

Restorative Encounters in Terrorist Victimization in Spain: Theoretical Reflections and Practical Insights from Social Work

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Abstract

After the ceasefire announcement by the terrorist organization ETA¹ in 2011, new horizons and scenarios of peace have opened in the Basque Country, a land that has been badly hurt by violence over several decades.

Restorative justice, a new paradigm for an old kind of justice, the reparation of the harm caused to victims and their consequent importance in the judicial process, has been knocking at our door for a long time. Since the beginning of this decade, following European trends, our country has begun to implement restorative justice at different levels.

This article wants to bring the reader closer to understanding of the possibilities which restorative justice offers to the victims of terrorism. We describe the central elements of the restorative encounters held between ex-members of ETA and direct or indirect victims. Furthermore, we support our restorative intervention with theoretical arguments and practical examples from social work.

Key words

Restorative justice; terrorism victimization; ETA; social work

Resumen

Tras el anuncio del cese de la actividad armada por parte de la organización armada ETA, en 2011, nuevos escenarios y horizontes de pacificación se abren en la historia para esta tierra, castigada por la violencia durante decenas de años.

La Justicia restaurativa, un nuevo paradigma para una vieja reivindicación, la reparación de la víctima y su protagonismo en la resolución y abordaje de las

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¹ ETA: Basque Homeland and Freedom.



consecuencias de los conflictos penales, lleva años asomando a nuestro contexto. Tras la incorporación de España a principios de esta década a las corrientes europeas, se constata la validación de la práctica restaurativa.

Este artículo quiere acercar a la persona lectora la comprensión de las posibilidades de justicia restaurativa en victimización terrorista. Describimos los elementos centrales de los encuentros restaurativos celebrados entre ex miembros de ETA y víctimas directas e indirectas. Y nos apoyamos en elementos teóricos y prácticos del trabajo social para nuestra intervención restaurativa.

Palabras clave

Justicia restaurativa; victimización terrorista; ETA; trabajo social

Table of contents

1. Restorative justice for victims of terrorism	407
1.1. Precedents in History	407
1.2. Restorative justice in serious victimization	408
1.3. Restorative justice and terrorist victimization	409
2. Restorative encounters in victimization generated by terrorist offences.....	413
2.1. Basic considerations	413
2.2. Historical context	414
2.3. The institutional context.....	415
3. Theoretical elements of the social work for restorative intervention.....	417
3.1. The theoretical focus of narrative social work.	417
3.2. The paradigm of strengths in social work.....	419
4. Practical implications of a restorative humanist intervention model	421
5. Closing comments	423
References	423

1. Restorative justice for victims of terrorism

1.1. *Precedents in History*

In March 2006 the BBC, aided by Archbishop Desmond Tutu, Nobel Peace Prize winner and President of the Commission for Peace and Reconciliation in South Africa (Ramos 2006, p. 8), broadcasted a three part television series featuring encounters between Catholic and Protestant paramilitary groups and their victims. Among the participants in those meetings was, Michael Stone, whose terrorist act consisted of throwing a grenade and firing shots at a republican funeral in Milltown.

At the meso level of the restorative justice paradigm, the Glenree Centre in Ireland, ran a program called LIVE, which aimed to organize meetings amongst ex-members of the IRA and victims of different regions affected by the conflict in Northern Ireland (Staiger 2008, p. 1-2).

Between 2007-2008, in Italy, a restorative approach was taken in order to deal with members of the red brigades, who had committed terrorist crimes.²

During the first decade in 2000 restorative justice and penal mediation projects launched in Spain were mostly related to minor crimes and offences.³ The success of these experiences has been extensively studied (Varona 2007, 2009, Sáez Rodríguez 2011, p. 127-190)⁴. Nevertheless the experience of other countries in major crimes shows us that restorative justice can reach terrorism crimes as well.⁵ Few people in the legal or academic arena would have told us that the belated incorporation in Spain to the process of European restorative justice would, not only have undergone such unstoppable growth but that in the future there would be the possibility of holding meetings between ex-ETA members and their direct or indirect victims.⁶

Studies with serious crimes have shown positive results (Umbreit and Peterson 2010), nevertheless extension to terrorist victimization has not yet come about.

In 2008, at the XV International Conference of the World Society of Criminology, a paper presented by Gema Varona analyzed the reasons why, up until then, the

² Regarding the criminological assessment concerning the participation in restorative processes with members of the Red Brigades see Gaddi (2009, p. 101-118).

³ Its development and rapid growth has been pointed out by (Sáez Valcárcel 2011, p. 71-125), stating "the penal mediation process has exceeded all expectations in Spain. In 2009 according to data from the General Council of the Judiciary a hundred and seventy judicial crime bodies have been participating or experimenting in the field of criminal mediation processes. The growing interest for mediation, largely represents the concerns held by people working within the penal judiciary system with the functioning of the process as well as the need they feel exists to explore alternatives in order to meet the objectives of victim protection and welfare, which are recognized but often overlooked : Nevertheless the growth of mediation has not been given the adequate legal support which is essential for guiding experiences and daily practices- thereby putting rights and freedoms at risk as well as potentially undermining fundamental guaranties of due process- nor has it aroused the interest of those involved in judicial process, the penal code or other jurisprudence researchers".

⁴ The conclusions after ten years working experience in Spain are outlined as follows: "the overall positive effects of penal mediation are represented by an improvement in the public service offered by the penal justice system, improved social cohesion, the reintegration of the offender and better care for the interests of the victims, the positive effect of peaceful conflict management which looks to the future and aims to prevent future conflicts. It is also considered to be more effective than conventional penal justice as a social control mechanism. Nevertheless the risks cannot be overlooked: firstly the dangers of a possible trivialization of the model and the temporary negative extension of the penal network, especially if its applications are restricted to minor infractions. And secondly, if it is not introduced in criminal policies based on equality and social justice- it may only serve to contribute to the application of mere conciliatory formulas that eventually only maintain and perpetuate the injustices of the system". (Sáez Rodríguez 2011, p. 127-190, 189-190).

⁵ For further investigation regarding restorative justice and major crimes see Umbreit (2003).

⁶ We define as a victim, not only the person who has suffered a terrorist attack but also the relatives in cases of fatalities. But not only the dead or injured are victims of ETA terrorism but also those who have been threatened and coerced by ETA. This work is exclusively based in the victimization process created by ETA, but recognizes the existence of other types of violence and victims, of other terrorist groups, of police abuse or abuse by the State including the Basque Country.

restorative approach was still far from being applied to the Basque Country conflict. From a criminological and victim perspective she pointed out a number of reasons. The most relevant are set out below (Varona 2008 personal communication XV World Congress of Criminology, Barcelona, 20-25 July):

- The continued controversy surrounding the phenomena of terrorism in which, as John Horgan highlights, "a single word or expression in a document can be enough to reveal a political bias"⁷.
- The threat of terrorism along with the coexistence of diverging political approaches to the fight against terrorism.
- Legal limitations, lack of victims' willingness to participate, victims' mistrust, scarce community support and a general lack of information regarding restorative justice.
- The resentment of victims towards their victimizers and to those who support and legitimize them.
- The lack of available empirical research concerning the positive preventive effects that the restorative encounters are able to bring about in the conventional criminal justice system.
- Actions and testimonies by ETA members who far from showing regret, aim to justify and even to celebrate terrorist acts.

In 2006-2008 a research project was conducted at European level. Its main goal was to analyze the applicability of restorative justice in terrorism victimization. Fully aware of how controversial the topic was, it aimed to address the following questions: Is terrorism a special type of crime? Is restorative justice a soft approach for this type of crime? What are the views of victims of terrorism in this respect? (Staiger 2008, p. 1-2).

This European project without doubt opened up a topic that was then and is still at present, a very new field of study.

1.2. Restorative justice in serious victimization

Victims of serious crimes sometimes want to face the offender in order to express the consequences the crime has had on their lives. They are also in need of receiving answers to personal questions. Such a communication process may allow them to reach closure and move on in their lives (Umbreit 2001). The needs of victims of terrorism do not seem to be that far from those of victims of serious violent crimes. Actually, these are not very different from other kind of crimes, all victims need to be treated respectfully and with the recognition that they may require economical, medical or psycho-social assistance (Letschert 2012).

In the field of sexual victimization, it has been found that survivors⁸ want to face the offender and their family in a safe setting in order to tell their story. They wish to hear the perpetrator saying "yes I did it"; "it is true I did it". In fact, victims in general want offenders to take responsibility and show remorse.⁹

The success of restorative justice in several countries for juvenile crimes has been conducive to the introduction of restorative practices with adult offenders (Cossins 2008, p. 359-378). Most restorative justice schemes are associated with minor crimes, however there has been growing interest from the decade of the nineties onwards in also applying this approach to crimes of rape and murder as well as

⁷ As the author has mentioned.

⁸ Term used in several areas, also in violence against women to emphasize recuperation and the abilities to overcome related to human resilience. Women victims of violence claiming, "to be agents of equality" (Fundación Ana Bella 2012).

⁹ According to the personal interview made the 24th of August 2009 with the lecturer Shirley Jülich, expert in restorative justice, Auckland University of Technology, New Zealand concerning research into visions of justice from among the survivors of sexually abused children.

driving under the influence of alcohol. Mark Umbreit in Minnesota, David Doerfler in Texas and David Gustafson in Canada are considered to be the outstanding pioneers in conducting restorative processes in serious crimes (Liebmann 2007, p. 261).

The first victim-offender dialogue schemes in serious crimes date back to 1993 and were carried out in Iowa and Texas. These initial experiences were followed by other schemes such as that in Ohio in 1996, Minnesota in 1997 and Pennsylvania in 1998 (Liebmann 2007, p. 229).

There is a growing body of literature about the efficiency of restorative justice in cases of domestic violence, violence against women, intra-family violence, sexual crimes and serious crimes (Morris and Gelsthorpe 2000, Grauwiler and Mills 2004, p. 49-69, McAlinden 2005, p. 373-394, Jülich 2006, 125-138, Umbreit and Peterson 2010, Gustafson 2011, p. 193-227).

The first study carried out on victim-offender dialogue, showed that providing the opportunity to take part in restorative practices proved to be beneficial for victims, offenders, family members as well as for the community members that had actively participated in the process (Umbreit 1989, p. 337-352). Another study, which focused on the young prisoners in Alaskan correction centers, revealed high levels of victim and offender satisfaction with both the process and the outcomes (Flaten 1996, p. 387-402). A third study showed that victims and offenders would be willing to meet as long as a safe environment could be secured and intensive preparation provided (Gustafson 2011, p. 193-227).

The restorative justice schemes offered in cases where the crime resulted in the victim's death share the values and the principles with those schemes that focus on other types of crimes. The obvious difference is that it is the victim's relatives who are taking part and that the process usually takes place once the perpetrator has been sentenced and is serving sentence in prison (Umbreit 2001).

The applicability of restorative justice practices in cases of serious violence, sexual crimes, murder or terrorism has been the subject of heated debate, particularly about the appropriateness of such processes for the victim. Currently, at an international level, there are more restorative schemes run at pre-trial stage¹⁰. This reluctance could be partly due to the risk of provoking further victimization, a concern that has often been raised by Victim Support services (Umbreit and Peterson 2010).

1.3. Restorative justice and terrorist victimization

On the one hand, considering the depth of the wounds and the complexity of feelings these victims experience, it is understandable that concerns and questions are raised about the applicability of restorative justice to terrorist crimes.¹¹ On the other hand, those members of ETA who have carried out violent crimes have often identified their acts as the legitimate political response to preexisting State

¹⁰ An example of this is the common recommendation to use restorative justice programs before the prosecution stage of the process. The Bangkok Declaration about synergies and answers: strategic alliances in crime prevention matters and penal justice made in the 11th United Nations Congress on Crime Prevention and Penal Justice held in Bangkok between the 18th-25th April in 2005, states, in point 32: "In order to promote the interests of the victims and the offenders' rehabilitation we recognize the importance of continuing to carry out policies, processes and programs in the field of restorative justice including alternatives to trials, so as to avoid the possible adverse effects of imprisonment, helping to reduce the number of cases that reach the courts and to promote the incorporation of restorative justice approaches into criminal justice when applicable" (United Nations 2006).

¹¹ As an example of the feeling of doubts and concerns, Esther Giménez-Salinas professor and expert in penal mediation, recently mentioned "I feel worried about the huge qualitative leap required when applying this to terrorism victims, (...) the absence of an appropriate legal, social and governmental culture and I ask how we can take this immense leap when we have such little experience in the field of juvenile crime and I feel extremely worried about how we can make the leap in terrorism crimes." (Vice-management TIC Basque Country University/ Euskal Herriko Unibertsitatea 2012).

violence. Most of the times, they have denied the moral responsibility of their actions. Needless to say the ground is still very fresh and there is still a long way to go.

The challenges hindering the application of restorative justice to cases of terrorism have been already identified (Yanay 2008):

1. In terrorist acts there are behaviors disassociated from the community which on occasions they may seriously damage. Terrorism is associated to physical and mental damage, death and major losses of private and public property. People carrying out terrorism often admit their offences proudly without showing any shame or regret.
2. The second obstacle for effective implementation is concerned with accessibility. The police and the Prosecutors Office tend to keep those who have committed terrorist acts apart from the community. Special police investigation units are also common given the existing threat to national security.
3. The third obstacle is the court. Very often, when matters of security are involved, the courts close their doors to the outside world. The victims cannot speak out and in most of the cases their voices are not heard.

The global movement in favour of victims' rights is continuously growing and has also reached victims of terrorism. As mentioned above, in 2006 a research project under the name of "Developing standards for assistance to victims of terrorism" was launched. The research group involved experts from the International Victimology Institute Tilburg (INTERVICT), the Catholic University of Leuven, the Centre for the Study of Terrorism and Political Violence at the University of St. Andrews in the United Kingdom, and the Victim Support Organization from the Netherlands. The project resulted in the proposal of a series of recommendations to the Member States regarding assistance to victims of terrorism¹².

In this proposal the Recommendation to the European member states, Chapter VII states:

"The member states should promote competent restorative justice programs which prepare and support dialogue between terrorism victims and victimizer, and/or between the affected community. These processes should at least allow victims to communicate the impact the terrorist attack has had on their lives and enable victims to find out information regarding the motives of the offenders."

Furthermore the executive summary of the proposal stresses that the restorative justice strategies devised for application to terrorist victimization should be based on the principles and values of restorative justice itself. This report highlights the importance of working at a multi-layered level, namely, at the micro, meso and macro-social level. The micro-level would serve to address the interpersonal level and it would include amongst others, victim-offender mediation, conferences or victim impact statements. The meso-level aims to deal with the community and it would require restorative practices geared to involve the wider community, working with groups as well as multi-victim perspectives¹³. Finally, the macro-level would include traditional justice mechanisms, reconciliation and truth commissions.

The findings of the project report concerning victim-offender mediation in cases of serious violence reveal that the most decisive element in such encounters is the

¹² For more information see <http://www.euforumrj.org/Projects/projects.terrorism.htm>, recovered 24/06/2012.

¹³ This type of initiatives have been set up in Euskadi, in which more than twenty relatives of victims of terrorist groups (ETA, GAL, BE), together with the Basque Government's Direction of Terrorism Victims Support get to know each other's experiences and become aware of the injustice of violence and the huge personal impact. This experience lends the opportunity to pass from mutual understanding to feelings of mutual empathy and acknowledgement, overcoming barriers and stereotypes. For more information see Iniciativa GLENCREE (2012).

communication between victim and offender, the desire for information and a feeling of closure. The results of the research show that both face-to-face meetings or indirect ones through the actions of a mediator are feasible.

Restorative processes in the field of terrorist victimization involve more than mere techniques, we are dealing with principles and values (Aertsen 2012). Among the principles, the author underlines the personal approach, reparation, reintegration and participation. And as values he includes respect and dignity. These dialogue processes are seen by some as an obstacle as they treat the victim and the perpetrator with the same level of dignity and by others as an opportunity to heal wounds in both individuals and communities. The alternative is the vicious circle of violence.

For Reyes Mate "The victims represent not only a problem to be resolved, but the necessary step to be taken in any solution, as they hold the key to the possible integration of the violent elements in the politically reconciled community of the future. Hence their moral authority... Any possible dialogue requires a right of initiation in the language of humanity that the executioner can only take hand in hand with the victim politicians will always be tempted to speed up the process, to achieve peace at any price, but this speeding up also has a moral element"¹⁴.

Institutional participation in restorative encounters was dealt with in an extraordinary report by the Ombudsmen for the Basque Parliament entitled "Institutional Care for the victims of terrorism in the Basque Country", including contributions such as this one:

–...Yes, I would sit down and talk. And I'd say look me in the eyes, I am a person. You've got a wife too, you've got kids too, we are the same.... Why can't your world and mine coexist? Why do you have to continue killing? Why can't we say this face to face? We've never done that... We always do it through politicians and big debates. No, No. Face to face. Because if we don't, tomorrow my children will be cowering in a corner, scared to death, or they'll end up dead or even killing someone else... (Varona *et al.* 2009, p. 457).

The restorative processes in the cases of terrorism violence share a number of significant differences¹⁵:

- Emotional intensity.
- Absolute necessity of non judgemental attitude towards those who have carried out terrorist violence.
- Extended preparation – six to eight months -. The novelty of the initiative together with the fact that the encounters have been proposed by the prisoners themselves, means that thorough preparation is required.
- Separate preliminary meetings before the sessions. As many as are necessary for all the participants to feel prepared.
- Multiple telephone conversations. Mainly with victims, given the difficulties involved with telephoning prisoners.
- Negotiation with prison directors in order to guarantee access to prisoners.
- Training participants in the communication of intense feelings.
- Making clear the boundaries between a restorative process and therapy.
- Wide reaching follow up and support from the Office for Victim Care.
- Protection from the interests of political parties or governments.

The restorative encounters between victims of terrorism and the direct and indirect perpetrators have great potential for pacification prospects. Iñaki García Arrizabalaga, son of Juan Manuel García Cordero, murdered by the Autonomous

¹⁴ Quoted in Varona *et al.* (2009).

¹⁵ Based on reflections about differences in serious violent crimes (Umbreit 1995).

Anti-capitalist Commandos, and a participant in an encounter with an ex-member of ETA, who was not directly responsible for the murder, gave this answer when asked why he had participated in the mediation program:

You have to look back to the past but you have to look to the future too. You can't drive a car just looking in the rear view mirror because you won't see what is coming. Of course we should never forget, but we also have to sow seeds for the future too. I knew I was taking a risk. Are these person's feelings sincere? Will he be honest? I think he was. He has committed a series of atrocities, but he recognizes the pain he has caused and is asking for forgiveness. To my mind, as a victim, this is something, that deserves, at least, to be listened to. I could not forgive him, because that corresponds to the families of his victims, but I think he felt better for having spoken with me. And so did I. (Ceberio 2011).

Restorative encounters may psychologically benefit victims, given that there is considerable evidence to suggest that violent crimes cause significant and lasting psychological impact, which sometimes can remain for many years after the formal judicial and penal procedures have finished. (Cook *et al.* 1999).

The benefits of the encounters between victim families and survivors of serious crimes and their perpetrators have been statistically proven, revealing the therapeutic impact for both parties in studies carried out by *Fraser Region Community Justice Initiatives Association*, a non-profit making community organization, in Langley, British Columbia, Canada. These studies demonstrate that post traumatic stress symptoms in victims have decreased considerably – although not disappeared – after the restorative process with the offender, who have also described the process as “healing”. The following stand out among the most quoted reasons for the effectiveness of the program (Gustafson 2011, p. 193-227):

1. The reality of the process. It is not a role-play or a psycho drama therapy session. Although the process requires a number of recorded video communications, the exchanges take place under realistic principles. And in those cases in which facilitated dialogue takes place, both participants are in the same room.
2. The level of safety, respect and empowerment experienced at all times throughout the process.
3. The commitment, the values, the professionalism, the ability, and the personal qualities of the program facilitators, such as affection, care, honesty, integrity and tenacity.
4. The bonds of confidence and the therapeutic alliances struck up between the participants and the facilitators.
5. The power of the process to discover (or create) a feeling of empathy within the offenders which had been absent during the carrying out of their crimes.
6. The validation of the victim's perception of the truth by the offenders.

In Spain, some reflections on the feasibility of restorative justice processes for serious crimes have recently arisen, (Ríos Martín 2011, p. 127-172), in which, among other things, the requirements for the initiation and the development of restorative encounters in the area of serious crimes, including terrorism have been discussed.¹⁶:

1. The definitive and unconditional cessation of interpersonal violence, guaranteeing to the victim that this will not be repeated.
2. The Judiciary must continue to judge, and when appropriate, condemn those responsible for committing crimes, whoever they are.
3. It is necessary to discover the whole truth regarding the violence suffered.

¹⁶ The possible risks involved in these restorative processes are dealt with in the same publication, see (Ríos Martín 2011, p. 127-172, 158-165).

4. A personal and emotional journey must be previously undertaken by each party.
5. The restorative work must be carried out by professionals.
6. The restorative itinerary must always be individual and personalised.
7. It must be a sincere and absolutely honest process, with no hidden agenda other than the established one.
8. It must be a sufficiently informed process.

In short and to conclude, while aware that restorative justice is by no means a panacea, we have to recognize that empirical evidence in serious crimes has proven its effectiveness and benevolence, and in the absence of unbiased and external empirical evidence concerning restorative processes in terrorist criminality, it would not appear to be too dangerous to extend it to this area of criminality.

2. Restorative encounters in victimization generated by terrorist offences

2.1. Basic considerations

By restorative encounters we understand the dynamics of face-to-face interpersonal communication between the ex-ETA member and the direct or indirect victim, in a physically and emotionally safe environment, aided by a professional in restorative justice.

Our restorative encounters follow the tendency of a narrative dialogue, in which emphasis is on narrating and listening to the respective personal accounts, the opportunity of guaranteeing maximum direct communication and on the importance of innate wisdom and the strengths of the participants themselves.

By way of comparison with our more narrative tendency, we outline below various typologies in the area of dialogues between offender and victims of serious crimes:

	TYPES OF DIALOGUE		
	THERAPEUTIC	NARRATIVE	EMPOWERING
OBJECTIVE RANKING	1. Therapeutic 2. Narrative 3. Empowering	1. Narrative 2. Empowering 3. Therapeutic	1. Empowering 2. Narrative 3. Therapeutic

Source: (Umbreit *et al.* 2000).

Restorative encounters form a communication process between a person condemned for an offence linked to a terrorist activity and the person who has suffered from the activity (in our case, murders and kidnaps); it is based on the responsibility and the autonomy of each of the participants. The principal tools are dialogue (the spoken word, listening), and the necessary attitudes for it to be effective are ones of: empathy, respect and perhaps compassion and humanity.

The definitive and unconditional end to interpersonal violence is an essential criteria, providing a guarantee to the victim that this will not happen again. It is also necessary that the path of criminal justice will continued with, that the whole truth will be sought with regard to the violence suffered and that, as well as being an individualised and personalised restorative itinerary, it should be a sincere and completely honest process, with no hidden agenda.

To this we should add the necessary previous training of the facilitators.

The meetings are held at the micro level of the restorative processes, within the interpersonal dimension of the events. Terrorist victimization has, without doubt,

caused effects throughout society, but our work has been centred until now only on the face-to-face restorative encounters¹⁷.

The encounters have followed the recommendations outlined in the UNO Manual of Restorative Justice (United Nations 2006, p. 70) regarding the necessary requirements for the program to be faithful to the aims and objectives of restorative justice:

1. Taking into account the central position of the participation of the victim.
2. The Basque Government Directorate of Care to Victims of Terrorism is responsible for selecting, consulting, explaining and accompanying the victims in their decision to freely participate in the encounters.
3. Preparation and security of all the participants.
4. All the encounters have had at least two preparatory interviews and there have been numerous support phone calls with the victims.
5. Enabling the dialogue between the people involved;
6. The facilitators assist and accompany the persons involved in an act of communication which is strictly private, in which the protagonists may even call for the enablers to leave. There are neither previous agendas, nor targets. An honest, sincere dialogue is sought, defended and guided exclusively to mutual human understanding.
7. Reintegration hand in hand with responsibility.
8. The condemned individuals have accepted responsibility for their deeds. This has required a personal process of reflection which, for those who have participated in the encounters, has expressed itself in a gesture of reparation towards the victims.
9. Availability of suitable means for reparation and reintegration;
10. Civil compensation has not been taken into consideration in the encounters, as the nature of compensation here is more symbolic and moral.
11. Taking into account the systemic pressures towards delinquency.
12. The condemned individuals have an opportunity in the preliminary interviews to reflect upon their personal decision, upon their abandoning of the discipline of the terrorist organization and the nearest group and upon the risks and benefits of this decision. Thus a determined will is established to recognize the damage that has been caused.

2.2. Historical context¹⁸

The cessation¹⁹ of armed activity by the organization ETA (militar²⁰), announced in October 2011, marks the beginning of the end of the latest –anachronistic, absurd and incomprehensible– terrorist stronghold of political violence in Euskadi, heralding hope for an era of liberty and respect for pluralism in this region for the first time in decades. (Ríos Martín and Etxebarria 2012, p. 71-80).

Francoist repression, terrorist violence, State terrorism, extreme right wing groups, ETA-pm, ETA-m have all hampered civil liberty and pluralism, causing countless personal victims who were dehumanized in the unjust battle to impose a model of society which turned its back on liberty, human dignity and social and political pluralism.

¹⁷ The development of restorative justice in terrorist victimization will also entail a broadening of processes, including greater community participation.

¹⁸ Based on the reflections of the Criminal Law lecturers Xabier Etxebarria Zarrabeitia and Julián Carlos Ríos Martín.

¹⁹ A prerequisite outlined by (Varona 2008 personal communication) for the start with the processes of restorative justice, to avoid that the participation of victims and culprits might be at the risk of possible threats and coercion from ETA.

²⁰ Armed separatist organization that uses terrorist violence to achieve their political objectives.

The 30 years which have passed since the end of ETA-pm or the 25 years since the end of GAL (Antiterrorist Liberation Groups) are a key reminder to stop us falling into an irresponsible *totum revolutum*: the main concern in this project is the terrorism of ETA-m. In any case, unjust victimizations do not cancel each other out.

Reaching successful closure of this historic period is both complicated and extremely important. It is easy to recall how in the past eras of unjust infringements of human rights have been ended—such as unconditional amnesties, without truth, or justice, or memory —; there has been no real closure for the victims. We cannot allow ourselves to do the same with the end of ETA-m. On this occasion there is no place for turning the page without remembering the victims.

The confirmation of the end of ETA militar provides an essential means with which to open paths of restorative justice. But it will not be enough, Basque society will have to contribute to creating a narrative in which the voice of the memory of the victims is heard loudly and clearly, and in which the value of justice prevails.

Restorative justice in cases of terrorism contributes to broadening the social response to the crime. It is not enough that sentences are carried out, fully or not, in prison or outside. Court justice has its limits. It cannot impose a justice that includes the revelation of truth or memory. The justice of retribution, based on neutralising and the oblivion of the victim, cannot offer what restorative justice can. A justice which comprehends the satisfaction of the victims and the recuperation of the perpetrator. Perhaps in the future, when an ethical change occurs in Basque society, in the demands for justice on behalf of the victims associations, then the restorative vision will be included as a more profound and longer lasting model of justice.

In fact, in every case our restorative intervention has begun once a formal judicial declaration already existed (a prison sentence), a categorization of each participant has been made (murderer-kidnapper, and victim) and a prison sentence is being carried out or a large part of the sentence has been already carried out. At this level, the process begins to divest itself of labels: we are dealing with people who are trying to recover from their wounds, re-establish their humanity and thereby their relationships; the only categories which exist are the one which recognizes the hurt caused and the one which feels destroyed or annulled by the past action of the former.

This intervention is independent of any political or judicial agendas and of what has happened or what might happen on a judicial or a political level. The final objective is that these people, both parties, are able to avoid being dragged down by the past, to heal their wounds and can see the future as a time in which “the best is yet to come”²¹.

2.3. *The institutional context*

The experience with restorative encounters between victims and prisoners condemned for terrorism crimes began at the beginning of 2011 at the Nanclares de la Oca Penitentiary Centre (Araba/Álava). With the support of the Interior Minister of the Spanish Government and the Basque Government Office for the Aid to the Victims of Terrorism, a program of encounters was set underway between ex-members of ETA²² and direct or indirect victims of terrorism crimes²³.

²¹ Words of Irene Villa, ETA victim who had both legs amputated (Verbo 2011).

²² In 2011 under the mandate of the Socialist Government, a number of male and female prisoners who had belonged to the Terrorist Organization ETA were grouped together in Nanclares prison, following their decision to leave the discipline and the dynamics of the organization. The Via Nanclares (*Nanclares route*) was so named after the prison in Alava in which they were being held. These prisoners were grouped together after having made a written request for forgiveness for their crimes and committing to the payment of damages to their victims (Agencia EFE 2012).

The encounters were led and coordinated by the lawyer and mediator Esther Pascual Rodriguez.

Male and female prisoners who had publicly renounced armed violence and had disassociated themselves from the armed organization, had expressed both regret for the harm caused and their desire to contribute to reparation were grouped according to the criteria of the Penitentiary Institutions at the Nanclares de la Oca Penitentiary Centre. The Basque Government Office for the Aid to the Victims of Terrorism received the request of this group of prisoners who called themselves "Group of Prisoners Committed to the Irreversible Peace Process". Following their petition to contribute to the victims' reparation, the Direction took the initiative and contacted the victims.

Txema Urkijo, assessor to the Basque Government Office for the Welfare of the Victims of Terrorism explained the issue to the microphones of the radio station Cadena Ser as follows:

"It was we at the Office who contacted a certain number of victims, to whom we put forward the idea. We told them about the disposition of some of the prisoners at Nanclares. The procedure, the methodology and the working objectives were explained to them by the mediators who are taking part. And it was they, who after deliberating about it, who took the decision of their own free will, to participate in the encounters." (Cadena Ser 2012).

The encounters were promoted by prisoners who had declared their rejection of armed violence, they wanted to offer more than their own statement of regret and rejection, seeking gestures which would contribute to alleviate the suffering of the victims and they wanted to answer their questions.

During the last quarter of 2011 a series of talks and seminars were held in the form of a workshop, directed by Xabier Etxebarria Zarrabeitia a lecturer in Criminal Law at the University of Deusto.

The workshops involved terrorism victims, teachers, intellectuals, journalists and members of pacifist organizations.

In the workshop on restorative justice I had the honour to attend as a facilitator, with the objective of increasing awareness and examining restorative justice at the micro level, that is to say the interpersonal dimension of what has happened, the moral reparation for the victims and the empathetic positioning to the hurt that had been caused.

This workshop contributed towards group and individual reflection regarding the moral doubts held about victims, and the debt of reparation which is owed to them and their families.

The prisoners who participated in the conference on restorative justice reached the point of expressing "there is no justification for the hurt we have caused", "we are each obliged to contribute to reduce the hurt we have provoked in these victims" or "I would like to say to the widow of the person we killed that I am really sorry". These and other spoken interventions indicate that these people have begun a process of accepting responsibility for the hurt they have caused, thereby opening the door to begin a restorative process.

During the workshop I had the opportunity to speak to these ex-members of the terrorist organization, with the invaluable collaboration of prison officials who followed the personal processes of this group of prisoners with deep conviction. The encounter contributed to personal and group reflection about the consequence of

²³ During the armed action of ETA around one thousand direct victims have been counted along with several thousand indirect victims. The victims who participated in the encounters were selected with professional criteria by DAVT, taking into consideration their availability, their emotional state and the time passed since the crimes were committed.

terrorist acts and also we heard from prisoners who, in turn, had been victims of GAL, the terrorist group linked to the State Security Forces.

Throughout 2011 and part of 2012, eleven encounters were held which were supported by the General Board of Penitentiary Institutions and the Basque Government Office for the Welfare of the Victims of Terrorism.

Iñaki García Arrizabalaga, son of Juan Manuel García, murdered by the Autonomous Anti-capitalist Commandos in 1980, and a participant in the encounters, said the following:

“on a personal level I came out satisfied, proud, I don’t have the sensation of letting down the memory of the victims and in particular that of my father, for me it has been a rehearsal for the individual reconciliation between the victim and the perpetrator of the terrorist act, and I think that that was a small gesture, and as they say small gestures are so powerful they can be revolutionary, I think I have sown a seed so that, for example, my daughters and my grandchildren if I have any can grow up free, without this burden, because that is what they deserve” (Cadena Ser 2012)

The program of encounters was a pilot program and there are no precedents in the history of criminal justice in Spain. The initiative stems, in some way, from the prisoners themselves, who contacted the institutions (of the prison and of the Basque Government) to whom they communicated their wish to do something more for the victims.

“We are not aiming to generalize the experience, because really the conditions under which this kind of meeting is held are very unusual, quite singular and probably unpredictable either for the prisoners or the group of victims, but without doubt it is a worthy contribution to what might become a process of rebuilding peaceful coexistence, rebuilding social relations in Euskadi, this is true, especially when after holding the second phase, when we have carried out a significant number of these experiences, we have seen that the result is highly satisfactory (..) for the victims who have taken part”, Txema Urkijo (Cadena Ser 2012).

The first encounters were prepared within a really difficult social context as the threat of ETA was still present. In just a few weeks an extremely important event occurred which would contribute positively and would eliminate serious risks for the victims: the definitive cessation of ETA armed activity in October 2011. As the meetings have gone on, some of their partial affects have been able to be measured:

“The victims have discovered that listening directly, looking straight in the eyes of a person asking for forgiveness, they have discovered the sincerity, the peace and the satisfaction provided by that demonstration, this has been extremely gratifying and they have said so.” Txema Urkijo (Cadena Ser 2012).

3. Theoretical elements of the social work for restorative intervention

3.1. The theoretical focus of narrative social work.

Narrative social work is that which “incorporates in social intervention methodology the activation of the meanings and stories as empowering resources” of the people we are dealing with (Vidal Fernández 2009). In our case our narrative social work with terrorism victims and perpetrators contributes to the reconstruction of a culture which values human relationships and which contributes to a situation in which both can raise their individual relevance to a level which satisfies their needs.

“In line with the requirements of the contemporary modality of the practice, the orientation of the narrative to the social context responds to the recent changes in the sense of time, the influence of legacy and the experiences undergone, as well the significance of the context in the configuration of the individual narrations, and it is extremely sensitive to the importance of power in the control of thought and action” (Abels and Leib 2004, p. 66).

Narrative therapy gives us a theoretical framework which is fundamental in our restorative intervention.²⁴

One of the most important processes during the interview in a restorative process is the narration of the story by each participant. It is the victims and the offenders who are the protagonists, who take the microphone and have a quiet listening period, in which they are offered the necessary safety with which to express themselves and narrate how they have lived the events and how they have been affected by them. They have the word.

The interviews previous to the narration become a delicate and fundamental moment, as it is during these that they are prepared for a future face-to-face meeting. The narrative itself turns out to be positive for recovery from trauma which the victim may suffer from²⁵.

The narrative process, constructive in nature, develops a model of participation from equality. In narrative therapy we collaborate with people to discover their strengths, we help them understand the stories around which they put order to the events – deconstruction- , in order to then extend them, change them and create new ones.

Its theoretical founding is broad, being based on the narrative metaphor, the cybernetic metaphor of negative explication, critical philosophy, social constructivist thought, feminism, cultural anthropology, systematic theory, observer theory, etc.²⁶

Narrative practices are based on basic propositions founded in the belief of seeing reality as a social construction. Everyone constructs sense and meanings from their life experiences, so that the personal narrative enables people to make sense of their lives. The meanings given to experiences and events mould life and relationships, and people tend to be fairly selective with regard to the importance, sense and meaning which they attribute to their experiences, while others are set aside and hidden.

For the purpose of narrative therapy, people are specialists in their own lives, they have abilities, values and resources to help reduce the effect of the problems they encounter in their lives.

Our task in this paradigm is centred in encouraging a person's strengths and their positive attributes. This helps them to follow a path which allows, on one hand, the offender to understand the consequences of the events, to take on greater responsibility, to explain themselves and, a necessary step for the offender, to explain to the victim²⁷. And, on the other hand, enables the victim, among other things, to satisfy the need for understanding, reparation, expression of feelings, for increasing the importance of their role as well as to satisfy the need for safety²⁸.

²⁴ Narrative therapy was developed by Michael White and David Epston, social workers from Australia and New Zealand respectively. They became popular in the 1990s in the United States. Their model, which aims to be a reaction to modernism- whose principles defend the existence of universal laws and truths which can be discovered through scientific actions – with the change in the idea of absolute truths and grand theories regarding human conduct (Kelley 2008).

²⁵ We refer to the disorder due to post-traumatic stress, understood as "the apparition of characteristic symptoms which follow exposure to a stressful and extremely traumatic event, and in which the individual is involved in events which represent a danger to his life or a threat of some kind to his health." (American Psychiatric Association 2002)

²⁶ Also called new paradigms of science (Suares 2008).

²⁷ "Through mediation the offender is able to satisfy their need to explain (not justify) the events, as in this way they change their own life, with the help, of course, of external help, (social workers, psychologists and employment support). See more (Sánchez Álvarez 2005).

²⁸ Known in English terminology as *empowerment*.

3.2. *The paradigm of strengths in social work*

In restorative justice, the paradigm of empowerment has been observed from the point of view of the victim, with the vision that the processes of victimisation go beyond labelling and many victims reject the traditionally passive concept of their own condition²⁹ (Aertsen *et al.* 2011).

The paradigm of strengths distances itself from the problem based focus. This perspective of seeking out the strengths of people does not focus so much attention on the defective elements of the client-system when dealing with their problems but centres on the inherent human strengths, in the competences and in the resilience capable of constructing a better future³⁰.

When we work from the perspective of strengths we do not ignore the pain and the suffering, but we ask how each person can assume their role, seeking within their own capabilities and knowledge.

The social worker understands the situation of the client-system from the outlook of the latter. This professional perspective begins to work with the profile identified by the client system.

There are four basic elements to comprehend this paradigm (Blundo 2008):

1. **Empowerment.** Based on the idea of “power with” as opposed to “power over”. As opposed to the pathologizing models and positions where the professional knows what is best for the person under his or her care. It enables the person to discover their knowledge and abilities which then become collaborative elements in the practice of the social work.³¹
2. **Diversity.** Cultural, ethnic, racial, spiritual, socio-economic, gender, age or sexual preferences are present in the narrative that the person offers to the social worker. The complexity of the diversity is understood in terms of personal life experience and a generalized version of culture or ethnicity is not admissible.
3. **Social justice.** The traditional model of social work practice, based on the logic of medical diagnosis assumes the position of professional experience founded on knowledge which reflects the values, attitudes and beliefs of the dominant groups in society. On the other hand, there is the perspective of creating a collaborative mutual learning process, recognizing the common elements shared by the client-system and social workers.
4. **Self-determination.** This value forces the social worker based on a position of strength to collaborate with the clients in a way which makes space for realistic options of change and allows the client to guide the work in their direction and not that of the professional.

The following principles of this focus stand out (Saleebey 2009):

²⁹ These authors explain that empowerment, a central concept of restorative language has been described as a value, as an expected result, as an intrinsic element of the restorative process and a fundamental procedural guarantee.

³⁰ Dealing with this in the area of social work in penitentiary contexts was promoted by Van Wormer in an important article for that purpose in which she reflected on the outlook of social work when working with imprisoned convicts. The author assumed the need to use professional guidance in the use of strengths to work with the growing female prisoner population in the United States. Professionals who use a human strength based focus seek out the positive in terms of people’s abilities to confront, they listen to their personal narrative, suspend their own belief, and validate pain when this exists. They also collaborate instead of making decisions, they have an interactive relationship with the person they are dealing with, and use every element of their imagination to reach people who, at the beginning, may seem beyond reach (Van Wormer 1999).

³¹ In the field of Psychology, Zimmerman, (quoted by Aertsen *et al.* 2011) includes three components necessary for empowerment: the interpersonal component, referring to how people see themselves. The interactional component, referring to how people understand the social context in which they live and finally the behavioural component referring to the actions to provoke change in the social and political context.

- a) Each person, group, family or community has strengths.

This principle requires the social worker to show a genuine and respectful interest in the stories, narratives and considerations of the people they are dealing with. Helping in the search for their strengths means that people are constructing something valuable from their own resources.

- b) Trauma and abuse, illness and conflict may be harmful but can also be sources of challenge and opportunity.

The problems of a person must not dominate our professional action. Focussing on the problems may, in fact, create even more problems. So it is not a case of avoiding problems, but to let the strengths of the person stand out, helping them to build up confidence in themselves. The pride of the survivor is sometimes referred to (Saleebey 2009, p. 16), as a profound sense of achievement which abides within a person when they face up to life's challenges and come out on top, not without fear or even terror and definitely not unharmed.

This sensation felt by people who have suffered or carried out terrorist violence is perceived as new motor which allows their emotional situation to improve. Here are a couple of examples:

"The other day I was with a woman who had been made a widow from the same attack, and she told me I was too strong to be able to meet with the murderer. After hearing this I asked her if she wanted to write anything down that I could ask on her behalf". Account of a victim participating in a restorative encounter.

"The day I decided to abandon the group discipline of ETA I felt terrified but I understood that a new horizon could open up, believing only in myself and the support of the people who love me". Account of a prisoner participating in a restorative encounter.

- c) Assume we do not know the upper limits of the capacity to grow, to change and to seriously develop individual, group and community aspirations.

We professionals often believe it is diagnosis, assessment, reports or demographic characteristics that fix the working parameters for our clients. On occasions in our personal lives we look back and marvel at how far we have come. On occasions we remain trapped in the vision of our clients without seeing new and dizzy heights. This means that we must set the bar as high as possible for our clients and be loyal to their hopes, visions and values.

"I have killed twelve people, I know, I feel like a monster, but I need to contribute in some way to ease the pain I have caused, and that's why I want to see the families of the people I've killed" Account of a prisoner participating in a restorative encounter.

"Yes, I do want to see the murderer of my husband, I need to look him in the eyes, now I can do it, I have suffered a lot over these years and I have felt very alone in this society, but now I think I have the strength to see him and ask him some questions" Account of a victim participating in a restorative encounter.

- d) The best way to collaborate with our clients is to collaborate with them.

Professional independence is replaced by interdependence. The role of the professional expert may not be the most advantageous from which to appreciate the strengths and the assets of we are dealing with. Our role of interdependence resembles more one of collaboration and consultation. Their narrative for the people we are dealing with is their most important story, and our role is to collaborate in the search for the maximum growth potential.

- e) Every environment is full of resources.

Even in the most impoverished and marginalized contexts there are resources. Informal systems and associations to individuals, families, groups and social peer

groups work in assisting, supporting and instructing the members in a community. In every community there are always means for mutual help.

f) The Care, to care for and the context.

Care for another person is the most basic form of civic participation, despite the society in which we live and its exacerbated individualism. With this principle we learn that society is capable of developing social caring relationships within families, neighbourhoods, communities, cultures and countries.

4. Practical implications of a restorative humanist intervention model

The humanist model, intimately connected with the so called healing paradigm, is a very useful model for restorative intervention, as it distances itself from conflict resolution models which seek to reach an agreement and foster a directive process. (Umbreit 2001).

The healing paradigm is characterized, among others, by the following elements, care and non-judgemental acceptance of the humanity of the person, the establishment of an emotional relationship and connection, the building up of confidence, the connection with the universal desire for welfare, heartfelt communication, action focussed on the wounds and the creation of a secure communicative environment for recovery³²:

Following the recommendations of the aforementioned author, and focussing our restorative practice on terrorist victimization, we now develop eight practical implications which have been taken into account in our work in restorative encounters³³.

1. Continuous action centred on the facilitator, clearing the mind of disorder and concentrating on the task of enabling the healing.

Our work requires previous psychological training, in empathetic anticipation exercises, in order to be able to connect directly with the emotions of the people we are dealing with. It is extremely useful to seek a few moments of interior silence before each work session and before the encounter itself. This concentration will be a contributory element to confidence building and setting up a genuine atmosphere of listening for both prisoners and victims (who tend to be distrusting)³⁴.

The confidence built up during the preparation phase is our ally for situating ourselves between both parties. Being is more important than doing, given that the encounter being developed belongs exclusively to the parties involved.

2. The facilitator role. The mediator attends the encounter between the victim and the prisoner facilitating dialogue and mutual help.

Our activity is not aimed at achieving an agreement, but to enable the victim or a relative of the victim and the prisoner to look each other in the eye, recognising one another as human beings and moving from the I-It to the I-Thou (*You*) profiled by Martin Buber (2008)³⁵. We are dealing with a sincere dialogue which seeks

³² Based on the idea of (Umbreit 2001, p. 8). These recommendations are centered on the micro level of restorative encounters.

³³ Of notable importance and interest for the near future are the other restorative processes equally useful for tackling terrorist victimization: Conferences, victims' panels, non-live filmed video encounters, victim awareness groups, victim and offender groups, protection contracts. Given their complexity and diversity, these restorative processes will not be dealt with in this chapter.

³⁴ This is a purely personal viewpoint. It would seem normal that prisoner, deprived of liberty generates protective and defensive mechanisms against the penitentiary institution and by extension to any professional involved in it. On the other hand, victims, especially terrorist victims in the Basque Country, have borne their suffering with little recognition from Basque society.

³⁵ In the relationship I-It there is conceptualization or depersonalization of the other person. In the I-Thou relationship we get to recognize that the other person as a similar being.

mutual recognition and the reestablishment of human communication which was broken by the crime.

The style of facilitating places emphasis on the role of the dialogue between the parties. Interventions are minimal, there are few questions, and the facilitator limits himself or herself – to accompany the process in which the lack of surprises is due to conscientious preparation. Thus, well trained facilitators, professional or otherwise, are required³⁶.

3. Preparation sessions for each participant.

Preparation is one of the basic and essential premises for the successful outcome of the restorative process. We must ensure that the victims and the prisoners arrive to an encounter sensitive to the requirements and aware of what they may find in the dialogue as well as their own fears and concerns and finally, prepared with the words which they wish to express to each other.

Victims and prisoners require a process which allows them to build up confidence and a feeling of security, mainly because their needs are gradually being satisfied.

During the preparation, training in communication abilities that could overcome possible difficulties is an optimum resource with which to foster the participants own strengths. We help them to discover their own resources (values, qualities and abilities) which enable them to achieve a better and more effective communication style.

Specific elements can be worked on such as visual contact, proximity to the other person, posture, corporal attitude and movements, facial expression, gestures, respiration, the tone and volume of the voice and the specific words to be used.

To foster aggressive communication, it is useful to rehearse communication in the first person, using I messages, and all the other elements of assertive communication.

4. Connect with the participants by constructing a positive and trusting relationship.

Emotional closeness is vital for our work and the various preparation sessions form an essential tool with which to achieve this. Sympathetic expression, human warmth and authenticity should be constant. This emotional connection requires effort from the mediator to look inside themselves. Thus, it is recommended that the facilitators of these encounters have the opportunity to have their work supervised

5. Identifying and taking advantage of the strengths of the participants.

In line with the section on strengths, we contribute to generating communicative options which enable positive individual energies to flourish, thereby helping the participants to achieve more effective communication in the face-to-face encounters. During the preparation interviews we should be aware of the strengths in oral expression, the ability to control anger and rage, the expression of interests and needs.

6. Direct face-to-face encounters, except when there are circumstances which make it unadvisable.

Face-to-face dialogue from our humanist point of view is more enriching as visual contact, verbal and non-verbal communication and direct dialogue itself are all elements which humanize interaction. Nevertheless, the convenience of carrying out the dialogue remotely, either simultaneously or via recordings using digital communication tools should be carefully considered. Epistolary communication is

³⁶ In fact the observations demonstrate that the less well trained facilitators are more direct, while the ones with the most training position themselves in a non directive paradigm (Faget 2008, p. 77-83).

also useful when the victim feels a strong emotional rejection to being near to the person who has caused them pain, and in fact we have used this method in certain cases.

7. Recognition of and the use of silence.

Noise is like dirt and dust, it has to be eliminated. When we are silent we make ourselves present, we allow ourselves to connect with a deep part of ourselves wherein resides our intuition.

Silence in restorative processes is not just absence of noise, it is an exaltation of being, the idea is that the participants have the opportunity to connect with their emotions and the context of shelter close at hand facilitates expression. During the silence the mediator witnesses the narration as a mere spectator and also ensures the space which the speaker perceives as free³⁷.

The facilitator of the restorative process who recognizes the humane potential of silence, previous to the interview or the encounter clears his or her mind of disorder, by carrying out relaxation exercises and visualizations and concentrating on the tasks of (re)establishing peace.

8. Carrying out follow-up actions after the encounters.

The encounter is the culmination of an intense working process carried out during the preliminary meetings and interviews. The relationships and the confidence built up between facilitator, the victims and the prisoners take a while before they can develop. A posterior contact a few days later and an in-depth interview – as long as they are considered to be worthwhile – is recommended.

5. Closing comments

Restorative encounters between ex-ETA members and victims have represented a great milestone in the history of restorative justice in Spain. New horizons have been opened for restorative action in serious victimization and these have helped to consolidate a reconstruction process for social coexistence in Basque Country.

The concepts, theories and knowledge dealt with here are still under construction. They remain, as yet, unfinished, our epistemological aim is connected to the necessary perspective in which those persons subjected to our intervention also become knowledge creators, and contribute to improving our restorative actions.

The fact that these have been the first examples of restorative justice in victimization provoked by ETA in Spain requires us to be both humble and prudent. The results of our intervention require more thorough and prolonged assessment and analysis, so that the results can be empirically measured.

We hope that the debate and the multi-disciplinary project within the peerless framework of the Oñati Institute of Legal Sociology contribute to the growth and development of restorative justice in Euskadi in the field of victimization caused by crimes of terrorism.

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