament and/or the Cortes of Navarre. In the southern Basque Country at least, we have full authority in some areas including language, culture, agriculture, industry, local administration, the environment and commerce, which enables us to regulate in those areas. Thus, if Basque representatives had the political will to do so they could establish a joint policy throughout the southern Basque Country by means of coordinated regulation. The regulations might not be identical, as they could be adapted to the means and rhythm of each province, but they could at least agree on and share similar goals.

It is also important that in the areas where we have full authority we also control financial resources obtained through an economic pact, which means that we have our own funds and special resources with which to implement policies in the areas in question.

However, in order to stimulate normal cooperation among Basque regions and promote regulatory networking, there is a need to review the current institutional crisis and the level of home rule so far achieved, with particular attention to quality.

3. THE CURRENT INSTITUTIONAL CRISIS: WHAT IS WRONG WITH THE 'AUTONOMIST' OPTION

The experience of the past thirty years in which southern Euskal Herria has had statutes of autonomy has brought to light the flaws inherent in this approach:

a) **Bilateral institutional relations or uniformity?** When the statutes of autonomy of the Basque Autonomous Community and the Autonomous Community of Navarre were approved, it was agreed that their relations with Spain would be bilateral (i.e. between Spain and the BAC, on the one hand, and between Spain and Navarre, on the other), but over time their bilateral character has been degraded, the dominance of the Spanish state being progressively reasserted with the backing of the Constitutional Court; and also by putting the BAC and Navarre into the same bag with all the other autonomous communities that were set up across Spain in a ploy that has been dubbed "coffee for everyone". But in spite of that, it has been possible to conserve this bilateral relation, although weakened, in certain specific areas such as the economic pact, in the financial area, and in certain areas of authority including university grants, law and order, roads and the bilateral commission on European affairs. It was hoped that this bilaterality would serve to avoid or control interference from the Spanish state in Basque affairs, but experience has proved otherwise.

b) **Basque specificity:** Based on their background of *fueros* and historical rights, an attempt was made under the Basque statutes of autonomy to achieve a greater

degree of home-rule and a special set of rules differing from those of Spain.[70] However, Basque specificity has to a large extent been neutralised and Spain has done its best to make the Basques' status uniform with that of the remainder of its new autonomous communities.

The Basque institutions are forced to dedicate a great deal of energy and resources to guarding and defending these Basque specificities just to maintain them, since they are not covered by adequate guarantees. Take, for instance, the fact that clauses to maintain specific Basque features in laws passed by the Spanish parliament (such as provisions about funding aspects of state laws, or special powers) have to find their way into law thanks to corrections by Basque nationalist groups because they have not been foreseen in the bills presented in parliament by the Spanish ministries, and this in spite of the fact that the BAC and Navarrese statues of autonomy are *Spanish* laws, and the specificities we are talking about are the direct consequences of those same laws! Again, we all know how Basque institutions, in order to defend those very institutions against attacks on the Basque parliament, the president of the BAC, the economic pact etc., has often had to resort to appeals to higher courts (sometimes as the appealing party, and other times as the defendant, which the state has taken to court).

c) **No say in state decisions:** The BAC and Navarre lack adequate instruments that would permit them to take part in important decisions taken by the Spanish state or to participate in the major institutions of the state that take those decisions. Nor can they participate directly in European decisions. A recent exception was the BAC's success in getting into ECOFIN, on account of its fiscal autonomy, but it remains to be seen how much actual influence it will have there. The political content of the statutes of autonomy of the BAC and Navarre has progressively declined, reducing them to purely legal-administrative structures. Thus the *organic laws* and basic laws of the Spanish state are able to alter the content of the autonomy statutes, and the state has used this capacity greatly to reduce the initial area of authority.

d) **Statute development and regional distribution of powers:** The regional distribution of powers included in the BAC and Navarrese statutes of autonomy is entirely in the hands of the central state, in terms of both which powers it chooses to regionalize and how it wishes to go about that regionalization. The central state steadfastly refuses to hand over many powers and has drawn out the process of devolving others for years and years. What is more, many of the powers that *have* been devolved have been kept within the centralist framework, such as court administration and work inspection.

e) **The unity of the state comes first:** The Spanish state has employed many means to prioritise its own unity over and above the development of home rule. In this way it has stood in the way of cooperation between the BAC and the Autonomous Community of Navarre; the court system conforms to a centralist model; economic power and decisions about it are centralised in Madrid and the Spanish government.

f) **Basque labour and social issues:** The current level of home rule does not provide Basques with their own space to make decisions affecting labour issues and social affairs.

g) **Status of the Basque language;** Basque still does not have official status throughout Euskal Herria, nor is the right to use Basque in state institutions guaranteed.

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[70] A number of Spanish laws are not directly applicable in the Basque Autonomous Community or else their implementation is mediated or adapted, such as Organic Law 2/1986 on the state's forces of law and order and the communities; Organic Law 8/1980 on the financing of autonomous communities; Law 38/2003 on grants, and so on.

h) **Cooperation within the Basque Country** between institutions or between non-governmental entities is not covered by any effective legal framework, and such attempts are routinely viewed with suspicion from Madrid.

i) **Focus of home rule:** So far, Basque home rule has been seen as a tool for the defence of our special character, and we need to go beyond that: we need a level of self-government that serves not only to validate our existence as a people but also to recognise Basques' right to decide on their future and to support the development of Euskal Herria.

All Basque nationalists agree that the 'autonomist' option has come to a dead end. Besides, the ruling parties in Spain (the Partido Popular and the socialist PSOE party) are aware of the fact that the *state of autonomies* model has run its course and needs an overhaul all over the state, not only in the Basque Country. The strategy of treating all autonomous communities in the state as equal ("coffee for everyone") has ultimately destabilised Spain. Meanwhile, the French state refuses outright to acknowledge the historical right to home rule of northern regions of Euskal Herria, but public demand for institutional recognition in the north is on the rise.

Moreover, all of Europe is in disarray, and what is more, the European Union's structural framework so far has failed. It looks like Europe is going to have to make some decisions on its own social and political unification, or else it will not be able to maintain its power and influence in a globalised world. Europe has not yet addressed the issue of stateless peoples, whereas there was hope in the late twentieth century that this issue could be managed within its political ambit. From today's viewpoint it is fair to say that the issue remains unresolved, and if one conclusion can be drawn it is that the need for statehood has increased.

In this situation of meltdown, a new era has begun in Euskal Herria and thanks to accumulated experience and greater maturity, Euskal Herria must come out reinvigorated, and achieve a stable legal and political structure that has evaded it until now. We, its citizens, are the most important factor needed to make this happen, together with our jointly created networks and cooperative ventures. The process of Basque state-building is in our hands, and it is up to us to decide what kind of momentum to give that process.

We must overcome age-old physical and mental obstacles and, building on our achievements so far, **set in motion an internal and external dynamic of Basque unity**, based chiefly on our strengths and resources. It is through that process that the point can be reached where Basques recognise the need for a common authority covering the whole of Euskal Herria (the first goal, which we might refer to as social and democratic legitimacy of Basques attaining their own authority) and furthermore work towards a political and legal means of strengthening unity among Basques. Finally, looking outwards, resources should be provided for expressing that Euskal Herria exists as a people and that we wish to maintain our identity in the future.

Hence in our opinion **Basque home rule should be linked to Basque unity and Basque development**, and in the process of obtaining formal independence the toolkit of home rule should be used to set going a clear strategy in favour of material independence so that Basque institutions achieve the ability to decide — sovereignty — in more and more areas.

While a growing consensus is being achieved in favour of opting for formal independence in Euskal Herria in this new era, we too must obtain a form of **home rule that recognises the legitimacy of the option of independence** such as has already been obtained from their mother-states by Ireland, Scotland, Greenland and Flanders.

APPENDIX I. EUSKAL HERRIA AND SECESSION: A MAP

In the light of the foregoing considerations, here we present a "map" of the possible routes to statehood for Euskal Herria:

ROUTE TO SECESSION	COMMENTS
Decolonisation	Difficult to defend. A focus on the decolonisation process to undo the conquest of Navarre can be found in http://nbk2012.blogspot.com/
Remedial secession	Difficult to defend.
Pacted secession	The procedure: - Declaration of sovereignty and the right to decide by the Parliament. - Request the Spanish and French states to implement the right to decide. - Organization of the referendum according to agreed conditions. - A negotiation process between Basque institutions and the Spanish* and French** states. - agreement If this route were taken international recognition would be easier to obtain, and so would entry into the European Union. The route can be written into a negotiated text on self-government as the statute of autonomy. Should the pacted secession route fall through, that would lend more legitimacy, on the international stage, to a bid for statehood through unilateral secession. The chief contribution of the Canadian ruling is to give democratic backing to the secession processes. The difficulty is that the Canada ruling leaves the specific conditions up to the central states, which may lead to delays and obstacles.

Constitutional routes	The historical rights route: a negotiation process with the state would be commenced, based on a stipulation of historical rights without changes in Spain's 1978 constitution. This route raises issues for territorial integrity: it could include Navarre but would have no effect on France. There is also the route of a historic agreement with Navarre. This would amount to transferring the Scottish model to our country, formally breaking our ties with the crown of Castile. That would provide more of an opportunity to deal with the territorial issue. The procedure would require a new statute of autonomy for southern Euskal Herria the text of which explicitly recognised a statement of the right to decide (based on the historical rights or fueros). The statute should include a clear roadmap for the use of this right. Likewise, France would have to recognise Basque self-government for the north (as it has done for Corsica) and create a euro-region for the whole of Euskal Herria, recognising, in the basic text for the creation thereof, a roadmap for resorting to the right to decide.
Unilateral secession	A possible scenario: If the Pacted (constitutional) secession fails. Basque representatives would gather and declare independence. Then they would present themselves to the international community and try getting recognition from states. The European Union might take part in the search of an agreement between Spain and the Basque Country, and establish some conditions for recognition such as a referendum, requiring a certain proportion of participation and of valid votes in order to be considered. Difficulties: France and Spain would probably oppose it and it would be necessary to seek support from other powers in the international community. It would be necessary to study what sort of tit-for-tat that might involve.

Thus we can see that in view of international precedents, there are several possible routes to independence for Euskal Herria and it is probably necessary to be prepared for more than one option. It is up to the political representatives to decide which those routes are, but whichever one or ones they choose, an essential requirement in the twenty-first century will be that the Basque independence option should enjoy broad democratic support. And that is something in which not only political leaders have a say, but also social and trade union leaders and the entire citizenry.

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4. The Basque state as an effective management tool: diversity, democracy and social justice.

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In this chapter Asier Blas focuses on the Basque state as the most effective instrument for the management of the diverse cultures that have a place in present-day Euskal Herria, taking as its point of departure the diversity of national sentiments found in the Basque Country. A consociational model where different nations and cultures can be managed in a balanced way may be the most democratic solution for the management of diversity. But the implementation of this model requires an appropriate political setting that for a number of reasons the Spanish and French states cannot provide, such as their size, the present imbalance among the nations that form part of it, and most importantly, because of the Jacobin political culture that has dominated both states for centuries. In Blas' opinion, a hypothetical Basque state meets all the conditions for the implementation of the fairest model for diversity management.

1. POLITICAL SYSTEMS AND THE TREATMENT OF ETHNIC AND NATIONAL DIVERSITY

Euskal Herria (The Basque Country)[71] is a diverse national reality, within which we may distinguish three mobilised national groups engaged in a dispute over self-determination (Sisk, 1996; Zubiaga, 1999, McGarry & O'Leary, 2006a; Wolff, 2009 and others). There are the Basque nationalists representing the part of society that claims the Basque Country is a nation with the right to self-determination; then there are the different categories of *españolista* elements whose national frame of reference is Spain; plus the French nationalists who look towards France. To complicate things further, the debate over national identity is affected by the diversity of language groups (Basque, Spanish, French and a little one spoken in a small territory: Occitan language).

This situation confronts us with one of the big questions about democracies: is democracy possible in countries composed of several nationalities? Can there be democracies in countries with a heterogeneous social structure? The standard answer is that, at the very least, diversity is an obstacle. Many scholars, from Aristoteles to John Stuart Mill, have extolled social uniformity as an ingredient of political stability. Mill (1988: 392) says that "free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, especially if they read and speak different languages" and concludes, in consequence, that such countries are doomed to develop imperfect democracies or authoritarian regimes of one kind or another because the differerent groups will never come to an agreeement.

In this debate, Arend Lijphart (2008: 279) concedes that perhaps the ideal solution for a deeply divided society is to seek integration. But he does not believe this to be possible in the medium or short term, for which reason he still considers integration to be an unrealistic solution. Therefore he concludes that if the goal is to uphold the system's democratic character, there are three possible approaches to the management of diversity (Lijphart, 1977a: 44-46):

a) Eliminate or substantially reduce the plural character of the society through *assimilation*. This approach has little chance of success, especially in the short term in a democratic state.
b) A *consociational* approach, which recognises divisions in society as a basis of a building block for a stable regime. In particular if assimilation is unlikely or has been tried and failed, a consociational solution may be necessary.
c) *Partition*, whereby diversity is diminished through a division of the state into two or more separate, uniform parts.

This problem of the building of a viable democracy that is respectful of internal social diversity is one of the greatest challenges facing plural societies[72] in the twenty-first century. Ferran Requejo (2009: 164) remarks that "recognition and political accommodation of

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[71] The Basque Country (Euskal Herria) is the name given to the land in the western Pyrenees that spans the border between France and Spain on the Atlantic coast, where the Basque people live: the Autonomous Community of the Basque Country (BAC) and Chartered Community of Navarre in Spain, and the Northern Basque Country in France, situated within the western part of the French department of the Pyrénées-Atlantiques.

[72] Here "plural society" is used in Lijphart's (2008: 67) sense of a society strongly divided along religious, ideological, liguistic, cultural, ethnic or racial lines into practically independent subsocieties each with their own political parties, interest groups and media.

plurinational democracies remain as issues on the liberal-democratic agenda that have not been satisfactorily resolved." Three "classical" institutional responses to these problems are (Requejo, 2009: 165):

1) Federalism (in a broad sense, including federations, associate states, federacies, confederations and regional states).

2) Institutions and processes of a 'consociational' kind (or characterised by a permanent consensus between national majorities and minorities). There are examples of such institutions and processes in the democratic systems of Switzerland and Belgium, in conjunction with federal solutions in both cases.

3) Secession.

The first and third of these are formulas for resolving conflicts between the periphery and the centre. Thus in order to keep the periphery inside the state, attempts are sometimes made to achieve a compromise of a broad federal kind. Requejo (2009: 167) points out that there only appear to be two federal models capable of regulating national diversity satisfactorily. One is plurinational federalism; the other is the partnership model of associatied states, federacies and confederations.

This viewpoint of Ferran Requejo invites reservations because the partnership approach is most widespread in the cases of islands and, in general, of distance from the centre. Plurinational federalism, on the other hand, is from an empirical point of view rare and normally turns up in circumstances where there is a balanced distribution of different national segments with approximately similar demographic weight, as a result of which the democratic structure is between equal partners. This may also be a useful solution in cases of fragmented national identities. But in cases where there are a small number of national segments of unequal size, particularly if one of them holds an absolute majority in terms of numbers, federal solutions are unlikely to be useful, if allowance is made for special cases. In such cases, typically there are tensions between the logic of the demographic majority position of one part of society and the need for an agreement based on equality between the national segments independently of the demographic size of each segment.

To deal with this tension, one inclusive approach to addressing diversity is to combine a form of territorial federalism with a state based on consensus democracy or a consociational design. Lijphart's consociational school favours the latter approach for plural societies where there are two or more sociopolitical segments coexisting on a single territory (whether this be a federation, state, province, region or some other unit). In other words, no matter how alleviation of the problem between the centre and the periphery has been achieved, be it through a federalist-type arrangement or via secession, if that territory itself is a plural society, it will at the very least need to build a democratic model where somehow or other power is shared between the different national segments.

Lijphart defends a consociational power-sharing, as the best option for deeply divided societies. In its origin, Lijphart's (1968, 1977 etc.) theory of power sharing emerged from the study of an atypical case of pluralist theory, that of Holland. This grew into a type of democracy that has been developed in a number of countries which are generally heterogeneous and politically plural societies. This connection between a type of stable democracy and the deeply divided nature of a society provided the basis for the normative

development of consociational theory, which has progressed to a point where it may be considered a theory with a basically prescriptive purpose.

The four basic characteristics of a consociational system are: (a) grand coalition involving all the segments in the government; (b) autonomy for each of the groups; (c) proportionality in their political and functional representation; and (d) the right of veto for ethnic segments or groups (Lijphart, 2008: 4)[73].

It is important to understand that the democracy of consociational power sharing does not exclude territorial autonomy or secession, although the latter is shied away from by many academics who customarily associate it with negative connotations. Integrationists criticise consociationalism, pointing out that when group autonomy is territorially based it may lead to a secessionist movement. In this regard, Lijphart (1977: 44-45) questions the connexion between an offer of autonomy and reinforcement of secessionist tendencies; however, he also observes that even if this were the case it would not necessarily be bad or undesirable, adding that if there *is* a wish for independence it will not go away just because there is no autonomy. Lijphart remarks that in a plural society where assimilation is contested and cooperation between elites (consociationalism) impossible, partition or separation becomes the only viable alternative. In this sense he plays down the dreadfulness of such an option, quoting Samuel P. Huntington (Lijphart, 1977: 46):

> The twentieth-century bias against political divorce, that is, secession, is just about as strong as the nineteenth-century bias against marital divorce. Where secession is possible, contemporary statesmen might do well to view it with greater tolerance (Huntington, 1972).

However, Lijphart (1977: 46) observes that the real problem is when the segments are geographically interspersed. His view is that in such cases a consociational solution is preferable to partition or secession, because the latter will only be possible if the process goes hand-in-hand with the resettlement of minority populations. This position of Lijphart is strongly influenced by the population interchanges that took place between Greece and Turkey, but it is based on a misconception. Not all partitions of plurinational territories necessarily require expulsions or resettlements, and from a liberal viewpoint this would not be desirable, and so in most secession processes in the late twentieth century an attempt has been made to avoid this, with more or less success.

In this sense, Horowitz (1985: 589) and Linz (1999: 16) are right when they note that secession is unlikely to produce homogeneous, harmonious states. But this doesn't mean that secession per se is a *bad* solution to national and ethnic conflicts, as might perhaps be read into Jürgen Habermas (1998: 113), who argues for the creation of a nation of citizens who put aside their identification with a "nationality" in order to strengthen a neutral

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[73] There is also a predictive dimension which endeavours to identify the conditions favouring the establishment and successful development of a consociational democracy. The following is Lijphart's most recent formulation (Lijphart, 2008: 51-52):
1) Absence of a majority segment: the biggest obstacle to power sharing is the presence of a solid majority that prefers a majority system to consociationalism.
2) Socioeconomic equality between segments: the second most important factor is the absence of presence of large economic differences between the different segments into which the society is divided.
3) A limited number of segments: if there are two many groups, the negotiations among them will be more difficult and complex.
4) Relative equilibrium between segments: if groups are of roughly similar size, there will be a balance of power between them.
5) Small size of the population: if the total population is fairly small, the decision-making process will be less complex.
6) External threats: external dangers favour internal unity.
7) Overarching loyalties (omnicomprehensive, general loyalty): these diminish the impact of private loyalties.
8) Geographical concentration of segments: if the groups are geographically concentrated, federalism may be used to promote group autonomy.
9) A tradition of compromise among the elites: traditions of compromise are favourable to consociationalism.

citizenship which can generate its own "nationalism". This may be an interesting idea perhaps, but only on condition that it doesn't amount to the cultural and political domination of one ethnic group over another. But it does not seem to be a realistic option in the short or middle term in nation-states created along ethnic lines which have a history of persecution of the autochthonous national minorities.

For example, in the 1990s the Spanish state invented a discourse urging constitutional patriotism based on putative Habermasian premises about taking citizenry as a unifying element. That is all very well, but the Spanish constitution delimits citizenship in terms of ethnic features such as language. So Article 3.1 of the constitution says "Castilian is the official Spanish language of the state. All Spanish have *the duty to know it* and the right to use it" (our emphasis). Hence, as Miquel Caminal (2008: 152) explains, it is customary for civic nationalism and ethnic nationalism to coincide given that they both share the same goal of cultural uniformity.

Back to the secession debate: Kymlicka 2000) also emphasises that in most territories secession does not solve the problem of the management of diversity. But that doesn't necessarily imply that secession is in itself *bad* or *good*. Kymlicka observes that following partition or secession it will be necessary to implement processes of assimilation, federalism, consociation or multiculturalism to regulate ethnic or national conflicts. But what the academics often omit to mention is that secession may be a preliminary step towards building a democratic consociational system.

For a long time most states have acted as institutions aggressively assailing diversity and pushing for uniformity. At first they did so without any pretense of a democratic basis for this. Later, if they adopted democratic forms, the usual thing was for one nationality or ethnic group to impose itself on the others, applying the logic that the majority rules. Thus these states have remained ineffective administrators of diversity, the only way to preserve which may sometimes be independence for a certain territory.

If, for example, 90% of a state's population belongs to the same nationality and the other 10% is concentrated in one of its regions (where it comprises 50% of the region's population), tensions are likely to surface between the two nationalities. The dominant nationality in the state makes up 50% of the region, but thanks to its majority situation within the state it is able to obscure people's perception of the degree of diversity on the regional level and will most likely establish policies there aimed at the assimilation of the regional minority and/or maintenance of its own privileged position. To put it another way, territories that are not plural (e.g. France and Spain) force policies for managing diversity on territories that are plural (Euskal Herria in this case). However, if the plural territory (Euskal Herria) were to secede, that management would be better adapted to the internal balance of the territory, without any more interference from an interested outside party. In that case independence of a territory such as Euskal Herria may become the best option for managing its own diversity.

From the point of view of a consociational system, this last-mentioned scenario is more appropriate for the development of a power-sharing type of democracy, since the plural territory is separated out and policies are implemented that are created by the newly independent region and for that region. It thus converges with the lack of a majority

segment (with an absolute majority), the small size of the country's population and the relative equilibrium between segments that are three of the conditions which Lijphart says facilitate the creation and maintenance of a consociational democracy."[74]

Therefore, although the ways to manage diversity on different levels are as numerous as the scenarios we can envisage, in order to avoid the blurring of diversities through majorities created by the extension of the scale from the regional to that of the state, at the very least it is necessary to bring together two aspects. One concerns the right to free self-determination of territories that so wish in order to decide their own future (and hence the management of their internal diversity), while the other concerns the regulation of relations with other territorial entities related to the ethnic or national groups that coexist in the country. Empirical evidence to date suggests that the combination of these two things is very hard to achieve in nation-states where one national group forms the overwhelming majority. Witness France and Spain.

2. FRANCE AND SPAIN: PROJECTS THAT PURSUE NATIONHOOD THROUGH UNITY AND UNIFORMITY

The French state embodies the very essence of the nation-state in the sense that it proclaims civic nationalism in a place absolutely teeming with ethnic elements, and does so through the relentless persecution of the other nationalities that inhabit the territory of the state and by applying an extremely centralist political concept of governance. Spain is another story: a monolithic, single-nation state which nonetheless tolerates autonomy for regions and nationalities, and it is not a point to be overlooked that this last word contradicts this state's *national* character! The formulation of Article 2 of the constitution and the spirit in which it was included are quite contradictory, but it was included as a concession to strong pressure from the peripheral nationalist movements, although in such a way as not to cancel out the characterisation of Spain as a unitary nation-state.

Quoting Linz and Shabad, José Ramón Montero & Mariano Torcal (1990: 34, 1991: 112) argue that at the time of the *transición* [the regime change in Spain in the years following Franco's death in 1975 — Translator] the picture presented by the regions was not conducive to the adoption of a consociational and/or federal arrangement for the Spanish state:

> Linz (1985: 583-585) y Shabad (1989: 2-5) underline the difficulties that both models faced in the Spanish case. Specifically, the limitations of the consociational model were basically due to: *(i)* the multiple, heterogeneous nature of the existing nationalisms and the multiplicity of differentiated linguistic groups, making it difficult to come up with an

[74] It might be argued that if the consociational system is applied to a region such as for example South Tyrol, the territory will be small in size which is good for consociation. And so it is, but in this case the size should not be considered just as small, since as a regional government, governance depends on several levels of administration, while the last word will always belong to the central administration of the Italian state. So we could call this type of consociational democracy "decentralised consociationalism", but within a larger state — especially from the point of view of population size. On the other hand, Northern Ireland is another matter: here the territory that is the object of consociation is small independently of the fact that it forms part of the United Kingdom, since Northern Ireland has achieved recognition of the fact that the right of self-determination for the region only resides in its inhabitants, which in practice is equivalent to recognition of the territory's sovereignty. This set-up means that the inhabitants are the only ones responsible for (1) decisions over Northern Ireland and (2) tolerating the application of British laws in the territory. This helps to clarify responsibility: if the territory doesn't like the decisions taken by the United Kingdom, it can always opt to leave, and if it doesn't it is because it tolerates them and accepts the decisions that are made by the central institutions of the Union.

approach using formulae for integration of a multinational state (as in Belgium or Switzerland); *(ii)* the coexistence of a Basque or Catalan identity together with an exclusively national one and another of a dual character; *(iii)* the maintenance of an 'excessive' loyalty to the Spanish state by Spanish nationalists, plus the ambiguous loyalty of those seeking independence and moderate nationalists, making it difficult for these opposing loyalties to be reconciled; *(iv)* the lack of non-controversial national symbols; *(v)* economic differences between the regions; *(vi)* the sociocultural fragmentation of the areas where the most vigorous nationalist movements were to be found; and *(vii)* the existence of regional systems of parties with their own political leaderships. This set of circumstances made it impossible for agreements to be struck between the representative elites of the Autonomous Communities. Meanwhile, reasons for the difficulty of applying a federal model were: *(i)* the qualitative and quantitative difference between the nationalist sentiments found in the Basque Country and Catalonia on the one hand, and most of the other regions on the other, making a homogeneous, uniform framework impossible; *(ii)* the scanty historical experience of home rule in most regions; *(iii)* negative associations of federalism in the minds of the public dating back to experiences in the nineteenth century; and *(iv)* the aversion of some nationalist movements to the kind of levelling implied by a federal formula which gave them the same treatment as Spanish regions lacking any nationalist tradition whatsoever.

Some of the arguments made here to explain the impossibility of a consociational or federal system are debatable. A variety of language groups, for example, is also found in Switzerland and did not prove an obstacle in the least to the adoption there of a federal, consociational framework; and nor did the fact that the great majority of the population (over 70%) are German speakers. And in Belgium we encounter a situation somewhat similar to that in Spain with respect to dual identities, economic differences between regions, and the presence of regional political parties, and yet these things, again, did not stop Belgium from reaching consociational and federalist agreements. In both Switzerland and Belgium there exist areas in the federation where there is sociocultural fragmentation, and yet they have federalism, albeit combined with regional consociation in order to manage this diversity.

However, Linz and Shabad are right to point out that there are structural problems in Spain: for though Switzerland has several languages there is a single national sentiment whereas in Spain there are several national sentiments. And in Belgium there are two languages and national sentiments that are fairly balanced demographically, which facilitates negotiation between the national groups. Both these states are also substantially smaller than Spain in number of inhabitants. So we may conclude that in Spain there is a structural problem impeding the development of consociational agreements because the following three conditions that would favour this are absent: *lack of a majority segment, a country with a small population* and *a relative balance between segments*. On the other hand, these are precisely some of the favourable features that would characterise an independent Euskal Herria.

Apart from structural limitations, subjective limitations may derive from these, of an ideological nature. Thus in the Spanish state the lack of consociational and federalist

arrangements is not explained exclusively by a structural problem but is also caused by an ideological one, that of Spanish nationalism, which is mainly responsible for the problem's vertical dimension, as is shown by arguments *iii* and *iv* above accounting for the lack of consociation and all four arguments concerning federalism. In the latter, it is remarkable that Linz and Shabad only contemplate the possibility of a federalism that is homogeneous and uniform, implicitly ruling out asymmetrical and plurinational solutions, with the result that consideration is only given to "national federalism" as a tool of Spanish nation building (Maíz & Losada, 2009: 219).

This reluctance of Spanish nationalism, combined with structural limitations, explains how alternative options and democratic proposals made in the territories under Spanish jurisdiction are systematically turned down through state-level majorities. Two recent examples illustrate this. A new Basque political "statute" was passed by absolute majority in the Basque parliament on the 30th of December, 2004, but Spain refused to discuss it. And a few years later, Spain's constitutional court ordered the toning down of a new statute of autonomy for Catalonia that was passed in 2006, after it had already been subjected to power-reducing amendments by the Spanish *cortes generals* (Parliament - bicameral legislature-).

The explanation for this problem takes us back to what Juan José Linz (1973) described as the failure of the construction of the Spanish nation-state. Josep M. Colomer (2008: 43) puts it more bluntly: "Spain is probably the clearest case anywhere of the failure of an attempt to build a great nation-state in Europe." That is why Spanish nationalism has persevered in its aggressive attitude to peripheral nationalist movements since it first achieved hegemony over political power. Along the same lines, Miquel Caminal (2008: 150) says: "Spain, like all political nations that correspond to a state, has tried and carries on trying to also be a cultural nation, as can be seen retrospectively when we analyse what has happened in the modern and contemporary history of Spain." Thus, as pointed out by Justo Beramendi (2005: 99), despite attempts to conceal the fact and although it has tended to be upstaged by ETA violence, the Spanish state's problem is "the antagonistic coexistence of several socially and politically real nations in the midst of a state whose constitution only recognises one of them."

It is nonetheless true that the *transición* created a partially ambiguous scenario where subsequent constitutional developments might have veered either way: in the direction of homogenisation and centralism or else in that of what might be called acceptance of Spain's plurinational character and development in an asymmetrical, federal direction. However, looking at the results Maíz & Losada (2009: 208 and following) conclude that so far it is a logic of resymmetrisation and recentralisation that has come to the fore, moving further and further away from anything that might be termed the management of diversity based on mutual respect and the acknowledgment of differences. Notwithstanding which there are some writers who try to present the case of Spain as a model of flexibility and respect for diversity! One such is Eliseo Aja (1999/2003) who fervently defends diversity and difference as a valuable component of the Spanish political system; Luis Moreno (1998: 3, 12) talks about Spain as a "plural national state", and both he (2007[75]) and Juan José Linz

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[75] Moreno (2007) calls Spain a consociational system in what is certainly an exercise in wishful thinking quite bereft of academic rigour, and he himself admits (2007: 16) that Spain does not display the features identified by Lijphart with the model of consociational democracy.

(1999) also call Spain a "multinational federal" state.[76] But the purportedly multinational character of the state has more to do with the context in which the *state of autonomies* has developed than with the definition of the state itself as such, for as Mario Zubiaga (1999: 124) points out, the basic foundation out of which the Spanish autonomy system grew was a "concession from the centre, not as the willing unification of the political communities in question." Thus the Spanish constitution states in its second Article that "the Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards; it recognizes and guarantees the right to self-government of the nationalities and regions of which it is composed and the solidarity among them all."

This more or less confirms the distinction made by Francisco Letamendia (1997: 32-38) between "unitary", federal and autonomy-type states.[77] What distinguishes the last mentioned from federal states is basically — in line with what had been said by Zubiaga — that the parts of this kind of state are denied any sovereignty:

> The *autonomy state* is the fruit of a transformation of the unitary state, representing the most recent attempt at a solution for the crisis it is in. It has come into being through a process that is the opposite of that of a federal state; while the latter originated from a drive towards unity on the part of the members of the federation, the autonomy state, once the failure of the monolithic state has become clear, is proposed as its decentralising solution. Yet the notion of the unitary state continues to exert its influence in the autonomy state: its parts enjoy autonomy, and can exercise their prerogatives in the three branches of state power; but they do not participate in the composition of the central state which is enabled to act with complete freedom. Furthermore, the centre, which alone is the repository of all the state's sovereignty, is the source of power for the parts which in consequence are not sovereign. This lack of sovereignty of the component parts is what differentiates autonomy systems from federal states, rather than the degree of devolution of powers, which may be more limited or even broader than in the latter case (Letamendia, 1997: 35-36).

Thus the French and the Spanish states both refuse to give any political recognition to their plurinational nature, and strike out against "peripheral nationalism". Pedro Ibarra (2005: 7) writes that forms of "anti-nationalist" discourse are built up on the basis of "nationalists who reject the nationalism of… others". This can happen because the word "nationalist" is stigmatized and it is employed to stigmatize. For example, Ferrán Requejo (2005:104) explains that "many nationalisms deny that this is what they are, especially when their nationalism is not necessary because their own nation of reference is perfectly well established and consolidated among the states." Francisco Letamendia (1997: 19) shares Ibarra's view and adds that, at present, nationalism is a state ideology at the same time as it is also a reaction of some parts of the state's periphery (viewing the state as the centre) in order to defend an ethnic group. These reactive nationalisms of the periphery "mimic the creation process carried out by the nation-state of the national community (*Gemeinischaft*) and, at times, society (*Gesellschaft*); these reactions tend in turn to provoke new counter-

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[76] Perhaps the most popular formulation, outside the academic domain, has been the description of Spain as a "nation of nations". This expression was used in the constitutional debate by Gregorio Peces-Barba (see Francisco González Navarro, 1993), who is certainly one of the champions of the term, the vicissitudes of which in academic discussions have varied (see for example Moreno 1998, 2007). In recent years its importance has waned, perhaps because it is not very useful. Part of the debate is reviewed in Alvárez Junco, Beramendi & Requejo (2005).

[77] The *estado de las autonomías* or *estado autonómico* is referred to by most writers as a "regional state".

mobilisations from the centre in the form of centralist nationalisms" (Letamendia, 1997: 19). Whence the importance of the distinction between Basque nationalists and Spanish nationalists. The former have a conflict with the centre, but the Spanish nationalists, in turn, have a conflict with the Basque nationalists.

Eventually the Spanish state has been forced to recognise this to some extent, in response to the pressing national demands of Basques and Catalans, acknowledging the existence of nationalities in a cultural sense, and so creating a dissociation between social and political realities on the central level of the state, but also on the sub-state level, as Justo Beramendi (2005: 93) notes:

> The meaning switch from the name of the national group to the name of the territory where it lives is only fair in the event that the population of the territory in question agree that they constitute a single nation. But since this is not the case, the only thing that cannot be denied is that the Catalan, Basque and Spanish nations exist, and that is not the same thing. It isn't the same thing because in Catalonia, for example, in addition to a Catalan nation there is a Spanish nation as soon as part of the inhabitants, no matter how large or small, consider themselves part of it, quite independently of whether or not some of these inhabitants are ethnically just as Catalan as other people. The same can be said of the Basque Country, of Spain and of other places.

The snag in the case of Spain is that it only recognises one nation, the Spanish nation, and denies the existence of the other nations with which it coexists: the Basque, Catalan and Galician nations. As Caminal (2008: 150) says, Spain does not with to share the title of political nation with the rest of the nations who live in the Spanish state. The other side of this coin is that it recognises a single *cultural* nationality as referring to the whole Catalan or Basque territory, which is "false" according to Caminal, who states that "Euskadi and Catalonia are not at the present time homogeneous, monolingual cultural nations."

But in the Basque Autonomous Community (BAC) integrationist tendencies dominate from the national point of view. Both Spanish nationalism and Basque nationalism try to integrate all the people living in the territory they claim, and both do this mainly through a concept of nation based on free will, all though given that Spanish nationalism disposes of a state it also uses coercion.

Thus the prevalent position in Spanish nationalism[78] refuses to acknowledge the existence of a Basque nation, given what that might entail in the way of questioning the Spanish nation or the assumption that the Basque Country belongs to Spain. In their discourse, then, all citizens of the Basque Country are only citizens of the Spanish nationality and nothing more. Similarly, but without the capacity for coercion that a state possesses, Basque nationalism tends to deny that more than one nation coexists endogenously in Euskal Herria. From its point of view, there is only one nation, the Basque nation, with a right to decide its own future. Juan José Linz (1986: 677) explains the logic of this as follows:

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[78] As Linz (1986: 678) poits out, "Spanish nationalism… is a reality for most Spaniards, and extra intense in some parts of the population", hence "any questioning of the Spanish 'nation' and its ultimate unity (even by recognising internal diversity) inevitably produces extreme reactions."

The idea that all who live and work in Euskadi 'are Basques' (and therefore ought to feel like Basques and surrender any other identities) makes it hard to create a bi-national, bi-cultural, bilingual society because many of those who are forced to integrate will resent it; also, when the Basques are frustrated in their effort they will not be willing to respect that resistance. Although in theory, and as was probably intended by many of those who have defined 'nationalities' in this way, this may seem preferable to some sort of segmentation, parallellism or proportionality taking into account the coexistence, in many places, of two communities, this raises (given the number of 'Spanish' immigrants) an issue difficult to negotiate, since it represents a threat to the identity of the non-native people, and for other Spanish people an unacceptable exclusivism.

But what Linz neglects to point out is that this logic is equally applicable to Spanish nationalism. In fact both nationalisms have the same objective: assimilation. Basque nationalism, because it lacks an instrument resembling a state, has basically used tools associated with sociopolitical and cultural hegemony, whereas Spanish nationalism has historically brought about assimilation through coercion.

In all this we can distinguish between two different kinds of plurinational society: a) one made up of nations that already have nation-states; b) one containing nations that do not have nation-states. Thus there are differences between cases such as Northern Ireland, South Tyrol and Bosnia, on the one hand, and the Basque Country on the other. In the first three, the national minorities have their own nation-states which act in defence of their co-nationals and don't let the state to which the minority group belongs overlook the nationality's presence. This fact results in a different perception of these three minority groups than of the Basque minority. The Northern Irish, the Germanic inhabitants of South Tyrol and the Croats in Bosnia-Herzegovina know that their survival as a nation does not hinge on them alone. Hence, assimilation is not one of the basic tenets of their politics; they are concerned about demanding political and/or cultural autonomy, or in extreme cases, annexation of their nationality to the corresponding nation-state.[79] Basque nationalists have a different outlook because they consider the survival of the Basque nation to depend on what they demand, hence the importance of assimilating the citizens of the territory that Basques claims as their own.

In this context, linking autonomy of identity to territorial questions is dangerous, as in BAC, where cultural, linguistic and national autonomy is only guaranteed for Basque nationalism for as long as they remain in the majority. Otherwise, autonomy may be stymied as in Navarre and risk vanishing altogether. Spanish nationalists are not in the same position: *their* cultural autonomy is ensured thanks to the Spanish government.

An example of the precarious nature of Basque cultural autonomy and Basque national identity was the policy of the BAC government in the hands of Basque branch of the Spanish Socialist Workers' Party (PSE-PSOE) with support from the Basque branch of Spanish conservative party PP[80]. The socialists planned to get rid of the part of the current

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[79] Nor is assimilation of other inhabitants of the territory one of their chief goals. For example, the aspiration of Irish nationalists in Northern Ireland is unification with the Republic of Ireland, on the assumption that once they have been incorporated into the nation-state with which they identify, the balance will swing in favour of the Irish nationalists in the territory.

[80] PSE-PSOE and PP represent the Spanish nationalism in the Basque Parliament. This political segment has always been a minority in the BAC, but thanks to the illegalization of the Basque left nationalist party, they gained the majority in the Parliament in the elections of 2009.

school system in which Basque is the only medium of instruction. This move was "in sync" with a number of other policy shifts and shakeups in the area of culture. This is not the place for a detailed analysis, but perhaps one example of symbolic value will help. In early 2011 the Basque government appointed Jon Juaristi to the Basque language advisory board. Organisations working in favour of the Basque language took this as a direct attack on Basque, and for good reason. Here are a few oral or written quotes from Juaristi: "I consider Basque a language of the past"; "I care nothing about the future of Basque"; "my reason for being on the Basque language board is that I love to piss people off".[81]

The position generally adopted by Spanish nationalists is that promotion of culture and the trappings of identity should be pursued in a balanced way that is free of ideology, respecting the Basque Country's diversity, without backing any one particular allegiance. Yet this is not the opinion they express when talking about the policies on identity, culture and language of the government of the Spanish state: there, it is fine for Spanish culture and the Spanish language to be supported by special state-wide mechanisms of promotion and protection and for Spanish identity to be upheld. But the Basque language and Basque culture have no such resources unless this role is played by the institutions of the autonomous community. Another example along similar lines was the annulment of the second four-year Plan for Basque Culture (2009-2012) by the Socialist political leadership in the BAC government. The system of plans for Basque culture was set up in 2000 as a result of many years' hard work. Its main purpose was to establish strategic targets, areas of action, specific measures and programmes relative to Basque cultural policy as a whole. It took over four years to develop this second plan, and involved a laborious joint effort with widespread participation and broad consensuses. But the new Basque government decided it wasn't good enough and replaced it with the *Contrato Ciudadano por las Culturas* (Citizens' Pact for the Cultures).

The very name of this new strategy concocted by Basque government under the Basque branch of the Spanish socialist party speaks volumes. Not "culture" but "cultures", for the purpose of avoiding any reference to "Basque identity" and to reduce the role of the Basque language as much as possible. To bring this off, after a year and a half without calling a single meeting of the Council of Culture (contrary to its own regulations), in late 2010 the Basque government appointed thirty-two people to the council, ten of whom were not residents of BAC.[82] The upshot of these nominations was that there was no place in the new council for, say, the Basque Publishers' Association, the Association of Bertsolariak[83] of the Basque Country, the Basque Theatre Association, the Association of Basque Film Directors, and a long list of other associations which actually represent Basque culture in a very real sense, some working throughout the whole of Euskal Herria since these organisations are concerned with culture produced in the Basque language anywhere. Can there be any doubt but that the objective of the attitude and decisions of the socialist ministry of culture of the Basque Government was to undermine the Basque nationality's cultural autonomy?

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[81] Sources: Deia newspaper, 16-1-2011; 28-1-2011; 28-2-2011.

[82] Alex de la Iglesia, who was then president of the Spanish Film Academy, was one of those appointed, but in the end he stepped down, saying that when he accepted the appointment he "didnt think it was going to be utilised in this way. I still haven't opened my mouth and I am already the *lehendakari*'s super-advisor; it doesn't make any sense." Deia, 27-12-2010.

[83] "A bertsolari is a singer of a musical verse in Basque tradition. The bertolaris are often found in pairs, in which a topic is sung extemporaneously in verses alternatively, but they can stage solo or group verse sessions too. It is usually sung to a slow tempo with long or short verses and are generally dealing with various subjects. Professional bertsolaris can be found at festivities, singing improvised rhymed verses. Bertso improvisations are popular with young people at bars or special occasions" (from Wikipedia).

Given the lack of a common position between Spanish nationalism and Basque nationalism, the current situation and the existing institutional arrangement, there only appear to be two ways forward: (1) an ongoing tug-of-war between the two sides, putting the winners in charge of running the institutions responsible for cultural autonomy and identity as they see fit, though as always the Spanish sector does not face any upper limits, while for the Basque nationalists the limits will be established by the government of the Spanish state, which is always going to give some protection to the Spanish nationalists, whereas this is not so the other way round; or (2) an agreement on a shared Basque identity which can be maintained regardless of the vying for the future of the Basque Country either as an integral part of the Spanish state (whatever the subtle nuances and readjustments of various types) or as an independent country, as the case may be.

The first scenario is that of a democracy that is ruled by the majority and "exclusive", like that described, for instance, by Lijphart (1975) or McGarry & O'Leary (2006a, 2006b, 2009) in Northern Ireland before the Good Friday Agreement. There was home rule but it was controlled exclusively by representatives of the Unionist majority, so the Irish nationalist minority was excluded. This is the same logic that is applied in Navarre: there is an autonomous government but the Basque nationalists are excluded from it, as Patxi Zabaleta explained in an interview in El País in 1990: "For the past sixty years, politics in Navarre has always gone on behind the backs of the losing faction." This sums up exactly what Lijphart (1977) was talking about when he said that these are the effects of a majority system when it is applied to a territory where there is diversity. In the case of Navarre, the systematic exclusion of the Basque nationalist voice is the result of a monopoly on autonomy in the hands of the Spanish nationalists, which is why Zabaleta goes on to sketch out something vaguely resembling a consociational approach, saying: "Navarre needs a solution without a defeated side."[84] To make this sound more consociational, all that is needed is, instead of "defeated", to say "excluded."

In the current institutional setting, the second outcome comes closest to the theories of power sharing, though perhaps closer to the integrationist model than the classical consociational one, yet it is not far from McGarry & O'Leary's (2006a) liberal consociational model or Lijphart's (2008) most recent, more liberal theses. The basic idea is to agree on a space of Basque identity and culture as a minimum common denominator and a starting point for integration. One thing in favour of this approach is the will of both parts of the nation to get past their deep divisions. A point against it is the need to agree on a minimum common denominator: what will that consist of? Although it is not the purpose of this paper to present an analysis, let me take the language issue as a very meaningful example of the inherent difficulties and problems that result from a faulty point of departure.

In theory, one might assume, from the laws on education and the law of language normalisation, that Basque society has acknowledged that one item in integration must be the spread of bilingualism in the medium term, thus drawing closer to the ideal that all citizens should know and be able to use both of the official languages, Basque and Spanish. Given how difficult this effort will inevetably be at the outset for a newly created autonomous government — in 1980 only 22% of the population of the BAC spoke Basque — the schools and the administration were charged with a large part of the responsibility

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[84] Source: El País, 18-8-1990.

for achieving a bilingual society. Thirty years on, the progress made by the Basque language is undeniable: in 2010 as many as 37.5% of the population was bilingual[85] and more than half the population had some substantial knowledge of the language. But the achievement of universal bilingualism is still far away, although with each new generation it appears more feasible.

The drive for integration on the language question is motivated by practical considerations. The success of the Model D schools [with Basque as the language of nearly all instruction — Translator] is based on their effectiveness in making pupils bilingual, whereas the partial failure of Model B [using both Basque and Spanish for teaching — Translator] and the fiasco of Model A [with Spanish as the language of instruction and Basque taught as a single school subject — T] is based on the inability of such schools to produce bilingual people. This, in the last resort, is what leads some Basque nationalists to advocate schools that favour linguistic integration with Basque as the basis. Perhaps what those who do not share this perspective, such as the Basque Nationalist Party (PNV), are trying to do is avoid taking away people's freedom of choice, reckoning that in any case practical common sense will eventually do away with the ineffective school models, or reduce them to only occasional use. And they are right, which explains why most of the Spanish nationalists, represented by the PSE-PSOE, also taking a practical view, are in favour of a *single* trilingual model in which Basque would no longer figure in public education as the chief language of instruction. All told, this would amount to a kind of Model B with even fewer hours of Basque than at present, since a third language would be introduced, thus making it harder still for schools to teach children Basque than in the current, failing Model B.

This idea of the PSE is not shared by the Basque branch of the Partido Popular (the Spanish conservative party), which at the moment is still rooting for what they call "freedom of choice" (although this might well backfire on them because so far the result has been that more and more people are opting into the Basque-language schools, at least while Basque language is still being required for entry into the local civil service. The approach of the socialists, however, is to half-admit that Model A [the all-Spanish schools] has indeed been a failure, and then go on to support schools with more Spanish language in them and thus push back the Basque language by taking away its autonomy. There is logic to a system of integration in which Basque is not the only language in school. Such an idea has been implemented by the PP in Galicia since it came to power in the autonomous government in 2009. But will the PSE-PSOE's formula be effective in creating trilingual graduates?

The empirical evidence suggests that it will not be in the non-Basque-speaking areas; so in that case what is the point of a system such as this? The pro-integration approach to the language question that was broadly supported in decades past, and now coming under more and more direct attack from the Spanish nationalist parties, was based on the commitment to teaching the Spanish-speaking part of society Basque (the Basque-speaking part already knows Spanish!). This idea is hard to swallow for most of the Spanish nationalists since it has also been amply demonstrated by empirical evidence that access to knowledge of the Basque language, even though it does not entail any loss of Spanish, does act as an essential factor that tends to attract people towards pro-independence

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[85] http://www.eitb.com/noticias/sociedad/detalle/556243/el-porcentaje-ciudadanos-saben-euskera-sube-22-al-375/

opinions, so wider knowledge of Basque contributes to defusing the rivalry between Basque and Spanish identities.

Basque nationalism has often been accused by Spanish nationalists of politicizing the Basque language and trying to use it to promote "national construction". While that may be true, it is no less true that the highest degree of politicization of the language issue is on the Spanish nationalist side. The best proof of this is Article 3.1 of the Spanish constitution which states that it is the duty of all Spanish citizens to know Spanish. But the Spanish nationalists' political strategies and objective concerning language is far more precisely defined than that of Basque nationalism, which would for the most part be content to see all Basque citizens able to express themselves in Basque and Spanish, which is a goal that, in theory at least, most Spanish nationalists, and the Basques in the Spanish socialist party in particular, claim they support. However, there is every reason to think that this discourse is only a rhetorical exercise aimed at sounding politically correct, given that their practice is quite the opposite. We see an example of this position in the discourse used by Juan José Linz, a political scientist with an *españolista* position that is tolerant of Spain's national diversity. Speaking candidly, Linz observes that the Castilianization of the Basque Country and Catalonia favours Spanish unity. In a clear statement concerning the political use of language (in this case, Spanish), he says:

> Even though it is a source of potential conflict, the presence of a substantial minority that identifies itself with the nation, language and culture of the state's dominant nationality but which is also integrated in the community and life of the emerging national federal sub-units provides a basis for links to the state (Linz, 1999: 33).

Linz makes at least two things clear in saying this. One is that he clearly perceives the existence of a dominant nationality in the state; the other, that he recognises the importance to the dominant nation of having hegemony over cultural elements in general and language-related ones in particular as a glue keeping Spain united and protecting that unity.

Let us return to the BAC and Navarre: it seems clear that, at least on a subjective level, society interprets the strengthening of the Basque language as reinforcing Basque national identity. Hence the fear expressed by some over the spread of the Basque-medium schools in the two autonomous communities, since this may promote identification on a fundamental level among a growing part of the population who are most likely to strengthen the Basque nationalist side, although as we have seen this could also provoke reactions in the non-Basque-speaking camp, generating a reinforcement of *españolista* positions or realignment with these by people who do not speak Basque.

In short, Spanish nationalism clearly tends to put obstacles in the weay of reasonable agreements towards the development of an approach to the national conflict through integration such as moving towards a bilingual society, because such a linguistically diverse arrangement, just like a plurinational one, is seen to be incompatible with the Spanish state, whereas we believe that there is good reason to think this may serve as the basis for a future Basque state with open doors, diverse, serving all citizens regardless of their national feeling.

3. A BASQUE STATE WILL BE GOOD FOR THE MANAGEMENT OF NATIONAL DIVERSITY BASED ON FULL DEMOCRACY AND THE FIGHT FOR SOCIAL JUSTICE

At the end of his book *Conflicto en Euskadi* (1986), Juan José Linz presents his conclusions, with a forthright epilogue concerning his ideological stance. All the same, what he writes maintains a scientific perspective. Twenty-five years later, what he says is still basically valid as a key to understanding the conflict in Euskal Herria in the twenty-first century. Linz (1986: 682) explains that this is not just about a conflict "between movements and parties, nor is it just the tragic conflict between terrorists and those who want peace, it is a conflict between communities." Just how deep the rift is between the national communities that cohabit in Euskal Herria is another matter. Luckily, it is not particularly intense in comparison to conflicts found between some national groups elsewhere.

But that does not make it any less important to seek an agreement between the different national feelings. Linz points to the possibility of a form of conflict management through consociational agreements. Yet he is pessimistic about the possibility of establishing a genuinely consociational democracy within the Spanish state, and his use of such a formula is limited to only applying certain aspects of it. Thus, in the event that a consociational agreement could be reached, Linz (1986: 681) warns that "in the Basque case a consociational policy would be necessary at two levels: that of the Spanish state and that of the autonomous Spanish-Basque community." In this sense, success would largely depend on the ability to develop both a vertical dimension (with the central powers of the Spanish and French governments) and a horizontal dimension (between Navarre, the BAC and the North of the Basque Country in France).

Resistance to a complex vertical consociational agreement would come from the Spanish and French nationalists, who would eventually be forced to make democratic "concessions" (allowing Basques to decide on matters ranging from their future legal status as a country to all sorts of cultural, economic and social policies), contrary to their ideas of the unity of Spain and France. Following the same logic, the social argument is indisputable for applying the consociational theory to the Basque Country, among the native inhabitants of which are people of Basque, Spanish or French nationality. The objective, then, would be to maximise inclusion and minimise any sense of being the "loser" that might be felt by the three main sectors, which implies involving the three nations that inhabit Euskal Herria in the governing of the country and sharing of power.

However, there is no way to share power without mutual recognition of absolute equality, and since this cannot come about within the French and Spanish states, independence is seen to be the only viable way to manage Euskal Herria's internal diversity on the basis of recognition of national diversity and respect for the wishes of the country's inhabitants.

It is important to point out that the reason for recognising the right to free determination should not be whether or not the Basque territories have a nation represented by a majority that is different to that of the Spanish and French states, but rather because the future of those territories must be decided by those who live in them. That is the only way of ensuring that there will be no threat of subjugating the will of the inhabitants, overcoming internal majorities through the addition of external majorities (viz.

at the highest level of the state). For, as Linz (1986: 669) says, it is not democratically viable to maintain a territory within one's borders against the will of its inhabitants.

It is the logic of democracy that wishes should be implemented from the bottom up, not from the top down. It should not be up to Spain to say if they want the Basque Country to be a part of Spain, but up to the Basques. Likewise it should not be for the Basque Country to say if they want the province of Araba to be Basque, but up to the people of Araba. So it should not be the larger units that include smaller ones imposing their union over the internal will of the component territories. This is the logic that has prevailed in Northern Ireland and it is the logic that will help to unblock the Basque impasse. This is the way to resolve the argument over Spanish or Basque territorial unity, for as Mario Zubiaga (1999: 141) says, "territoriality is a concept and a political reality built on the wishes not of territories, which have none, but of their inhabitants."

The right to decide is the best guarantee that agreements reached between different communities will not be reversed by the orders of external majorities. If the inhabitants of the Basque territories had the right to decide their own future, understanding this as a guarantee that the decisions they make will not be amended or vetoed by the state, there would be a much better chance of substantially improving the odds in favour of achieving and maintaining a consociational democracy. This would bring about the conditions of a small population and a relative equilibrium between its sectors, both of which Lijphart (2008) gives as desirable conditions in all his writings about consociationalism.

Those promoting integration may argue, in opposition to the consociational system, that it would deepen the sociopolitical (i.e. national) divisions in Basque society. But in fact, based on the principle of the self-determination of groups,[86] these divisions could be reinforced or not be, depending on the capacity of governments and societies to generate a shared political community; all that consociationalism tries to do is ensure that the conflict between segments is handled in a way that does not involve exclusion, by promoting inclusion together with differences and diversity. That said, if the consociational system develops into a Basque state there will be plenty of room for national integration, as has happened in other consociational systems that came to an end through their own success.

It will be possible to try to smooth over national divisions in Euskal Herria and build a strong collective identity in an independent Basque state, provided that this state refrains from setting itself up as a state at the service of a single national sentiment and promotes more democracy and social justice; a state which may become the foundations of a republican concept of citizenship approaching that of Habermas, of creating a nation of citizens. Why is this possible in a Basque state but not inside present-day Spain and France? There are three main reasons for this:

A) *History as an expression of will:* Both France and Spain are built as nation-states with long traditions of aggression against national diversity. The deconstruction of this history and of its drive toward a single nation is a difficult task, and it comes up against

[86] Starting in the nineties, Lijphart shifted towards a position defending self-determination rather than predetermination regarding the distribution of power in the consociational system. The predetermination option is one where the groups sharing power are previously identified, even to the point of specifying quotas. In self-determination, on the other hand, a liberal approach is taken in which segments exist as long as they express themselves politically through the ballot box. This idea is also the basis of the liberal reformation of consociational theory developed by McGarry and O'Leary in the light of the Northern Irish experience.

the will of the majority of people in the Spanish and French nations, who hold a hegemonic position in their respective states. On the other hand, Euskal Herria is an entity that has basically been built out of a concept of diversity in the Basque Country, in part a forced diversity brought about by the various administrative divisions, yet also reflecting another tradition, which has translated into various institutional developments where the basis was not one particular ethnic or national group: such was the case of the Kingdom of Navarre, and more recently, the territories with *fueros*. This goes a long way towards making the official institutions more neutral with respect to national and/or ethnic associations, favouring a view in which all the inhabitants of the land are considered Basque citizens.[87] In other words: Euskal Herria includes territories with different linguistic backgrounds, yet which have shared in or have been linked by a common history of political institutions. That is why Basque identity is a political identity, and this makes it apt to operate as a meeting point for diverse national identities. In that sense, there are many different reasons why various national sentiments may converge to support a plurinational Basque state.

B) A rough equilibrium between different national communities: In an independent Euskal Herria, it will be more difficult to distinguish between national segments of the society, and the centre stage of politics will be occupied instead by the Left versus Right dimension. There is a good chance that the national communities will end up being transformed into a new configuration based on language communities, in which case none of the three main communities will hold complete sway (leaving aside the matter of the small Occitan-speaking minority). The biggest language community will be the Spanish-speaking one, followed by the Basque-speaking and the French-speaking groups. It is highly likely that the Basque language community will have to carry on with its fight against minority status. Yet Basque might have a role to play as the language that brings together the north and the south, the common language that unites the whole territory, without French and Spanish needing to give up their official status in the respective areas where they are spoken. Their speakers need have no fears about their language disappearing since these languages have a strong presence in the society and are well known by all the inhabitants of their respective areas. If we add the large-scale cultural production and international projection these languages have, plus normal relations with Spain and France in a European framework, there is absolutely no reason for Spanish and French speakers to feel their languages are threatened. In the medium term, it is to be expected that a great many citizens will become bilingual (or trilingual if we count English as well), with Basque as the common language of all throughout the country and Spanish, French or Occitan spoken in the areas where each is present. Hence unlike the situation today in the French and Spanish states, bilingualism, far from being a problem threatening the country with "national disintegration", will rather be perceived as an element assisting the unity and integration of all Basque citizens.

C) A state on a small scale: Small size may be seen as an opportunity to develop greater democracy and forge links of solidarity and common projects: proximity is positive, whether it be in politics, social matters or culture. Starting with the

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[87] This contrasts with the usual tendency for stateless nations to demand a territory that is coterminous with the resence of the nation, leading to an identification between nation, territory and state. This is the criteria, for example, for the way the map of the *Països Catalans* is drawn up, but not the map of Euskal Herria, the justification for which is not linguistic, for example.

accountability of a state's administration, continuing on with other factors such as immediacy of communication between representatives and represented, down to the implementation of mechanisms for participatory democracy, there are more advantages than drawbacks to a small state. The smaller the scale, the easier it is to create a citizenry concerned about public affairs and community issues. This may be a key factor when creating joint projects and seeking the well-being of all the citizens in the state.

In the period of the *transición*, some inhabitants of the BAC who might have felt less identified with the Basques subjectively ended up acquiring that identification once they had become the beneficiaries of a range of social services provided by the Basque government. Similarly it is reasonable to assume that greater sovereignty, understood as an advance in social justice and participatory democracy, may favour the strengthening of a shared Basque identity.

There are better conditions for achieving this in a small-scale state, such as the Basque state will be, than in a larger scale one such as France or Spain. This assumption is supported by the empirical evidence of Political Science. Josep M. Colomer (2001), working within social choice theory, has looked at more than forty democratic states using a utilitarian model of the role of institutions. He holds that institutions will achieve greater **social utility** (manifested as citizens' **political satisfaction**), the greater their ability to translate voter choices into public policies. The position called that of the median voter is that which "minimises the sum of distances from voters' preferences" (Colomer, 2001: 227). Therefore the measure of political dissatisfaction corresponds to the "distance" separating voters' preferences from social choices. The smaller the distance between voters' preferences and social choice, the greater is the *utility* of the public institutions:

> The social optimum corresponds to the result which minimises the sum of individual distances, and maximises social utility. In particular, on a single linear dimension, the sum of distances is minimum vis-à-vis the alternative (candidate, party or policy) preferred by the median voter, that is, the voter whose preference is situated in an intermediate position with less than half of the voters on each side. In other words, social utility is maximum when social choice coincides with median voter preference (Colomer, 2001:19).

On the basis of social choice theory he proposes a model of analysis in which political stability and the criterion of efficiency guide its inclination towards institutions of one type or another. For Colomer, efficiency is making decisions which produce the greatest social utility, i.e. which include the preference of most citizens. From this perspective, whenever there is a choice between "inclusive" institutions that are efficient but not very effective and "exclusive" institutions that are effective but not very efficient, Colomer will always opt for the former.

As to how to achieve greater social utility through constitutional engineering, Colomer's position is that "the more complex political institutions are, the more stable and socially efficient are its results" (Colomer, 2001:11). Here "complex" means that there are many "winners": the greater the complexity, the larger will be the number of winners in the institutional system, and the more winners there are the greater will be its social utility.

Among the conclusions drawn by Colomer's study, for our purposes it is interesting to note that in the countries studied there is a clear correlation between the small size of states and the degree of efficieny of instutitions. Scale matters, since small states achieve greater social utility in their institutions than larger ones. It surely follows that a Basque state would be more likely to achieve greater democratic efficiency and more accountability than the French and Spanish states simply virtue of scale and the proximity of its citizens.

Similar conclusions can be drawn from Arend Lijphart's (1999) *Patterns of democracy*, which studies types of democracy (majority democracy and consensus democracy, which is another type of power-sharing democracy that is not quite the same thing as consociational democracy) in thirty-six countries, and ends with an analysis of their performance by various yardsticks. The results are fairly clearcut for those countries which share power in a single agency, which demonstrartes that most systems of power consensus are small democracies which score better according to a number of performance indicators. Indeed, Lijphart himself says that consensus democracies are usually benign and benevolent because "they tend more to be welfare states; they get better results in protecting the environment; they put fewer people in prison and are less likely to use the death penalty; and consensus democracies in developed countries are more generous with their economic aid to developing countries" (Lijphart, 2000: 257).

However, in the conclusions to his study he admits that "it seems more recommendable to assume that consensus democracy and these more benign and benevolent policies originate from an underlying community-oriented culture of consensus rather than that this is the direct result of the institutions" (Lijphart, 2000: 284). This does not stop Lijphart from offering counter-arguments which support his consensus formula. He argues that culture is a complex phenomenon that evolves in response to various factors. Switzerland and Austria, for instance, which are now considered exemplary cultures of consensus, had political cultures in the past that were not terribly oriented towards compromise. The Swiss had five civil wars lasting up to the mid-nineteenth century, while the Austrians endured a bloody civil war in 1934.

And so Euskal Herria, with its stormy past, faces the challenge to take on its own internal diversity on a basis of sharing and consensus, and for that it is more necessary than ever to have a Basque state and an institutional structure that, a priori, will have a better chance than its French and Spanish neighbours to cultivate respect for ethnic diversity based on agreed procedures such as promoting social justice in a more democratic context.

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5. Democratization and contentious politics: basque state-building as collective action

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This article looks at independence within a long-term historical mobilization process. State-building is something that cannot be achieved overnight: formal secession, when it occurs, is the final step in a long liberation process of mobilization for independence. The very formation of a nation and a state is all about collective action and social movements. Defined as a type of mobilization, independence cannot be differentiated from the building of hegemony. Bringing together paradigms of power, influence and identity, the goal of independence is the hegemony of the Basque state. The independence movement must manage strategically the synergies and contradictions that will arise between these paradigms, by articulating public domains and polarizing them appropriately, proposing a tactical renewal in political discourse and practice, strengthening feelings of community, and at the same time working towards the social, political and legal consolidation of Basque networks. This is an enormous challenge but it is perfectly feasible.

INTRODUCTION

A Basque state is not a new political goal: one way or another, independence has always been the objective of Basque nationalism, and it can hardly be denied that having a state is the highest expression of sovereignty. Yet the demand for a state has often been treated as if it were just a utopia, a mirage on the horizon, a mere feeling or belief. In this view, the greatest danger for the independence movement would be to consume oneself in its aspirations like a kind of private religion and end up sitting it out by the kitchen hearth waiting eternally for the "day of liberation" to arrive.

However, as Tilly points out, if nationalism is anything at all it is a mobilisation process, and a contentious mobilisation at that since its goal is to bring about a change in the *status quo*. In each historical era state-building and the associated processes of nation-building acquire different ideological forms and practical approaches: nationalism may be reactionary or progressive, may take the form of aggression or resistance, and may express itself in an imperialist or an internationalist guise. Likewise, each ideological position opts for certain characteristic political means, and rules out others: these may range from family alliances and wars to persuasion and democracy. In the contemporary world, in view of the prevailing political philosophy of surrounding states, the demand for a Basque state has taken a new turn. The idea has taken root that the sovereignist movement must adopt an *effective approach* that is *considered legitimate* in the present political circumstances. In contemporary stateless nations in general, initiatives are focusing on *strengthening pro-independence feelings in civil society* and developing *democratic means to channel this political will.* Independence requires political power, which is necessary in order to constitute a broad majority of opinion.

It was not always so. Throughout the centuries other political models have operated historically in state and nation-building, and different means have been employed accordingly.

1. HISTORICAL PERSPECTIVE: BUILDING AND LOSING THE BASQUE STATE

The feudal system that developed in Europe after the fall of the Roman Empire brought into being a variety of fiefdoms and realms based upon a system of personal allegeances. Among other domains of legal authority, kingdoms became major players in certain territorial domains, built on a foundation of some sort of ethnic affinity, and these laid the first stone for the development of the modern state.

The historical process whereby territorial kingdoms have grown into modern states has been termed state formation or state-building, the characteristics of which have been described by Charles Tilly:

> State building provided for the emergence of specialized personnel, control over consolidated territory, loyalty, and durability, permanent institutions with a centralized and autonomous state that held the monopoly of violence over a given population.

Specialised, permanent government structures, the strict separation of society and authority (the precursor of the dichotomy between the public and private domains), a defined territory and centralised institutions with a monopoly of violence except for the fiefdoms are the characteristics of the modern state.

This edifice required a new ideological doctrine to legitimise its authority: sovereignty, i.e. the power or authority (and the associated legitimising discourse) of the deciding agent who has the ultimate right to make decisions and resolve conflicts categorically within a political hierarchy.

How was this kind of authority, identified with the state, formed? If the state was an "artificial" body, how was a soveignty created which was to become its inseparable yet likewise "artificial" soul?

The state's sovereignty is reflected in the supremacy and unity of its authority. As Carlos de Cabo says, these kingdoms, which may be regarded as proto-states[88], began to proclaim their supremacy and unity both to their own political communities and the feudal jurisdictional powers within them, on the one hand, and to the efforts to influence and interfere in them from without (originating from other kingoms or from the church) on the other.

In Hinsley's words, "when a state is established, we see that a conflict has taken place between the principle of community and the principle of domination, a conflict, that is, between the survival of a society's traditional behaviours and customs and the demands of a type of government that can only be introduced by an external power." Thus the permanent establishment of the modern state calls for the absolute identification between community and state, and until that happens it will be a "segmentary state": a combination of the powers of the administrative forms of a central state and the segmented organisation of a society's power. *Therefore state-building is an ongoing, never-ending process: conceptually the state is never complete, perfected, except in the fantasy of a totalitarian state.*

However, we should not forget that this conflict is not only internal, but between various proto-states vying for control of the same territory. State-building is never a peaceful process.

It is obvious that these theoretical premises may be applied to the Basque country. Throughout the Middle Ages all the kingdoms of the Iberian Peninsula vied with each other to build states. The rivalry between Castile and Navarre was particularly fierce. This rivalry was not merely dynastic, but had deeper roots; underlying it was a clash between two distinct ethnic groups or peoples. From the twelfth century onwards, the western Basque territories which had until then formed part of the kingdom of Navarre became dominions of the crown of Castile. To gain the loyalty of the newly acquired territories and their inhabitants, the segmentary kingdom-state of Spain granted them an autonomous "status" although they remained subordinate to the state; the same was done with Navarre after the conquest of 1512. Since then, recognition of the "special status of the *fueros*" has turned into the most telling expression of the Spanish segmentary state, a state whose state-building never reached completion.[89]

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[88] *Proto-state* is used in the sense of a political entity that is not yet a state but is on the way to becoming one. Thus the kingdom of Navarre was an example of a modern proto-state: a political state structure that was lost on the way to turning into a modern state. On the subject of state-building see De Cabo Martín, C. (1988): *Teoría histórica del estado y del derecho constitucional*, PPU, Madrid.

[89] Hinsley has a direct precursor in Machiavelli's *Prince* who says: "CONCERNING THE WAY TO GOVERN CITIES OR PRINCIPALITIES WHICH LIVED UNDER THEIR OWN LAWS BEFORE THEY WERE ANNEXED. Whenever those states which have been acquired as stated have been accustomed to live under their own laws and in freedom, there are three courses for those who wish to hold them: the first is to ruin them, the next is to reside there in person, the third is to permit them to live under their own laws, drawing a tribute, and establishing within it an oligarchy which will keep it friendly to you. Because such a government, being created by the prince, knows that it cannot stand without his friendship and interest, and does it utmost to support him; and therefore he who would keep a city accustomed to freedom will hold it more easily by the means of its own citizens than in any other way." The Castilian crown followed this advice to the letter, first in the western provinces and subsequently in Navarre, when it had conquered its lands. The same logic underlies the fuero *system* and indeed the system of autonomies set up over the last few decades, including compatriots who were willing to commit themselves to this purpose. And there are still a few specialists who would portray the old hat of the *concierto político* dressed up as if it were a wonderful new idea.

Thus from a modern viewpoint the kingdom of Navarre was a proto-state, a political structure that floundered on the way to becoming a modern sovereign state. It is fruitless to argue over whether it was disbanded immediately after it had become a state or when it was still on the way to becoming one. In the Iberian Peninsula and in the Pyrenee region, as throughout Europe, local kingdoms such as France, Castile or Aragon were engaged in intense competition to build states, and insofar as they were in the competition they were all "states", all (proto) states in the process of forming and perfecting themselves. As they still are, one might say.

The Navarrese state that was the reality and the project of the kingdom of Navarre remains as a project today, and many Basque nationalists want a chance to reinitiate the process of state-building that was commenced at that time.

The signature of the Peace of Westphalia in the mid-seventeenth century ushered in the era of European state-building as far as external borders are concerned. Under the guidance of thinkers like Bodin and Hobbes, the new notion of sovereignty was moulded to the needs of modern states: sovereignty is defined as the absolute authority, permanent and irreversible, that a society has placed in its ruler, limited only by the law of God or the power of natural laws. Such a state is the first modern state.

Based on the systematic application of the Peace of Westphalia and the example of the absolute monarchy that had already been established in France by then, the Bourbon monarchs made their first attempt to do away with the segmentary state in the kingdom of Spain in the early eighteenth century. In the Basque territories, this goal was not achieved on the first try. But as Žižek[90] remarks, the revolution of the modern state got a second chance. With the Illustration and the bourgeois revolution, state-building was transformed into nation-building.

The bourgeois revolution replaced the God-given legitimacy of the absolute monarchical state by seating a civil god on the throne of power, and called it *the nation*.

For this phase of state-building instigated by the new leap of capitalism to succeed, it was necessary to perform a cultural nation-building. Therefore nationalism, the ideology whose goal was to build a nation, pursued the symbolic unification of states (as well as political and economic unification, of course) through the elimination of the particularities that derived from the segmentary situation: that is what the Carlist Wars of the nineteenth century were all about. When Navarre lost the title of kingdom in 1841 Spain's state-building process was almost done, despite the fact that certain special terms were attached to the newly created province.

But Spain's *nation-building* process was a weak one, for the attempt to establish the hegemony of Spanish national identity throughout the whole territory of the Spanish state ended in failure. New nationalist actors emerged along the lines of national cleavage on the basis of the legal and political residue, called *fueros*, granted in lieu of lost and half-forgotten statehoods, giving birth to a rival process of nation-building centred around both the western and eastern ends of the Pyrenees: the Spanish state wants and needs a single Spanish nation but fails to achieve one, while the Basque nation needs and wants its own state but cannot get one.

Meanwhile, France's state-building process made greater headway thanks to Bourbon absolutism and, subsequently, the nation-building unleashed by the revolution, with measurable consequences in the northern Basque regions.

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[90] All revolutions tend to play out in two steps: the National Assembly of 1789 and the National Convention of 1792, the Menshevik period and the Bolshevik period, etc. See Žižek, S (2004): *Repetir Lenin*, Akal, Madrid.

2. STATE-BUILDING AS COLLECTIVE MOBILISATION: DEFECTION AND CONSTRUCTION.

We can sum up historical experience in this area by saying that state-building and the associated nation-building are never smooth sailing. The legal structuring of a political territorial community inevitably leads to the establishment of authority, and given that there is no such thing as a domain under no one's authority, the building of a new state will mean questioning the area of authority of "another" existing state. Hence state-building will always be a contentious process. The same can be said of nation-building inasmuch as a conflict between political communities with strong, rival feelings of belonging cannot be avoided.

Therefore, the demand of a Basque state can hardly be expected to make much headway in the absence of social mobilisation.

The best-known scholar to have examined the **contentious mobilisation of historical state-building and nation-building** is Charles Tilly. With D. McAdam and S. Tarrow, he studied the mechanisms and processes set in motion in such mobilisation processes. There are two main processes involved in the birth of a new state: the *desertion* of social and political groups committed to the previous state, and the *building of authority* that will open the door to the new state.

In the origin and birth of a new state there is a rupture, so to speak, as in childbirth. From a certain moment on, where there was just one state there will be two states in consequence of the division of a territory and a community. This rupture will have to open up a double process. First of all, social and political groups which held up the unified political and institutional structure will have to abandon the loyalty they had hitherto shown thereto. That is what Tilly refers to as *defection*. This change of loyalties is not a betrayal of faith as in a religious conversion; it can be thought of in terms of psychological mechanisms with an objective basis, two of which are underlined by Tilly: *infringement of elite interests* and *suddenly imposed grievances*.

The first of these, **infringement of elite interests**, will lead to rational, calculated attitude changes in the elites that are the bastion of authority. A point will be reached when the elites that have formerly been the regime's allies start to see those still in power as an obstacle to their interests. So in our case the question to ask is: to what extent do the Basque elites view their interests as infringed upon on account of being, or having been, inside Spain/France?

It cannot be denied that the attitude of the socio-economic elite has been decisive in such processes. In Catalonia, for instance, these elites are increasingly becoming convinced that the best place to defend their interests is outside Spain. In the Basque Country that notion is not as deeply engrained at present in the minds of either the socio-economic elites or the political elites who, in conjunction with them, occupy the governance networks. There can be little doubt that the fiscal independence, albeit a limited one, that is enabled by present economic accords and pacts has had an essential influence on these elites' interests, resulting in support for the current system of autonomy. Up until now, this circumstance has served to boost the elites' loyalty to the present system.

However, the mechanism of infringement of elite interests is subject to the ideological orientation of the ruling elites in each particular country. For example, perceptions of infringement will not take hold in the same way in elites whose guiding ideology is of a thoroughly neoliberal bent and those with a more social orientation. In our case it is clear that any view favourable to a Basque state, which rejects submission to the Spanish and

French states, will depend entirely on the outcome of an ideological dispute between rival Basque elites.

In the Basque Country, the movement for sovereignty has an advanced social component based on the defence of a welfare state because this is the best way to attract a broad sector of Basque society. In order to be able to bind up effectively in a single project the goals of *state-building* (the strengthening and expansion of political power in the Basque territories), *nation-building* (the heightening of national feeling and the consequent intensification of a sense of common identity in the Basque public) and *demos-building* (the organisation of a democratic Basque society), this movement is convinced that it is essential to adopt an ideological stance rooted in the concept of social justice.

Another mechanism described by Walsh & Warland (1983) to account for far-reaching political change may also be relevant to state-building. *Suddenly imposed grievances* refers to the impact of certan special eventualities in revolutionary contexts. Just as the Chernobyl nuclear disaster underlined and dramatised the risk of nuclear plants, such "catalytic events" may significantly trigger a change in the course of a revolutionary process or just bring about changes in an unregulated political regime, e.g. an assassination (such as that of Calvo Sotelo in the uprising of 1936 in Spain), excessive acts by those in power (such as the destructive energy policies that the Soviet Union wished to impose upon Estonia) or a military defeat (such as Argentina's Falklands/Malvinas fiasco which led to the fall of the Argentinian dictatorship).

There is no knowing ahead of time what will turn out to be the "last drop" (or first drop?) that will trigger off a revolt, but although some eventualities cannot be predicted (usually because nobody could have foreseen them, let alone imagine how decisive their consequences would be), they unextectedly throw the spotlight on something that was already developing under the surface but simply had not, until that time, found expression in a situation manifested as a grievance, threat or danger.

In Catalonia, for instance, the recent upsurge in pro-sovereignty feelings is linked to a case of "suddenly imposed grievances". Large parts of Catalan society perceive the collapse of their public services, such as the railways or the health service, for economic reasons as a national grievance imposed from outside: from Spain. But the future direction, and energy, of Catalan state-building on account of this "grievance" will deped on what kind of political response is given.

Finally, inasmuch as secession involves processes of state-building and deconstruction, **certification** and **decertification mechanisms** acquire special importance. From an external perspective a state's sovereignty consists of the international recognition or certification that the political community aspiring to become a new state obtains at any given time. The certification or decertification of a state authority is something given or denied by other state authorities or supra-state entities (such as the European Union). Lack of recognition from international organisations or the great powers can particularly damage a regimes chances of survival and, in this case, the viability and future of a Basque secession.

Taking Beissinger (2003) as their point of departure, McAdam, Tarrow & Tilly have studied births and disbandments of states, going beyond the mere constructivist discourse perspective to focus on the role of collective action in generating national identities. Thus independence or secession is, more than anything else, a question of **social mobilisation**. Insofar as such mobilisation brings about the **(de)construction of authority**, in this kind of historical development certain **mechanisms** are set in motion, such as:

– An **opportunity/threat spiral**, whereby opportunities for one side represent threats for the other and viceversa. For instance, just as in recent years the construction of Europe's unified institutions have represented a threat/obstacle to Basque secessionist interests, in the future this may turn into an opportunity provided there is appropriate strategic management. Again: the strengthening of democracy in Spain has lent its political system greater legitimacy in confronting attacks, but that very democratization will lessen the legitimacy of its own abuses given the state's attempts to appear democratic in the eyes of other countries.

– **Identity shift** for instance, the development of a discourse of *Basque identity* for a democratic majority required for secession. The concepts of "Basque", "Basque citizen" and "Basque nationalist" are constantly evolving and will undoubtedly need to evolve further in the future if there is to be progress towards independence. Together with this, there may emerge a mechanism of *creating new categories* leading to new ways of classifying, uniting and polarising the Basque public. The sovereignty movement provides one such category, obviously.

– **A brokerage mechanism**: the linking or mediation of pa*rts of society* that were hitherto dissociated or unmobilised, by creating or adapting agents who will carry out that mediation work. To build a political majority that stands behind the sovereignty movement and draw it into the power struggle, mediation must take place with parts of society that have been unmobilise*d or dissociated until* now by means of appropriate "innovation tactics" both in discourse and through various means of mobilisation.

– Lastly, as the construction of a new Basque state authority advances, new *mechanisms of repression* which may be understood as "threats to identity" will be set up through new, hitherto unseen devices. Consequently, other counter-resources will need to be created, such as *radicalisation*, initiating an opportunity/threat spiral. The Basque pro-sovereignty movement will need to learn how to develop and manage all these variables in ways that cannot yet be predicted.

Let us now look **at the pattern of mobilisation** employed by the twentieth-century independence movement.

3. THE CONTEMPORARY PROTEST CYCLE IN THE BASQUE COUNTRY

The southern Basque Country in particular has undergone a broad democratisation process in recent decades in which nation-, state- and demos-building have all progressed in tandem. All these forms of *building* as processes cannot be separated from the profound protest cycle that we have gone through over the past forty years. According to Tilly, the protest cycle and democratisation are inseparable phenomena.

a) Limits of Spain's political transition.

In the period of Spain's *transición democrática* after Franco's death, the way in which the political system developed limited the real extent of democratisation, capping the radicalisation process. As Laclau reminds us, for democratic radicalisation to occur, the constitution of a "country" based on the **logic of equivalence** is an essential variable,

according to which a variety of demands and social movers are brought together based on the shared belief in equivalence vis-à-vis the logic of the system.

The elitist character of Spain's political transition did not allow large parts of the population to achieve a sufficiently solid level of organisation. The political parties' **logic of differentiation (institutional logic),** the *alphabet soup* syndrome[91], soon came to the fore and quickly sucked the anti-Franco forces that had pushed for change into the renovated political system. As a result, demobilisation came about fast and the social motor needed for a profound democratisation was halted. In other words, the post-Franco political system that was already in place overtook events and an alternative hegemonic articulation did not come about, the "Spanish people" that was supposed to bring about a radicalisation of the system's march towards democracy was still-born and instead of the initial insatiable aspirations all that remained were a few "acceptable demands".[92]

b) The unfinished Basque transition: the reasons for democratic radicalisation

Basque society has come closer to the *democratic radicalisation* talked about by Laclau and Mouffe. Without reading too much into this, the specialists nevertheless agree that Basque civil society, for all its ups and downs, has been more active politically, its social movements more vigorous, and popular demands in the BC have gone further towards holding the public authorities to account. [93]In short, Basque society has come closer to republican democracy than other surrounding societies.
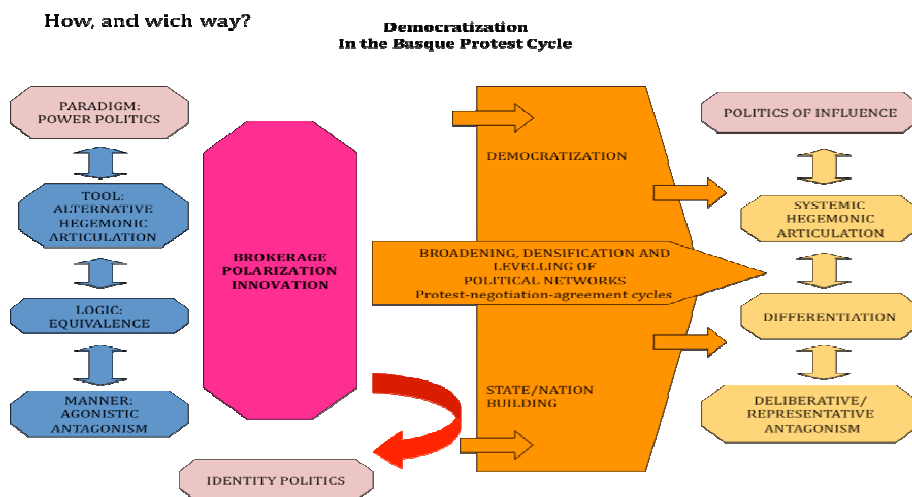
Why is this?

Figure 2. The democratisation process in the Basque protest cycle

In works by Charles Tilly and Ernesto Laclau, democratic radicalisation and antagonism are seen as closely related. In developed societies the representative

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[91] [The expression refers to the innumerable abbreviations identifying a multitude of newly formed Spanish political parties at this time — Translator.] "Democratic and electoral euphoria gave rise to a phonomenon which the press of the period batpised 'alphabet soup': around three hundred political parties registered, more than two hundred of which ran in the first elections." Colomer, A. (2002): «*La transición española, entre el consenso socio-económico y la armonización autonómica*». Seventh International Conference of CLAD on state reform and the public administration. Lisbon.

[92] Cf. Laclau's question *Why is constructing the people the main task for a radical policy?* and the distinction between "requests" and "demands". See *Debates y combates*, op.cit.

[93] Ibarra, P. & Irujo, X. (2011): Basque Political Systems. Univesity of Nevada. Reno. USA.

model has broadened somewhat in the direction of deliberative democracy in order to manage such antagonism, but only a little. Today there are still grave shortcomings concerning citizens' direct participation in democratic decision-making. In any case, the representative/deliberative model is insufficient. Inasmuch as inside and outside boundaries of democratisation processes are debatable, the "unmanageable" antagonism that is expressed by "parts that are not parts" (subordinate, one could say) are an essential ingredient in order to achieve greater democracy.

Insofar as such politics and insurmountable antagonism are indistinguishable, politics itself raises questions about the borders of the broadest regulated democracy as well. This unmanageableness is part of hegemonic struggle.

In this sense, a hegemonic operation at the heart of politics has given shape to the most recent protest cycle that has been experienced in the BC, and undoubtedly that has driven the democratic radicalisation seen in the last few years: in different social domains, such as the feminist, ecologist or basque language movements, the part that was on the outside has gradually been won over. A great many social movements have evolved from a **(counter)-power paradigm** to an **influence paradigm**, broadening the area of citizenship (Cohen & Arato, 2000).

The alternative **power paradigm** promoted by nationalist populism,[94] as Laclau showed, has brought together different parts of society and articulated them in recent times, coordinating demands that had previously been unconnected or demobilised: this is what Tilly means by the mobilisation mechanism of *brokerage*. It also **polarised** Basque society, setting up confrontations between alternative "legitimacies" in every conflict that had arisen from the seventies onwards, an institutional position and a "people's" position, That is what happened in many areas, including the ecologist, language, feminist, internationalist or peace movements, and in this way what were only "causes" became hard-to-satisfy "demands".

The mechanism that Tilly discusses of **tactical innovation** also played an important part here. Regulated (institutional) and unregulated activities, including violent ones (such as ETA), were often linked in a broad and deep mobilisation cycle. The actors who were brought together in this wave were often not organically connected, their relations were often stormy ones, but the novel combination that came about by uniting everyone posed a threat to the effectiveness of the political system, keeping the doors to change wide open. What Chantal Mouffe calls **agonistic antagonism** prevailed, on the undefined knife's edge between debate and all-out warfare.

Tilly, McAdam & Tarrow say that **tactical innovation, polarisation** and **brokerage** occur in practically all contentious collective actions and hence also in all democratisation processes. Tilly also reminds us that independence, as a process, inasmuch as it is based on a people's demand for sovereignty, is just another kind of democratisation process.

All told, democratisation, adopting the theoretical *policy networks approach*, leads to a broadening of public decision networks and the levelling of the nodes that they incorporate, to accomplish which mobilisation and protest cycles are absolutely necessary. In Tilly's words, a **protest/negotiation/agreement process** underlies these, i.e. a development that results in the incorporation of the outside issue or actor. Evidently we are talking about a general systemic development here, not necessarily about negotiations around a physical table. And such processes will often not be formally acknowledged.

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[94] The nationalist Left expressed its original nature in words, through its name: Herri Batasuna, "popular unity". That is the idea of *populism* as Laclau uses it.

Finally, the outcome of these developments will be a broadening of the systemic hegemonic articulation , and a widening of the differentiating logic that goes with it, that of the representative model. When the power paradigm of the protest cycle is lowered, the "outside part" has alternative course. For instance, it may deny this incorporation into the system and operate purely in terms of the identity paradigm, staying as far away as possible from the logic of differentiation, pending possible new hegemonic operations. According to this theoretical model, systemic closure is not and cannot ever be absolute, and the status quo that follows each protest-negotiation-agreement cycle is just a transitory/open-ended springboard for the next cycle of mobilisation.

4. PARADIGMS OF SOCIAL MOBILISATION FOR STATE BUILDING

However, one can not understand this process of democratization without further analyzing the logic on which collective action has sustained during this period

From the theoretical perspective developed by Tilly, social movements are multitudinous mobilisations that question existing power relations. Social movements are inevitably bound up with **political** (counter)-**power**, but given that at the same time they constitute collective identities, they also have an essential component of **identity politics**. Finally, social movements also practise a **politics of influence** as interest groups, given their de-facto impossibility and self-limiting nature.

These three levels of activity, with the chief characteristics of each one, are mapped out in this diagram:
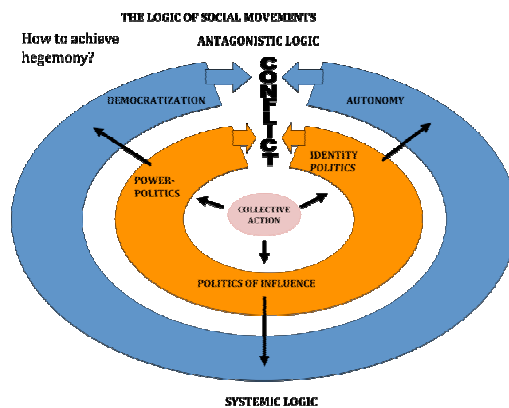

Figure 1. The logic of social movements

TYPE OF 'LOGIC'	CATCHPHRASE	ARCHETYPE
POWER POLITICS	"We will do our thing so that they don't", veto/alternative, rebelion/protest, societies controlled by the state, lack of home-rule for civil society, radicalism. Alternative power…	Counter power: *(Alter)* Politics community. *BASQUE POPULUS*
IDENTITY POLITICS	"We will be faithful to our nature, they can do what they like", return to the autonomy of civil society, limited rebelion, show clear testimony for change of civil society. Assertion of identity.	Policy community *BASQUE NATION*
POLITICS OF INFLUENCE	"We will get them to change", civil society's autonomy and influence on political society. Self-limited radicalism, no open rebelion. Carry Basque culture from door to door, Basque lobby.	Participation: issue/policy network *BASQUE SOCIETY*

The diagram suggests the idea that (counter)-power politics and identity politics come out of the crucible of the antagonistic logic of social movements. The differentiation and marking out of territory that is required by any process of configuring an identity, the setting up of a dichotomy between an *us* and a *them*, are inseparable from broader articulated power politics and the process of configuring this complex "us". Indeed, power politics materializes out of the creation of a chain of autonomous identities, i.e. the binding together of a variety of demands. And both will develop in an area whose characteristic is conflict. As for the defence of the Basque nation where the Basque language is of primary importance, this cannot succeed unless it's achieved the broader political articulation that is necessary in order to obtain political power And in the meantime, while striving to bring about these articulations, the Basque nation will also have to work from its minority position (as a part of Basque "society") if it is to attain a position of hegemony in the whole Basque country.

These three paradigms of activity are completely bound up with each other. They cannot be differentiated within the collective action of the contemporary independence movement. As has happened until now, they will have to be managed jointly, in different places and at different times, even though these will bring contradictory ideas to the surface on some occasions. But without denying the other paradigms — of identity and influence — it is by acting in the (counter)-power paradigm that hegemony of the Basque nation in the Basque Country can be achieved.

In Laclau's opinion, liberating activity within the hegemonic logic must proceed through two stages:

– **First**, the liberation of a particular identity (the Basque nation) must become the reflection of the whole of (Basque) society and all the people. To this end, the Basque nation will have to act as an articulation of parallel specific identities or demands in the form of a composite social movement. Any specific demand within this complex may become a symbol of the whole nation and hence for all the people,[95] a necessary symbol in order to take the place of completeness ("Basque" completeness). For instance, the Basque language has long represented a specific demand symbolising, first of all, the Basque nation, and to a lesser extent, the whole of the Basque people. But for that to happen the "Basque-speaking nation" will discover its inherent universality, a general aspiration going beyond the objectively defined language community. During the last few years, by virtue of the first hegemonic stage, the Basque language has hegemonised the Basque nation, leading to an understanding that the Basque nation equals the Basque-speaking nation, and in a partial second hegemonic step it presents itself *as* the (Basque) *people*,[96] having become a focus for all other demands, i.e. "Basque people" = "Basque nation" = "Basque-speaking Basque nation". This dual hegemonization is not possible if "Basque language" and "Basque nation" are disconnected. Both must be articulated with other demands.[97] The fact that this Basque nation rooted in the Basque language has always been connected to other demands, whether it be religion in one period, or more recently workers' rights (socialism) or protection of the environment, may be interpreted, contingently, as a manifestation of this process. When on the other hand the Basque nation appears as an isolated demand, for example as a language community, it becomes particularised, depoliticised, and it closes the doors on itself blocking the exit from its own

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[95] A struggle that has become a refrain for all struggles, has become empty, providing a place, a focal point, for all articulated demands.

[96] There can be no better example of this than the most recent *bertsolari* competition at the BEC in Barakaldo. It is a building rooted in "the people", and the people-logic is the expression of the linking together of different demands, but which ca only be expressed through a one in particular, through a particular one in this case — the Basque nation — universalized, converted in a pure symbol. The first hegemonic operation that underlies this is that which the Basque nation has performed with the Basque nation. Basqueness (the condition of *euskaldun*, Basque speaker) has hegemonized the Basque nation, as to a more limited extent the *Basque nation* has done with the Basque people.

[97] The Basque language is *more* than the Basque language, the Basque nation *more* than the Basque nation, if the Basque people is to be hegemonized, that is, if Euskal Herria is to be understood as the *Basque, Basque-speaking nation*.

particularity; for identity politics on its own does not serve to preserve that very identity, unless it is to be in a museum.

– **Secondly**, in parallel with this first step, an antagonistic distinction from that articulation is necessary wherein an area of repression is identified, and a polarised relationship with it established: Spain/France versus Basque Country, an *us/them* dichotomy. Initially independence simply meant the defence of an independent kingdom-state, the sovereignty of Navarre as against Castile. Subsequently the independence movement (the need for Basque sovereignty) situated itself in the antagonism that was created as a result of a dislocation, as a result of the dislocation brought about in traditional Basque society by modernity. From this vantage point the Basque nation (and the call for independence) was reborn in the nineteenth century. First of all the defence of *what had been* now turned into a battle cry, the call for what must be, a need, and a need to be. When an *enemy* brought about a breach in *our* identity (and interests in the period), when it became an obstacle to *our* (unattainable) integrity; when *racial purity, linguistic purity, religious purity and pure, (supposedly) complete customs and traditions* were *plac*ed under threat. Future independence as a nodal point would be derived from *another* dislocation in the face of enemies who denied *our* present identity and the integrity of *our* interests: enemies who denied the integrity of Basque as a living language, stood in the way of the fair distribution of property (socialism), failed to look after our environment, etc . The contemporary nodal point of independence will show that and define the new terms of the antagonism although the enemies or adversaries are the same ones as ever: Spain and France. The main terms of polarisation have not changed, but will no doubt be expanded in the future, perhaps to "Basque Country and Europe" versus Spain/France, for example.

Ultimately, the content of the universal (*basqueness, britishness, scottishness, etc* is merely the contingent content at a given time of a hegemonic struggle. All struggles sooner or later proclaim out of their particularity a universal character: a call for democracy, justice, freedom or something that may be called a universal *Basqueness*, at least for a while. According to the stage of the hegemonic struggle, *Basqueness* may be constituted by someone like "Argala" or by an Oquendo,[98] and represented by the Basque language or the purest Castilian, depending on the epoch.

Thus in the logic of antagonism, power politics and identity politics are not necessarily opposed to each other in the activity of social movements; indeed, they are practically inseparable. The Basque nation is built around identity politics rooted in the Basque language. And the Basque nation, organised as a broad, complex movement that brings into play a variety of demands, must act within a (counter)-power paradigm that is necessary in order to wield hegemony in Euskal Herria. So the Basque nation (and the Basque language, as part of it) needs the Basque people, that is, it needs to be incorporated into a particular articulation of diverse demands. And the Basque people is able to build/choose the particularity of the Basque nation as a simple symbol of that articulation which will reappear as the expression of all its struggles.

These two seemingly conflicting processes will be easier to unite, as in other countries, in a Basque state (i.e. with independence simultaneously understood as a discourse, a process and a result). That is why state-building[99] — the broadening and strengthening of Basque political power on the institutional level — is the ideal manner and place, Laclau's *nodal point*, to bring together the people and the nation. This is no different from what is seen to be the case in any other sovereign state.

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[98] Josemigel Beñaran, better known as Argala, was a well-known member of ETA and a historical ideologue, see <http://eu.wikipedia.org/wiki/Jose_Miguel_Beñaran>. On the Okendo family ["Oquendo" in Spanish — Translator] of Gipuzkoans at the military service of the king of Spain in the sixteenth century, see <http://eu.wikipedia.org/wiki/Antonio_Okendo>.

[99] I.e. independence defined as symbol and discourse.

In short: **there is no such thing as essential Basqueness. The contemporary logic of the Basque people — the articulation of the present logic of collective action**[100] **— is what makes it possible for the Basque nation to be the typical (hegemonic) content of Basqueness, in the same way as the basque language is the hegemonic content of the basque nation**

It will be no easy task to achieve independence without losing the demands articulated into the present day nationalist movement along the way. "There is no Basque-speaking, socialist country" just waiting around the corner. Identification will never be absolute, as long as there is politics — democratic politics, in any case. So inasmuch as hegemony is not permanent it must constantly renew itself. Identity politics alone will not suffice to produce a quantitative leap, while qualitative content (e.g. the Basque language) may be lost in the progress facilitated by power politics.

To complete the picture, both identity politics and power politics can be channels towards non-antagonistic interpretations, turning nationalism and language into a private religion and a linguistic "choice", respectively, according to the politics of influence called for by the systemic logic.

Nevertheless there are two *routes to the politics of influence*:

One is by **understanding the influence paradigm non-antagonistically as an ultimate goal or endpoint:** in this sense, political demands or demands for identity are viewed from a partial or particular angle as an end in themselves. From the start, these positions are developed within parameters allowed by the liberal system for "legitimate" interests or identities within the logic of differentiation: this is the trap of multiculturalism. Applied to our case, it means letting "our nation" coexist with other nations in a "democratic" (and subordinate) Basque country. National differences become "private religions", private beliefs backed through "neutral" political systems on Basque territory, under the universalising umbrella of the present-day states. The current systemic logic favours this model, with the Basque nation reduced to a "gradual politics", in a defensive struggle, seeking out a refuge, a place of protection, in the manner of Indians on a reservation. According to this *rawlsian* view, whatever the means used, Basque independence is an illegitimate goal because it tries to "impose" one group's "private religion" on the whole of society. Similarly, the Basque language is a private choice, a choice within the realm of linguistic freedom according to the rules of the free market or an open society.

The wish of the states that rule the Basque Country (Spain and France) and of the languages with overall hegemony in them (Spanish and French) to be seen as the only possible guardians of universality is the most crude expression of a struggle for hegemony based on the false naturalisation of the status quo. The "harmony" between different particularities is no harmony at all, but merely a crystalisation of the existing power relationship, of the present relation of power which negates the Basque nation and hence the Basque language.

The other way is by **understanding the influence paradigm as the** *result* **of a continually renewed antagonistic protest.** In this second sense, in a way by virtue of the logic of equivalence between different struggles, or as Butler puts it, through the performative displacement of dominating codes, what we have is political demands or demands for identity that move from the particular to the universal and, to the extent that they are incorporated into the system, back to the particular again. In our opinion this is a

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[100] Laclau would call it populist logic. There are other attempts at hegemony in our country, of course: for instance, the attempt to link Basqueness with multilingualism. To underpin them different kinds of popular logic are used and different demands and discourses are articulated: Castilian, French, Unamuno, or the freedom of the individual, among others.

theoretical expression of the course to be taken by true democratisation. Without ruling out the complete break called for by the model of power, here we are talking about **the philosophy required by democratic Basque state-building: the road to independence, legal and regulatory densification achieved through the political pressure of protest all the way to the last formal step of secession.**

The Basque independence movement has acted in accordance with these three models from its inception. All three have been developed together, either under the control of distinct actors or within the historical role of a single actor depending on the political climate of the moment. It has stood for an alternative democratic legitimacy in the face of the ruling foreign powers, using unregulated tools (political power), has tried to influence current political systems (politics of influence), through regulated means, and at the same time, has sought to recreate the identity of a community (identity politics). And all through that complex process its identity has undergone change insofar as it has had the ability to transform its surroundings.[101]

Consequently, in the **Basque protest cycle** within which such mobilisation has taken place an independent state has not been achieved, but progress in state-building has nonetheless been made.[102]

5. *CURRENT AND PROSPECTIVE ROLE OF THE BASQUE SOVEREIGNIST MOVEMENT IN THE HEGEMONIC FORMATION OF THE 'BASQUE'*

As we have said, future mobilisations cannot be predicted. This is the secret of the transformative power of social mobilisation: to be effective, it must create uncertainty. For better or worse, events are unpredictable and no one can foresee the unexpected twist that politics might take which will turn into the decisive moment on the road to independence. However, what we can do is think about the possible patterns that could be adopted by the independence movement from now on as a social movement. Again, the triple activity we talked about above — power, influence, identity — is certain to show up in the course of events leading in the direction of Basque independence just as it does in all movements.

In this final section we will briefly review the current role of the Basque independence movement in those three paradigms, and the steps it might give in the next years.

iIn the following diagram the three paradigms are applied to one issue in particular, demands concerning the Basque language, as a way of illustrating what each model's approach consists of. This is not to say that the language must necessarily be made the core issue of the Basque independence movement a priori (see the discussion above). It is indeed an essential component of the identity paradigm, and a fundamental link in the chain of the power paradigm, and one of the most significant particular demands in the influence paradigm. But in the diagrams that follow we will simply take it as a practical example for the three models.

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[101] Says Laclau: "An opposing force whose identity is constructed within a given system of power is ambiguous as to that system, since the latter is what stands in the way of building the identity and is at the same time the condition for its existence. Any victory over the system also destabilises the identity of the victorious force." *Revista internacional de filosofía política,* **5.**

[102] Sidney Tarrow has defined the "protest cycle" as the struggle within the system of society and the period of exacerbation of that struggle. In that exacerbation process, collective action will spread from the mobilised ambits to the unmobilised ones, leading to a transformation of the frameworks of collective action, and a blurring between organised and unorganised participation. The protest cycle is based on the stormy relationship between authorities and dissidents which may ultimately result in reform, repression or possibly revolution. See Tarrow, S. (1994). Power in movement., Cambridge University Press. London..

The diagram below also illustrates the three processes of state- nation- and *demos-*building and the dynamic links that connect them. The nation-building process (an intensive perspective) initially opts for an ethnic identity paradigm, for example by focusing on the language community. In this sense, particularly in public language policies, it proposes to strengthen the Basque language community in order to strengthen the coherence and internal homogeneity of an identity based on language: its goal can be summed up by the slogan *Basque speaking people should speak Basque!* which attempts to impose hegemony at certain times and places. By contrast, state-building (an expansive perspective) assigns strategic priority to achieving political power, adopting the influence paradigm on the tactical level. State building is willing to promote mobilisation, protest and alternative construction (for instance through civil disobedience), giving the power paradigm new content and openly bearing witness to the independence movement, while at the same time exploiting the influence paradigm, strengthening and consolidating the present structures of authority on Basque territories. Influence and power ought to be linked to each other as a paradigm, in order to avoid the risks of both extremes. One of these is to play out the influence paradigm exclusively, without any transforming mobilisations, which risks turning the independence movement into a "private religion", in a "particular" mode attached to the logic of identity in the present political system. In the example of *public policy* alluded to above the sample slogan might be *Basque should be spoken in the Basque Country, just as Spanish and French are!* The other risk is to work exclusively in the power paradigm — *Basque should be spoken in the Basque Country!* — which without institutionalising the power relations would result, in the absence of sufficient force to achieve the overwhelming secession of all the Basque territories, in losing the independence movement in sterile token symbolism, limited to the second sense of the identity paradigm in this case: the antisystemic "autonomous/alternative" particular.
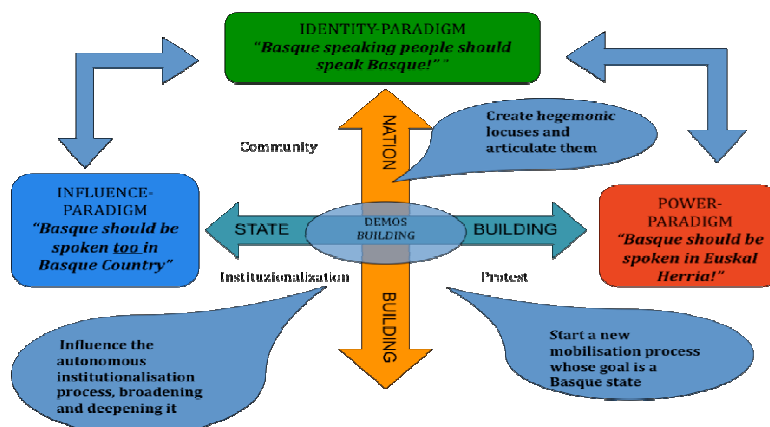

Figure 3. The tension between nation-building and state-building

Recognising the risks that lurk at both extremes, the independence movement has a clear objective in order to overcome the dialectic tension between state- and nation-building: *Demos building.* The goal is to consolidate the Basque *people* (*demos*) as a political category by using the tools provided by state-building, to turn the particular *Basque nation* into the universal category of Basqueness (the Basque people) This is what is called a *populist reason* in Laclau's writing: the "birth of a people" that is necessary for democratic radicalisation. Basque citizens must be created to achieve a Basque state, and state-building as a process will slowly but surely create Basque citizens.

Specifically, these three paradigms tell us that the Basque independence movement can do a number of things. Let us see what.

A) Moving towards a Basque state: the power paradigm
The core point of the power paradigm is unregulated mobilisation, protest and construction of an alternative authority on the fringe of the political system. It is expressed as an internal counter-power through a drive for sovereignty in existing Basque institutions, breaking out from within the present framework of institutions: this is the institutional side of pro-independence mobilization. And from outside, from society, manifested by denying authority imposed from elsewhere and creating new areas of counter-power: this is the social side of pro-independence mobilization. In alternative institutions, such as the Udalbiltza approach for example, both of these are combined: institutional *and* social pro-independence disobedience.[103]

First of all, this innovated hegemonic articulation for a Basque state will require the creation of a broad collective movement, bringing into play sectors of society that have so far remained unmobilised or uncommitted through what MTT call *brokerage*. That social articulation in favour of independence must link different demands, discourses and parts of society as coherently as possible, through a range of things including mobilising for the language and culture, reasonable development involving the distribution of socioeconomic resources, the democratic community values summed up in the philosophy of traditional community cooperation, a broad gender perspective, etc.

All these links in the chain have been working together rather effectively so far, notwithstanding some contradictions, under the heading of *soberanismo*, whose logical outcome is the pro-independence movement. As we have seen, brokerage is the key: incorporating parts of society that have hitherto remained uninvolved or demobilised until the universal in the (sovereign Basque) people is hegemonised. There is no way of knowing what the exact designation of that operation will ultimately be: "independence" itself, one particular universalised (emptied, converted into the focus of all the struggles) link in the chain of hegemony: social justice, the ecology movement… some specific issue of protest that has yet to surface… A mobilisation over some event that will suddenly develop into a grievance… who knows!

But as we have seen, that linkage requires that there exist an antagonism in order for the "people" to be constituted as a subject. Using Tilly's concept: the right polarisation must be triggered for mobilisation to be effective: "pushing away those on the edge and pushing those in-between to the edge", according to the discourse of cleavage. Objectivistic criteria (Basque speaker/Spanish speaker, foreigner/local, [Basque] nationalist/*españolista*) cannot be used here, of course.

Perhaps the new, creative cleavage should be between *Basque citizen* and *Spanish or French citizen*: how do you want to decide? As a Spanish or French person, or as a Basque (Navarrese) citizen? Who and what do you want to be, for politics? Which is your *polis*? Just as the concept of the "Basque working people" was apt for the broad (hence voluntary) articulation required by the power paradigm, the step towards independence calls for a similar *category*, which serves as a clear criterion to draw a dividing line between "inside" and "outside" yet at the same time remains open: *Basque citizen* (the *demos* which, in a Basque state, will be transformed into *cives*), no more, no less. This category which expresses an antagonism, based on the category of the citizen of the Basque territories, will define the direction of the ongoing process of constituting the "complete citizen" of the Basque state.

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[103] http://es.wikipedia.org/wiki/Udalbiltza

Finally, as regards means of mobilisation and the elements of its discourse, the power paradigm should promote *effective tactical innovation*. An innovative practice and discourse which creates systemic instability are essential for bringing about social and political changes: insecurity are what such innovation generates, which is necessary in order to rock the boat of the status quo. The innovation generated in the preceding political cycle by the creation of ETA must now be replaced by the independence movement. The development of new slogans and proposals in the last few years on the level of discourse, such as *soberanismo*, the Basque majority in the unions, the Navarrese state, the right to decide, have not reached their peak yet; and in the next few years the independence movement would still have to produce more new slogans and categories.

As for *means of mobilisation*, the well-known resources in the power paradigm can be applied along the road to independence: direct democracy (referenda, grassroots initiatives and so on), non-active violence or alternative institutionalisation along the lines of pro-independence civil disobedience. The fact that they have previously occurred with other forms of struggle does not mean that they have been able to reach their full potential yet.

In this kind of mobilisations the models developed in the period of the Lizarra Agreement (1998-2000)–[104] and the theoretical and practical proposals put forward at that time are being reconsidered and enriched with the contributions made in recent years in the area of non-active violence. Whether it comes from institutions or from society, civil disobedience is an important tool particularly in political processes based on the majority of the population where the democratic calibre of the political adversary leaves much to be desired. Unfortunately both the French and the Spanish political systems lack the kind of democratic, pragmatic political culture that is more widespread in the English-speaking world.[105]

B) Moving towards a Basque state: the identity paradigm

Nation-building (which leads from culture to politics), in a strict sense, comes about through the identity paradigm in the last resort, although it is a social movement played out in the political nation, i.e. the power paradigm. As a community, the nation results from a process of self-organisation, as the consequence of a building process in which external and internal borders are constantly being redifined. The constitution of the nation, as a subjective collective process, chooses a collection of objective elements at each turn in history as it sets those internal/external markers: outside viewpoints, ideas and cultural practices will create tensions with the protection and continuity of the nation's historical distinguishing characteristics. Thus the Basque nation belongs to all time and to no time.

No doubt the core feature of Basque nation building, the undeniable yet selected root characteristic, is *the Basque language*, and the discourse category of that nation is *Basque speaking*.

But "being Basque" is not just a matter of language. Basque language is the heart of the Basque cosmovision but it always appears in history surrounded by further

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[104] http://es.wikipedia.org/wiki/Pacto_de_Estella

[105] For instance in the way indicated by Ackerman & Duvall: "Even when violence seems certain to produce change, nonviolent action may be as or more effective. And the repeated success of nonviolent sanctions in the twentieth century at least should earn them equal consideration with the option of violence, by measuring potential gains in taking power and delivering justice against likely losses in lives, property, and human dislocation. Failure in nonviolent resistance can risk repression, as can failure when using violence, but the record shows that it does not jeopardize as greatly the flower of generations and the fate of movements on which freedom, human rights and democracy may depend." Ackerman, P. & Duvall, J. (2000): *A force more powerful. A century of nonviolent conflict,* Palgrave, New York. Also interesting is Schock, K. (2005): *Unarmed insurrections: people power movements in nondemocracies*, UMP, Minneapolis.

elements. As a proposal for discussion, we will lay out some possible tenets of this identity paradigm.

Operating within the identity paradigm leads to the management of difference: to deciding what is, and is not, "Basque". That is, distinguishing between what is or isn't the "Basque way" to be a person, a citizen, a European. As we have said, this is totally political, a hegemonic, contingent/open way is specified, and in consequence it is not necessarily associated with an "essence". The trouble, however, is that even though differentiation is contingent, there are still some elements that make that differentiation possible, privileged objective elements that have long been available to achieve and preserve the constitution/differentiation of the collective will. In our case, above all else, the language, Basque.

Therefore, operating in the identity paradigm requires one to recognise the "essence", particularly that which delimits the language community. But that is not the only content, for the identity paradigm consists of an entire Basque worldview: the sacredness of community work, one's employment or one's word, a sustainable relationship with nature, views on social equality and so on.

Of course, those "essences" are not essences per se, the independence movement have "essentialised" them. As we were saying, by dynamically combining them with a broad, open demos building (this is a place for "politicalness", not for identity), this can lead to broadening and survival.[106]

In consequence, the dynamic (not objectivist) perspective of the identity paradigm must fulfill a necessary condition: Basque (or the model of social equality, or respect for the mother earth, or whatever it is) is always the choice, the one which must be made (obligatorily). The "obligatoriness" that privileges the Basque language as the link in the chain with pride of place in sovereignist hegemony becomes a choice on account of use. Therefore the real dividing line when looking outwards is not that between Basque-speaking and non-Basque-speaking but between using or not using the Basque language. For the language community is forever constituting and reconstituting itself with those who at any given time are using Basque in the world. Among multilingual Basque citizens, in the growing heterogeneity, in increasingly complex domains of territory and use, the Basque speaker (*euskalduna*) is not the person who "has Basque" (*euskara duena*) or the Basque language enthusiast, but rather the person who *makes the obligatory choice of Basque*, especially when that choice is political and is made on the border between *us* and *them* or in difficult borderline situations.

Thus the identity paradigm will take hold principally in areas where there is a clear political hegemony of the Basque language and Basque nationalism, even though networks will also incorporate some weaker areas. For instance, this "obligatory choice" of Basque or the elements that we have included in the cosmovision of Basque identity associated therewith (community work and so on and so forth) will be stronger in Azpeitia or Eskoriatza than in Bilbao, and stronger in Burgi than in Irun, since each social and territorial time or place requires a specific balance between paradigms. Throughout Euskal Herria, in general, the power paradigm will need to be applied, the identity paradigm will be strong in hegemonoic places, whereas in places where support for independence is weak the paradigm of influence, which we will look at next, will prevail.

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[106] Which among other things solves the age-old logical conundrum about linguistic identity: *No independence without Basque language; no Basque language without independence*.

But anti-essentialism is not just a strategic choice addressing the outside world, a device used to attract the public. It has a second facet, looking inwards, that of "agreeing to disagree".[107] From the perspective of the identity paradigm the Basque community has come to exist because, as a subject, the *Basque* part in it is incomplete (and because there was a perceived risk of its loss). This internal difference negates "agreement". That is, the *Basque* (character) "doesn't concide". It doesn't exactly coincide with the Basque language. *Basque* always needs a second, third, fourth and *n*th explanation in order to advance along the road of a completeness that it will never achieve. And it is this impossibility which gives to the Basque particular its universality.[108] Therefore, in "Basque" things the Basque language is not the only link in the chain, even though it has been the most permanent link historically.

Being in an equivalence relationship with the other links in the chain of the "Basque" universal is what makes the particular of the Basque language: the latter never comes by itself, it always comes with some other component: first there was *"Euskalduna eta fededuna"* [Basque and Christian], then "Basque and Leftist", and who knows, may be one day there will be a "Spanish and Basque" too! And so on until the impossible, actual normalisation, naturalisation and depoliticisation of Basqueness is brought about.

The depoliticisation of the Basque language can be understood in two contrary senses: as the naturalisation of Basque, expressed as a complete consensus (like the situation of the Spanish language in an ordinary Spanish town, so to speak), or else as the final, logical consequence of a situation of domination wherein its *taming* is completed. In the present situation of diglossia in the land of the Basque language, the idea of keeping it "out of politics" merely signifies resigning to the existing imbalance of power. The Basque language as an essentialised concept is a fully political choice, which is seen to be closely linked to other concepts. Therein lies a false paradox: *the only (proper) way to de-politicise the Basque language is to politicise it completely.*

In consequence, this viewpoint rules out any purist approach to the Basque language. The outward-looking articulation (Basqueness = Basque language + …) and the "universal resistance" that is part of all internal identities[109] impedes its complete purity. From an ecological perspective too, it is not a good idea for the language community's internal philosophy to fall into the trap of purism, because purist communities are the first to disappear.

But the most important thing, in order for all this post-modern "flexibility, choice, contingency and complexity" not to melt away into nothing in that outside-inside question, is, as I have already said, to pursue the hegemony of the Basque language. To that end, the language community should try to strengthen, densify and weave together the areas that will constitute its "norm". The language community incorporating the logics of power and influence (mobilisation/institutions) will need to become hegemonic in progressively broader areas both in territorial terms and in the domains of work and leisure.[110]

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[107] At least superficially this seems to resemble Derrida's distinction between *différance* and *difference*: between "differentiating" and "disagreeing". One of these is to distinguish, as a differentiation, between that which is "Basque" and that which is not, while the other is to differ, to disagree, so that more than *one* is needed to express what is Basque. See Derrida, J. (1968): "Conferencia pronunciada en la Sociedad Francesa de Filosofía, el 27 de enero de 1968, *Bulletin de la Societé française de philosophie* (July-September, 1968); and *Théorie d'ensemble*, Quel collection, Ed. de Seuil, (1968), in Derrida, J. (1998), *Márgenes de la filosofía*, [translated by Carmen González Marín, adapted by Horacio Potel], Cátedra, Madrid.

[108] Laclau (1995, *op. cit.*) says: The universal is part of my identity insofar as it has been filtered through a constitutive deficiency [*carencia constitutiva*]… insofar as my differential identity has failed in its process of constitution." And: "the universal emerges from the particular, not as a principle underlying and explaining the particular, but as an incomplete horizon that stitches up a dislocated, particular identity."

[109] To quote Žižek: Protests against the culture's own community obligations are formulated from the point of view of universality." See Žižek, S. (2009).

[110] Jose Mª Sanchez Carrion (alias Txepetx) has done a lot of work along these lines and has gained a strong theoretical and practical following in recent years, witness the *kafe-antzoki* (café-theatre) trend, HUHEZI, the Bagara movement, and so forth. From ecolinguistics to hololinguistics: <http://eu.wikipedia.org/wiki/José_Mar%C3%ADa_Sánchez_Carrión>

In short, at the present time when citizens' legal status is dubious, when the dividing-line between private and public is blurred, when there is a general fuzziness in the life of the individual, people's quest for a collective identity requires stronger forms of support, whether they be in culture, language, religion or spirituality. Therefore, in the Basque Country the language community and the system of values associated therewith, while not ever limiting ourselves to that political community, will acquire special importance and become notable points of reference.[111]

C) Moving towards a Basque state: the influence paradigm

In addition to the fully conflict-related power and identity paradigms, the pro-independence movement cannot ignore the influence paradigm, which is more associated with systemic logic. In this sense, the state-building process always follows an institutional logic: a Basque state is not going to be formed from one day to the next. Of course there will be qualitative breaks, but all the while Basque institutionalisation, if it is to be achieved, will come about following the step-by-step logic of state-building, as it has done until now. In this ongoing endeavour to win "more" state, the independence movement is going to need to develop through many stages and acquire different resources.

However, if we take the present-day institutions as our starting point, the influence paradigm is, firstly, in the "legitimate" category of the supposedly endangered "Basque nationalists", since this influence paradigm is implemented as an activity within the political system of other states, as a legitimate part falling within the "regulatory" *demos* of Spain and France.

Secondly, the philosophy of work in the renewed traditional Basque insitutions and civil society will have to be one of densification: **legal and regulatory densification** and the **sociopolitical densification** of now different Basque civil societies. The institutionalisation of Basque territories, the densification and elaboration of relations between those institutions and the deepening and broadening of different Basque powers is situated within that consolidation. But from a sociopolitical perspective, the relationships between the civil societies the basque territories can be facilitated and strengthened by the influence paradigm both in formal activities (such as the school system, health services or other kinds of cooperation involved in typical activities of public authorities) and informal ones, e.g. leisure activities, tourism or sports.

The flexibility per se of this densification process fits in with the contemporary development of classical political structures (i.e. the state).

As Saskia Sassen points out, just as the assemblage of territory, authority and rights was modified from the Middle Ages to the Modern Era through the nation state, the way has now opened up, on account of the present-day globalisation process, to a new assemblage of these three variables. The state's physical border — its territory — no longer coincides with the domain of its authority and the guarantee of rights of its citizens. This is even more true of geopolitical areas undergoing a unification process. Take Europe, for example. In some areas (the economy in particular) a de-nationalisation process is underway driven by the states themselves. Along with this, the dividing line between the private and the public is also being modified: the very state has privatised a great many public processes, and implemented a private logic in many others. In other areas, re-

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[111] Of considerable interest in this regard are the former Basque president Juan Jose Ibarretxe's doctoral thesis and the most recent book of his thesis supervisor Caballero Harriet: Ibarretxe , J.J. (2010): *Principio ético, principio democrático y desarrollo humano sostenible: fundamentos para un modelo democrático,* doctoral thesis, UPV-EHU. Caballero Harriet, F.J. (2010): *Algunas claves para otra mundialización,* Txalaparta, Tafalla.

nationalisation processes have been set in motion, especially in the ambit of symbols and identity.[112]

Similarly, the new conceptualisation of the border, for instance, can be situated precisely upon that changing geometry: so, the border between France and Spain has all but vanished, what with the euro-order, police action, economic mobility and the rest, and yet obstacles of all kinds are being invented to stop the north and south of the Basque Country, or Navarre and the Basque Autonomous Community, from undertaking joint projects. Yet at the very same time relations between Aquitaine and the Basque Autonomous Community are being facilitated along the dimension of a new Euro-Basque region

Sassen also considers that the new digital assemblage — the networking that is made possible by the internet — is leading to changes in the classical structrure of territory-authority-rights. But that does not adversely affect these new communities' physical anchoring, their link with their geographical location. In themselves such neetworks do not do away with the nation-state and certainly not with the territory itself. They do however compromise the standardisation and bureaucratisation of the spatial order of nationhood, and in this respect they pose an obstacle to institutional efforts in terms of the influence paradigm. Thus the domain of collective action has been widened, weakening institutional narrowness.

The state's role as "territorial authority that recognises and protects rights" has become more difficult. Paradoxically, a political community wishing to build its own state can take advantage of this difficulty and the loopholes its creates, only to encounter the same difficulties itself from the instant it makes an attempt at state-building. The idea of "border" discussed above bears witness to this issue: in our country, for instance, how many (internal) frontiers or borders does a "Basque" business enterprise such as Fagor encounter? How many different state regulations, authorities and rights are present in a single company? What would bind it to a hypothetical Basque state?

An innovative influence paradigm should study all these processes in depth. This Basque "densification", as a category, seems to be the equivalent of the Basque state of earlier times. Or as Sassen puts it, a **new assemblage**, a **regulatory and symbolic order that will develop a Basque cultural, social, economic and ideological logic on Basque territory**, which will operate together with other co-existing orders but which will be, of all these, the densest and the hegemonic focal point for the Basque territory and Basque citizens.

Basque state, nation and demos building, as in all other countries, is an unending road. And there is no reason why, along that route, the three paradigms of power, identity and influence should enter into mutual conflict. At each and every turn, at any given time and place, one or another of them will acquire greater importance, and contradictions between them may emerge, but in the coming years the Basque independence movement will have to manage simultaneously the collective movements, community building and institutional action that reflect all these paradigms.

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[112] This re-nationalisation in the contemporary world is proceeding in a rather unusual manner, using powerful media tools via things like sports, the way current affairs are reported (ranging from weather maps to the discourse treatment of events: so now Basque television informs us that *we have had an earthquake* in Lorca, a town in the south of Spain), mass consumer culture, and so on. This is where we can locate Michael Billig's idea of *banal nationalism* or "low" nationalism which, in his opinion, may be a more effective tool of regeneration than the "hard" variety, using means which, while seemingly more subtle, are not for that reason any less effective. See Billig, M. (1995): *Banal Nationalism*, Sage Publications, London.

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Has the right time come for the creation of a Basque state? If so, why; what would the state of Euskal Herria be like; how would it be constituted; and what do we need to know and understand to be able to address these questions? Towards a Basque state brings together articles by specialists in a wide range of disciplines aiming to help us understand these issues from different vantage points. Together, they speak to many theoretical and practical points, offer keys to a deeper comprehension of the ideological debate, equip us with relevant information and analyses, and go a long way towards transforming the question of Basque sovereignty from an abstract demand into a real, tangible idea, mapped out and given real content. These pages contain arguments which suggest not just that Euskal Herria today possesses the necessary conditions and has the potential to become a successful state ready to take up its place among the nations of Europe, but equally importantly, that this is a development from which every individual who lives and works in the Basque Country stands to benefit.

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