

The contribution of the Ombudsman for the Basque Country to peace and coexistence after political violence through Restorative Justice

“Kuinka tuemme yhteiskuntarauhaa? ”

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INTRODUCTION:

Responsible officer for justice, prisoners and victims of terrorism at the office of the Ombudsman for the Basque Country (2019-now).

Past: 15 years' activism experience defending prisoners' rights in prison, legal advising, visiting at prison and struggling for their rights in different civil movements and NGOs.

Facilitator and expert in RJ: Supported as an adviser and expert the restorative encounters between ETA Basque separatist group members and victims in 2011-2012, he has disseminated the experience in Europe for a decade and he has facilitated new encounters since 2019. Board member of the *European Forum for Restorative Justice* (2014-2020).

VIOLENCE IN THE BASQUE COUNTRY

1968-2011

831 killed (44% civilians)

1982 (92 killed)

16,000 wounded

4000 militants

86 kidnappings

Exiles and extorted people

OTHER VIOLENCES

State violence and far right groups: 300 deaths and 4500 tortured

Ended 2011 due to:

- Police pressure
- Lack of support
- Decision of the separatists
- Civil movements





“The restorative process is a process where the victim and the offender, and where appropriate, other individuals and community members affected by a crime, actively participate together in the resolution of issues arising from the crime, with the help of a facilitator”.

UN. (2006). Handbook on Restorative Justice Programmes. New York: United Nations Office on Drugs and Crime.

New approach: VICTIM-OFFENDER-COMMUNITY



Necessary participation of society/community: not only to help reintegrate the victim and offender as social assets, but also as a society affected by crime that must also be involved in its solution through organised civil society (third sector, neighbourhood associations, victims' and affected associations etc.), thereby contributing restorative justice to create more responsible, inclusive and democratic societies.



EUROPEAN FORUM FOR RESTORATIVE JUSTICE

PRINCIPLES

- Voluntary participation based on informed consent.
- Direct and authentic communication. Importance of dialogue.
- Processes designed to suit the needs, capacities and culture of the people involved.
- The needs of each participant must be assessed equally, with an emphasis on active and supported accountability for the harm caused.
- Multi-partial, non-judgmental facilitation.
- Flexible and evaluated implementation of agreed actions.

VALUES

- Justice (promotes other systems of justice based on undoing injustice, looks to the present and the future, not the past).
- Solidarity and responsibility.
- Respect for human dignity.
- True.



TYPES OF PRACTICES:

Mediation: two parties to the conflict try to reach a reparation agreement with the help of an impartial/multipartial third party (mediator). RJ: ethical imbalance.

Circles: unlike mediation, all those affected in one way or another by the conflict participate, seated in a circle as the name suggests, in a safe space. Particularly important is the participation of society/community. Agreement is not essential.

Conferences the agreement between the victim-offender parties is conditioned by the participation and decision of other people close to the victim, the offender and the community, who will work towards an agreed reparation agreement signed by all participants with the help of usually two or more facilitators.

Restorative encounters, panels, art and JR, others...



Restorative encounters between ex-ETA members and victims

Basque Country 2011-2012, 14 encounters, two direct victims

- Prisoners who had **publicly desisted** from the separatist organization ETA and violence had expressed both **remorse** for the harm caused and a **desire to contribute to the reparation process**. The Basque Government received the request to contribute to the victims' reparation, and took the initiative to contact the victims.
- **Restorative encounter:** face-to-face interpersonal communication between the ex-ETA member and the direct or indirect victim, in a physically and emotionally safe environment, helped by a restorative justice facilitator.



Reasons for success

Victims: The meeting helped victims to reflect on their hateful perceptions and become less vengeful toward the offender. Victims were extremely **satisfied when they observed positive behavioural change** (particularly expressions of remorse) in the offender; Integrating community members and concerns into this process offered hope and guidance to the **next generation**.

Offenders: This process helped offenders who did not feel they deserved a victim's forgiveness. These prisoners **encouraged desistance (de radicalization) in others**, delegitimizing violence as a strategy and **promoting community healing**. The meeting deeply humanized both victim and offender and offered an **important contribution for reconciliation in the Basque Country**.
MAIXABEL





THE ENCOUNTER OF THE ENCOUNTERS

Since 2019, the area of justice and the International Office of the Ararteko have been collaborating in the organisation and facilitation of restorative meetings between victims, perpetrators, family members and community members, together with experts from the **Basque Country, Israel and Palestine, Italy, Ireland, France and Belgium** who have in common having previously participated in their own countries in restorative dialogues following political violence and violent extremism.












↓  Ekipajeak eta irteera
Baggage and way out
Equipajes y salida

↓  Ateak
Gates **A13** and **B14**
Puertas **A13** y **B14**

vip

vip
BILBAO

INFO COVID-19











SOME CONCLUSIONS OF A PROCESS IN PROGRESS:

- Both victims and perpetrators put at the centre of the restorative process that they do not want a future of violence for their **children**.
- **Accountability** for the harm caused, its injustice and guarantee of non-repetition. Unequivocal willingness to make reparation.
- **JR longer and more difficult path for the offender**. Re-humanise. Truly personal and intimate free choice.
- **Victim centred**: delegitimising political use. In times of polarisation and punitivism the generosity of the victims is a great contribution for peace and democracy. For victims who want to have a choice. **NOT FOR ALL**.



- **Social inheritance violence:** 4 generations. Impact on breaking circles of violence replaced by circles of dialogue for future generations.
- Inclusive restorative processes, **violence affects broad sectors:** third parties, family members, children, **community**, youth, vicarious, direct and indirect victims.
- The meeting of encounters allows for **dialogue outside the contexts of violence, generates dynamics of justice between different/equals**, disarms pain and nurtures a future of peace and shared memory for the right of non-repetition.
- Victims have never been able to choose, perpetrators have, no matter how much they had a context of violence, this **ethical imbalance** is equalised in the process. **The joint message to society is of immense strength for a non-violent society and future.**



- It is essential to **extend the circles to society**: seeds of peace. Delegitimation of violence by the perpetrator and humanisation and reintegration of the perpetrator, recognition of the victimisation process. **Human hope for change. Do not judge, listen.**
- **Society/community participation**: from the individual and intimate to the collective. Secondary role (absolute pre-eminence of victim testimony) but gives social legitimisation (social representatives, new generations, Italian-Basque case).
- **Representation of the community on behalf of the Ombudsman of the Basque Country**. Accompanying those affected by violence and crime as a qualified member of the community is meaningful both for victims (specially ones not officially recognised) and offenders (being a representative of a human rights agency like Ararteko).



- **Political, institutional and community representatives have the legitimacy of representation, and this is a new way of social peace through RJ.**
- **Citizens, in general, are demanding greater emphatical and active listening spaces.** RJ, even though it cannot be used for all cases, provides the methodology, principles and quality standards to facilitate them.
- Incorporating RJ must therefore be to generate **safe, confidential and participatory spaces for dialogue between different members of different communities and other representatives** to contribute to support social peace.

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Eskerrik asko

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