

THE FAILED IMPLEMENTATION OF POINT ZERO AGREEMENT IN 2006

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Abstract: *The purpose of this paper is to explain why Point Zero, an agreement that made by ETA and Spanish Government, was failed to be implemented and to analyze the reasons behind the failure.*

The first chapter gave introduction of the thesis, including history of the creation and conflict behind Point Zero agreement and the structure of the paper. The second chapter was about the conflict assessment to deepen the understanding of the condition of the conflict by mapping the conflict using the Conflict Stages by Eric Brahm. The third and forth chapter analyzed the Failure of Point Zero by using the regime compliance theory to prove the hypothesis. And the last chapter was about the conclusion of the paper.

The result shows that Point Zero was failed to be implemented because of the incapability of both parties to comply and to face political constrains which then caused crisis situation, the conflict cannot be solved and it is re-emerged.

Keywords: *conflict, ETA, Spain, separatism, agreement, Point Zero.*

ETA or Euskadi Ta Askatasuna is a separatist movement of Basque people in Spain. ETA was founded on 31 July 1959. Under Franco regime, the use of Euskera or Basque language was prohibited. Basque people were not allowed to express their culture either.¹ That is the reason behind the establishment of ETA.

The conflict between ETA and the Government of Spain continued even after the death of Franco in 1975. In July 2005, ETA and the government of Spain conducted a closed meeting which resulted an agreement which was called as Point Zero. The content of Point Zero was a draft of a peace-opening which the main points were agreement from ETA to declare ceasefire and the government gave freedom to the people of Basque to decide their own future in 6 months after ceasefire was declared.

The detail points that announced by the government of Spain are:

1. That the Spanish government would respect the decisions that the Basque citizens freely make about their future.

2. That such decisions would be adopted without any violence or coercion, in compliance with norms and legal procedures, respecting democratic methods and the rights and liberties of the citizens.

3. That it shall be the responsibility of the Basque political parties, as well as of the social, economic, and unions agents, within the forums they shall constitute, to reach the agreements and to establish negotiation mechanisms and their application. The agreements shall be adopted with the maximum possible consensus, bearing in mind the citizens' diversity and under equal conditions for all the political options.

4. That in compliance with the resolution passed by the congress on May 17th, 2005, the government publicly stated that a dialogue process with ETA would be started, clearly pointing out the fact that political issues should only be solved through the legitimate representatives of popular will.²

¹Anderson, S., Peterson, M.A., Toops, S. W., & Hey, J. A. K. (2014). *International Studies: An Interdisciplinary Approach to Global Issues* (3rd ed.) [PDF file]. Colorado, CO: Westvies Press.

² Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

The agreement also stated that if the process developed within the terms agreed, ETA would show its strong will to go towards the definite secession of armed struggle. The statement to be made by President Rodriguez Zapatero was concisely written in the agreement, and was thus agreed that it shall be made public by him without changes. In turn, ETA undertook not to take action against any persons, public or private property or goods; and not to take part in actions concerning the supply of weapons or explosives, and/or material for their manufacturing.³

The government, after the permanent ceasefire official statement declaration, undertook:

- 1. To achieve a state pact that enables the declaration of the president of the government within 6 months.*
- 2. To tangibly reduce police presence – checkpoints etc. – as well as to stop police pressure regarding political activities of the patriotic left.*
- 3. To accept de facto that the patriotic left-wing organizations shall be able to carry out a political life under equal conditions with the rest of the political and social forces, with no limitations in their civil or political rights.*
- 4. Not to carry out detentions through the Civil Guard, the National Police, the police force of the Basque Country, or the French security forces.⁴*

To actualize the Point Zero agreement, on 22 March 2006 ETA declared permanent ceasefire by sending DVD message to Basque Network Euskal Irrati-Telebista and the newspaper Gara and Berria. However, the serenity did not last long. On May 14th ETA stated that negotiation process could not proceed.

On 30 December 2006, ETA committed car bombing at parking area of Madrid- Barajas Airport. It killed 2 people and injured 52 people. The bombing was used to open communication with government. After got the attention from the bombing, ETA demanded negotiation. As response from the bombing, the president announced the discontinuation of the “peace process”. That statement showed the end of the agreement process in 2006 which is unable to end the conflict.

³ Zabalo, J., Aiertza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

⁴ Zabalo, J., Aiertza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

To talk about the origin of Basque nationalism, to find the historical roots of the culture difference, the discussion must go back to the era before the term of nation state emerged in the early of 16th century. Before ETA, there was conflict in 1895 between Basque nationalist movement and Spanish government which then ended by the end of civil war in 1939 which occurred for the same reason.

After the civil war ended, Basque people experienced latent conflict. Basque people were still having no freedom to express their culture. The economic conditions were also very pathetic. People are suffering from hunger and economic hardship. The cultural discrimination and poverty remains but the conflict has not yet emerged. There was no action taken due to this unstable peace.

This condition has been run for almost four decades before finally the conflict between ETA and Spanish government emerged.⁵ The condition changed when a group of young people in Basque, *Ekin*, started to feel burden by this condition and desire the change of condition. Through propaganda and sabotage done by EGI and *Ekin* (extremist young people movement in Basque), ETA were established in 1958 and started to take action.

In accordance with four criteria of conflict emergence by Louis Kriesberg (2012), ETA establishment signed the emergence of the conflict.⁶ First, the creation of ETA can be considered as the form of the declaration to differentiate their identity from Spain Government. ETA claim themselves as the representatives of Basque people who feel that Basque should not belong to Spain since they have separate territory and different culture and language. Second, they feel the

⁵ Chapman, S. (2005). Report on the Basque Conflict: keys to Understanding the ETA's Permanent Ceasefire. Retrieved from: <http://www.lokarri.org/files/File/PDF/Inform.pdf>

⁶ Kriesberg, L., Dayton, B. W. (2012). *Constructive Conflict: Escalation to Resolution Fourth Edition*. Maryland, USA: Rowman & Littlefield Publishers.

injustice since they can't speak Euskara and express their culture. Even though the feeling of injustice may have come since the four decades before but it is not strong enough to encourage them to take action. Third, the action of ETA such as publishing bulletin full of critics toward government, held demonstration in the street to protest against the policies, can be seen as the form of efforts to change the behavior of Spain government. And the last, through those actions ETA do believe that they can change the government behavior showed by the unstoppable spirit even some of the member of ETA were arrested during the demonstration.

In the first few years ETA's activities only include meeting and some violence to rob and get money. However, the conflict escalate and became more violating in 1968 when they started the killing action, which then led to the arrest of the ETA members. The government also declared the State of Emergency which can be seen as the sign of the deteriorating situation.

The conflict's even more escalating when the first bombing occurred in 1973 which is called as "Operacion Ogro". This action then responded by the government by creating the new anti- terrorism law and giving bigger right for the police to combat terrorism.

Until the Franco death in 1975 the conflict keeps rising. After two times the regime changed (Adolfo Suárez 1976-1983 and Felipe González 1982-1996), the conflict even got worse. The government used violence by creating the paramilitary group to fight against ETA. While ETA also fight back with violation. After the death of Franco in 1975, Adolfo Suárez was elected and become the prime minister of Spain in July 1976. The new leader conducted negotiation with all the opposition parties in Spain. During the democratic revolution of Spain the different thought came up inside the organization. ETA was divided into two groups, there were ETA PM and ETA M. PM is abbreviation of Politiko-Militarra or Politic-Military. It was

consist of ETA members who believe in the use of politic and military. While on the other hand, M refer to Militarra or Military which means ETA M only adopted military. On the negotiation with Adolfo Suárez ETA PM agreed to stop the armed struggle with the provision that ETA prisoners are released while ETA M rejected the negotiation and abstain on the election.

ETA M continued to oppose the government with coercion. The ETA M massive attack occurred in 1980. ETA performed kidnapping, robberies and killing 85 people. The victims include suspected informer, policemen and military officer. The government of Spain ordered the BVE (Batallón Vasco Españõl or Basque Spanish Battalion) to counter ETA. After 3 years since formed in 1978, BVE was dismissed in 1981 when it is considered to cause the contra effect from what is purposed from the establishment.

Another paramilitary group was formed after the new government, Felipe González (Socialist Party/ PSOE), was elected in 1982. It is called as GAL (Grupos Antiterroristas de Liberación) which means Antiterrorist Liberation Group. GAL was mostly active in the main bases of ETA which is French Basque Country. 23 people were murdered by GAL whom most of them are not member of ETA. It is known as Dirty War, since the government was suspected included in dirty strategy during the counter attack. The court convicted that most of the elder member of antiterrorist in 1980 and GAL related crimes involving the prime minister, Felipe González. As the former group, BVE, GAL was also not suitable with what is expected from its establishment. This group was dismissed in 1986. Even the France government supported the dismissal of GAL.

In 1985, ETA killed an American citizen, Eugene Kent Brown, and caused 6 persons injured by car bombing assassination in Madrid. A year later, on July 1986, one of the ETA

leaders was arrested in Franch, transferred to Gabon on 13 July, and then deported to Algeria. On the next day, 14 July, ETA bombed Plaza República Dominicana. It caused the death of 12 peoples and 50 people injured. And still in the same year, ETA murdered a civilian, Maria Dolores Katarin, whom was the former member of ETA. On 19 June 1987, the third bombing occurred in Hipercor shopping center, Barcelona that killed 21 people and injured 45 people.

The conflict continued to enter stalemate stage. Referred to Jeffrey Rubin (1994), in this case Stalemate occurred because of the failed strategy and the depletion of available to fuel the conflict. Even some other factors also influence the stalemate but the most significant is those two factors.

After Felipe González elected as the new President of Spain in 1982, the winner party of the election, PSOE, in the Socialist International meeting in Rome, declared “*support for the Spanish democracy by recognizing the need to intensify co-operation to fight terrorism*”.⁷ However, two days after the election PSOE declared that the dialogue will only be conducted to surrender. Those two opposing statements make the dialogue process stuck.

The even worse action taken by the government is the creation of GAL and other paramilitary group to combat ETA and the opposition party, which is allowed to use violence. The problem is that they also use violation to the Basque refugee which is also opposing the democratic principle. That moment even called as Dirty War era.

Not only failed in stopping ETA’s activities, ETA even challenges the government to choose either become “*the guarantor of democratic liberties or, the allied bridge of the so-called*

⁷ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

pro-coup reaction".⁸ As the conflict become more internationalized the government also get pressure from the other country to use the negotiation to solve the conflict.⁹

While the government has failed in creating the strategy, ETA has experienced depletion of available to fuel the conflict. The most influencing factor that weakening ETA is the high number of ETA leader that arrested by either government of Spain or government of France which obviously this is decreasing the opportunity of ETA to win the battle.

During stalemate both parties have almost had no opportunity to achieve their goal. The government got a pressure from international society from the statement about the promise to use democracy to solve the conflict while the fact doesn't match the reality and ETA is also weakening by losing so many leaders who got arrested. However, neither of them want to lose or surrender.

After experiencing stalemate, both parties reconsider the cost of the conflict and start to think about negotiation. As mentioned by Louis Kriesberg (2012), both parties started to find alternative solution after there were evident of failure in the past.¹⁰ On 28 January 1988, ETA tried to conduct negotiation in Algeria and then declared ceasefire for 60 days which then known as Algiers Table. In November the government of Spain accepted the proposal and met all the political parties before the negotiation. In negotiation attempt an agreement was achieved, but it stopped before being implemented. Even though, the negotiation was failed but this meeting is a good sign that the conflict started to change the violence means into democratic way.

⁸ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

⁹ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

¹⁰ Kriesberg, L., Dayton, B. W. (2012). *Constructive Conflict: Escalation to Resolution Fourth Edition*. Maryland, USA: Rowman & Littlefield Publishers.

Three years later, ETA proposed “Democratic Alternative”. It was a peace proposal where ETA promised to stop the violence and any arm struggle if the government of Spain release all the ETA prisoner, give the right of self- determination for the people of Basque, and declares recognition towards the sovereignty of Basque country. The proposal was rejected by the government because it is considered as unsuitable with the Spanish Constitution of 1978.

After the rejection, ETA continued the violence. In 1995, ETA tried to murder José Maria Aznar (the leader of Partido Popular) by car bombing but it was failed. Another assassination was addressed to King Juan Carlos which was also failed. However, ETA’s killing attempt has not been stopped there. Two years later on 10 July 1997 Miguel Ángel Blanco was kidnapped and killed after government of Spain rejected to exchange prisoner between him with all ETA’s member in prison.

On 6 November 2001, ETA committed car bombing in Madrid that injured 65 people. Later, on 11 September 2001 USA issued a statement against the terrorist through increasing the coordination with international police and several “anti-terrorist” law (such as freezing terrorist bank account) which then also affecting ETA. The condition was even worse after in 2002 Jarrai (Basque nationalist youth movement) was outlawed by the government as well as Herri Batasuna (the “political arm” of ETA). The other mischance occurred on 24 December 2003 when two members of ETA was arrested while putting dynamite in Charmartin Station.

In this stage, even though violation still existed, but the amount of violation is decreasing. It can be seen from the distance of the use of violation and the number of casualties. ETA’s two murder attempts occurred in 1995 with no casualties, then it take two years for the murder with

one person killed in 1997, and take longer time for ETA did car bombing in 2001 with no one killed. So that there was only one person killed during 1995-2001.

Despite the changing process comes from the inside of adversaries, de-escalation also more and less as a result of third party support. There are several parties that support this conflict to be solved through peace way. From other state, the support of peace talk came from French. In the meeting between Felipe González (Spanish Prime Minister) and François Mitterrand (French Landes), French government criticized about dirty war and its impact and suggested peace solution. Another support also derived from the existence of a non-governmental organization was established in 1985 which is known as Coordinaro Gestopor la Paz de Euskal Herria (gesture for peace or Association for Peace in Basque Country). This is an independent organization that concern on peace and protection of human right especially on the right to express opinion. Gestoporla Paz active in was publishing the hidden violence issues. The article published is about data of the victims, chronology, and suspect related to political violence that caused by both, GAL and ETA as well as other parties such as MLNV (another separatism group). As the result of the awareness of both parties regarding the failure from the past and support from third parties the violation is decreasing and the negotiation attempt is increasing.

A good beginning of dispute settlement came after the President election in 2004. In August, ETA proposes a letter asking for possibilities to conduct a dialogue. Batasuna (patriotic left-wing party) responded it with launching a new political initiative that called as “*Now, the People, Now the Peace*” (*Anoeta proposal*) on November 14th.¹¹ The proposal is about the suggestion to conduct talks to solve the conflict. It was announced in front of more than 15.000

¹¹ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

people and got a good response from other parties. To realize that proposal, Batasuna then submitted an open letter urging the President, Rodriguez Zapatero, to “*do everything in [his] hands to take the political and armed conflict to a definitive overcoming phase*”.¹² In the next day, Zapatero responded with “*if, once and for all, the blasting sound of bombs and guns stops*”.¹³ This statement was a good sign to begin the peace process. ETA and government finally conducted in July, 2005 and agreed on Point Zero agreement.

To actualize Point Zero, Spanish government declared ceasefire as soon as the agreement signed and published. It is followed by ETA on 22 March 2006. ETA declared permanent ceasefire by sending DVD message to Basque Network Euskal Irrati-Telebista and the newspaper Gara and Berria.

However, the serenity did not last long. On May 14th ETA stated that negotiation process could not proceed. After that the ceasefire officially ended in 30 December 2006, when ETA committed car bombing at parking area of Madrid- Barajas Airport. It killed 2 peoples and injured 52 people. As response from the bombing, the President announced the discontinuation of the “peace process”.

That statement showed the end of the Point Zero agreement. The agreement which was signed by ETA and Spanish government has not yet entry into force. The peace agreement has stopped before enter into post conflict peace- building, the last stage of conflict stages.

Regime compliance is important to be discussed to examine a failure of a peace agreement especially to analyze the implementation process of an agreement. Theory about

¹² Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

¹³ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

compliance describe about why actors comply or do not comply the law.¹⁴ Theory about compliance describe about why actors comply or do not comply the law.¹⁵ Regime compliance is the willingness of the regime, or parties involved in the agreement, to comply or commit towards the agreement and the implementation process.

The importance of legal status toward the compliance mentioned by Christian Bell, “*treaties and international agreement are legally binding instrument with established enforcement mechanisms*”.¹⁶ It is also can be used as a tools to bring the case to the courts and tribunals once a regime broke the commitment (as the source of judgment process).¹⁷

Point Zero cannot be fully considered as an agreement under International Law. Under legal law Abbot and his colleagues describe the obligation as a constitute one, while actually there is also non-constitute obligation which is by using the existence of third party.¹⁸ The role of the third party is as the guarantor who can also increase the binding level of an agreement. However, in this case, the existence of mediator is just inside the discussion. It has never been brought into real action to appoint a country, an organization or a person to assist the implementation of Point Zero. Beside there is no realization, the discussion about the advisers or third party has never been announced publicly. It is then remain as private matters between representatives of ETA and Spanish Government in the meeting. It means that Point Zero also has no third party.

¹⁴ Zaelke, D., Kaniaru, D., Kružíková, E., (2005). *Making Law Work: Environmental Compliance & Sustainable Development*. London, England: Cameron May.

¹⁵ Zaelke, D., Kaniaru, D., Kružíková, E., (2005). *Making Law Work: Environmental Compliance & Sustainable Development*. London, England: Cameron May.

¹⁶ Bell, C. (2006). *Peace Agreement: Their Nature and Legal Status*. US: The American Journal of International Law

¹⁷ Bell, C. (2006). *Peace Agreement: Their Nature and Legal Status*. US: The American Journal of International Law

¹⁸ Abbot, K.W., Keohane, R.O., Moravcsik, A., Slaughter A.M., & Snidal, D. (2000). *The Concept of Legalization*. Massachusetts: The IO Foundation and the Massachusetts Institute of Technology

Since Point Zero agreement has no clear legal status the analysis will be focused on the other factors that can affect the compliance of an actor. Jean Arnault (2001) mentioned several important challenges that may influence the commitment of regime during the implementation process.¹⁹ When regime faces these challenges and cannot overcome it, then there is big possibility that the agreement will be broken from the disobedience behavior. The most basic challenge comes from misjudgment of the implementation capabilities of the parties. The capabilities here included the capability to commit or to find the perfect time for the implementation. Usually negotiators overestimate their ability during the negotiation while actually they cannot give as much as compliance they are promised in the agreement.

To avoid the effect of miscalculation, a cautious negotiator will review the content of the agreement or delay or reschedule the implementation. This condition might worsen the relationship among parties and between party and the society. The other party would probably interpret this as a lack of willingness to resolve the conflict. It may be seen as the action to avoid their responsibility to implement the agreement. The society also will be disappointed since they have a big expectation towards the agreement and it has been seen as the hope for the better future. The opinion of society is very important regarding to the successful of implementation of the agreement.

In the case between ETA and Spanish government, this obstacle is very influential to the success of the implementation of Point Zero agreement. Since before Point Zero was signed, there are several failed talk attempt, trust become a very sensitive issue during the agreement implementation either between the Spanish government- ETA and citizen- both adversaries.

¹⁹ Arnault, J. *Good Agreement? Bad Agreement? An Implementation Perspective*. Princeton, NJ: Princeton University, Center of International Studies. Retrieved from: <http://www.stanford.edu/class/psych165/Arnault.doc>

In accordance with Jean Arnault, Louis Kriesberg (1998) said that after the agreement reached, the negotiator will evaluate the outcomes.²⁰ It is usually happened when the form of conflict resolution is a win-lose agreement. This evaluation is used to measure the profit and loss of a party. According to Kriesberg (1998), an agreement will be long lasting if it completed two conditions which are stability and equity. He said “stability refers to the duration and degree of order and the prevention of renewed struggle. Equity refers to the degree of mutual acceptance of the outcome, particularly acceptance based on fulfillment of fundamental preferences of the membership on each side.”²¹ If one of the adversaries feel like the agreement is less- beneficial then it is more likely to this loser to not to comply.

When Point Zero achieved, the first step taken by the government is declaring ceasefire. After that, ETA also declared ceasefire on 22 March. However, on 29 March, Spanish government arrests Arnaldo Otegi, an influential leader of Batasuna. He then released after paying \$300,000 bail. Two other Batasuna leaders, Jose Petrikorena and Juan Maria Olano, were also jailed and have to pay \$240.000 of each person to be released.

On 5 April 2006, Spanish government banned project of Basque people to announce the plan about their future was banned by the government. The announcement was about the plan to build the Basque country with left-wing ideology.²² After that, Batasuna paid bails set by the National Court so the process would not be blocked.²³ It is so obvious that this action is breaking the second, third, and last point of the official ceasefire declaration by government,

²⁰ Glaser, T. Summary of Constructive Conflict: Escalation to Resolution. *Beyond Intractability*. Retrieved from <http://www.beyondintractability.org/bksum/kriesberg-constructive>

²¹ Kriesberg, L., Dayton, B. W. (2012). *Constructive Conflict: Escalation to Resolution Fourth Edition*. Maryland, USA: Rowman & Littlefield Publishers.

²² Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

²³ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

which are “*To tangibly reduce police presence – checkpoints etc. – as well as to stop police pressure regarding political activities of the patriotic left.*”, “*To accept de facto that the patriotic left-wing organizations shall be able to carry out a political life under equal conditions with the rest of the political and social forces, with no limitations in their civil or political rights.*”, and “*Not to carry out detentions through the Civil Guard, the National Police, the police force of the Basque Country, or the French security forces.*”.²⁴ It also broke the second point of the agreement which is “*That such decisions would be adopted without any violence or coercion, in **compliance** with norms and legal procedures, **respecting democratic** methods and the **rights and liberties of the citizens***”.²⁵ In this point mentioned that the decision that will be taken by the Basque people is based on the democratic principles. However, the government of Spain blocked the process of the decision making that will be announced by Basque people. It is clear that such kind of thing is breaking the right and freedom of Basque people.

Still in the same month, Arnaldo Otegi was sentenced for 15 months in prison arrested again for participating in commemoration of ETA leader in December 2003. On 18 April, activist of ETA, Ibon Meñika, also jailed.²⁶ When the National Court sends the leaders of ETA to prison, the tension is rising. Even though it is the government right to judge people who break the rule, but if looks from the reason of the indictment, this action is quiet questionable. The arrestment of Arnaldo Otegi in April 2006 was because of something happened three years before.

²⁴ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

²⁵ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

²⁶ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

These actions are showing the indication that government of Spain cannot commit towards Point Zero agreement. By arresting the adversary, the Spanish government pressure towards the opposition regime which means worsen the relationship between parties. Those actions done by the government also damaged the relationship between Spanish governments by blocking the decision-making process of Basque people.

The condition even worse when the Prime minister, Jose Luis Rodriguez Zapatero, conduct meeting with political parties regarding to the peace process and soon as the talk finished, the leader of major party PNV (Basque Nationalist Party), Josu Jon Imaz (2006) stated that ETA must dissolved first before multiparty talk began.²⁷ He said that based on the idea of “peace first, then politics”.²⁸ It means that if ETA has not disarmed, the negotiation cannot continue. Once again, on 19 May the Spanish National Court call 8 leaders of Batasuna to testify.

All of those facts proved that the government of Spain is cautious negotiator who tries to postpone the negotiation. The requirement about the legitimacy actually has been mentioned in the forth point of the agreement which is “*That in compliance with the resolution passed by the congress on May 17th, 2005, the government publicly stated that a dialogue process with ETA would be started, clearly pointing out the fact that political issues should only be solved through the legitimate representatives of popular will*”²⁹ However, it is then followed by the ceasefire statement, specifically in the third point which is “*To accept de facto that the patriotic left-wing organizations shall be able to carry out a political life under equal conditions with the rest of the*

²⁷ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

²⁸ Goodman, Al (2006, April 7). Three Basque leaders freed on bail. *CNN International*, Retrieved from <http://www.edition.cnn.com>

²⁹ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

political and social forces, with no limitations in their civil or political rights.”³⁰ That proof showed that the requirement said by Josu Jon Imaz is not relevant. These kinds of inconsistent behavior prove that the government of Spain is kind of cautious negotiator which means that they are lack of capability.

Due to the urgency of due date of state pact which is within 6 months after the ceasefire, as mentioned in the official ceasefire declaration, Zapatero then declared that the talk with ETA will be soon started to take a mutual agreement between parties. He also adds that Basque people have to make their decision under legal law. It is then followed with the agreement of PSOE to start talking with Batasuna.

When the relation among parties seems to get better, however in reality all the actions against Batasuna still continue, such as arrestment and police operation. This lack of commitment of government to stop the police force aggravates the relations with ETA. It is proved by the warning from ETA to stop the peace talks if Spanish government continues to violate the ceasefire declaration.

After that, on 29 June, Zapatero make a public statement declare that on July 1st the talk will be started, but it is only between PSOE and Batasuna. But, again, PSOE refuse to meet Batasuna until it is legalized. It is obviously, broken the third point of official ceasefire declaration by the Spanish government which clearly said that left-wing party have the same political right as other political parties and with no limitation. For so many times government has broken the guarantee.

³⁰ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

There are total 106 people were arrested by the government in Basque Country in about 9 months after the ceasefire declaration. The 33 of them were isolated and 2 people were reported to be tortured. 45 summonses for organizing political initiative and 53 political activities were blocked at that moment. Also, 227 people were judged in 75 courts in Spanish National Court and Section 14 of Paris High Court. Totally, €1,493,000 bail must be paid by Basque people to get back their right.³¹ These evidences showed that the government side has broken the second, third and fourth point of the official statement made by government which are about the absent of police pressure to the political activities, acknowledge that left-wing party must equally treated like other parties and also cessation of detention.

Those series of actions were really affecting the trust of ETA towards the government of Spain. It is then lead ETA to go back on using violation means. On December 30th, ETA created a car bombing in Barajas airport. The minister of interior, Alfredo Pérez Rubalcaba announced that the peace process was violated. This is then become the end of the implementation process of Point Zero.

All of those things are the evidence of how the government of Spain tried to postpone the implementation of the Point Zero. It is also seen as the effort which is done to avoid the responsibility to commit as well as to delay the implementation process.

When the Spanish National Court call 8 leaders of Batasuna to testify on 19 May, Batasuna announced that they will start talking with PSOE with two conditions. First, there must be guarantees that no action will be taken against them. And second is that they will not talk with PSOE until the Court declares the revocation of prosecution.

³¹ Zabalo, J., Aiertza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

This statement caused tension on the relationship between adversaries. There are two points of views to examine the whether or not the statement of Batasuna is wrong. If it is seen from the forth point of Point Zero agreement which is “*That in compliance with the resolution passed by the congress on May 17th, 2005, the government publicly stated that a dialogue process with ETA would be started, clearly pointing out the fact that political issues should only be solved through the **legitimate representatives** of popular will*”³² the requirement said by Josu Jon Imaz must be fulfilled by ETA.

Meanwhile, in the other point of view the statement of Batasuna is not a form of cautious negotiator since it is only used to respond towards the government behavior. If it is seen from the second, third and forth point that published by government after ceasefire, the refusal of ETA to continue the negotiation cannot be considered as a wrong step. The second point which is “*To tangibly **reduce police presence** – checkpoints etc. – as well as to stop police pressure regarding political activities of the patriotic left*” and the forth point which is “***Not to carry out detentions** through the Civil Guard, the National Police, the police force of the Basque Country, or the French security forces*”³³ can defend 106 people who were arrested by the government in Basque Country in about 9 months after the ceasefire declaration is made. It is also strengthen by the second point of Point Zero which is “*That such decisions would be adopted **without any violence or coercion**, in compliance with norms and legal procedures, respecting democratic methods and the rights and liberties of the citizens*”.³⁴ While about the legality of the party, it can be based on the third point of government statement which is “*To accept de facto that the*

³² ³² Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

³³ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

³⁴ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

patriotic left-wing organizations shall be able to carry out a political life under equal conditions with the rest of the political and social forces, with no limitations in their civil or political rights".³⁵ This statement clearly describes that government guarantee the equality of political right of left-wing organizations.

That kind of behavior of the government continued until 29 June, when the last talk attempt was rejected by PSOE. Looking at the situation, it was impossible to reach state pact to officially enable the declaration before the end of July which is should be the 6 months deadline. In response to all this failure, ETA blamed the attitude of political parties, especially PSOE and EAJ-PNV.

The last action taken by ETA before the peace process fully ended is the car bombing that done in Barajas Airport on 20 December 2006. The bomb caused 2 people killed and 52 people injured. This bombing attack is the form of abuse towards the second point of Point Zero agreement. In the second point, *"That such decisions would be adopted **without any violence or coercion, in compliance with norms and legal procedures, respecting democratic methods and the rights and liberties of the citizens**"*, clearly describe the prohibition of the use of violence and also respecting the right of citizen.³⁶ That car bombing is a form of the use of violence and the fact that there are casualties from the bombing is breaking the people's right to live.³⁷

It also breaking the permanent ceasefire that declared by ETA on 22 March 2006. That was not the first time ETA broke the ceasefire. Even though ETA blame the attitude of PSOE

³⁵ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

³⁶ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

³⁷ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

and EAJ-PNV who always trying to avoid the peace talk but the bombing cannot be consider as a right way to be chosen.

ETA should have been more careful with the term of legitimacy in Point Zero. Even though the government statement can be used by ETA as the base of their statement, Point Zero is more fundamental and stronger.

After discussing the capabilities of adversaries, the discussion will be continued to the political constrains that must be faced after the agreement achieved.

First, while leaders of each party start to compromise, their power to control the electorate is decreasing. So, it would be hard to control the electorate to gather to implement the agreement. Like what Arnault said, "*After the war, politically speaking, bipolarity wanes but multipolarity, not consensus, waxes.*"³⁸ It means when ETA and Spanish government started to blend, the electorate despair without consensus. The people are no longer supporting both sides so that it would be hard for the agreement to be implemented together by both ETA and Spanish government and the supporters of both adversaries.

There is no certain measurement that shows whether or not ETA and Spanish government are losing their power when they start compromising. For ETA, Point Zero brought a new hope for all the struggles they've done. The big possibility for them to achieve independency such as mentioned in the first point, "*That the Spanish government would respect the decisions that the Basque citizens freely make about their future*".³⁹ Rather than reducing the power, it seems like ETA is gaining back their cohesiveness. It can be seen from the demonstration held in Bilbao, on

³⁸ Arnault, J. *Good Agreement? Bad Agreement? An Implementation Perspective*. Princeton, NJ: Princeton University, Center of International Studies. Retrieved from: <http://www.stanford.edu/class/psych165/Arnault.doc>

³⁹ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

the 1st of April, which is initiated by Table for Dialogue and Political Agreement (Batasuna party, Aralar party, EA party, nationalist unions, and social forces). This political agreement was held to support the ETA permanent ceasefire declaration on 22 March 2006.

Another form of support can also be seen from the effort of Batasuna during October and November to create a meeting with three main political forces (Batasuna, the PSE, and EAJ-PNV) promoting the configuration of a dialogue to continue the peace process. Common understanding on the key elements of the conflict that try to be reached by three political parties is the right to decide and the territorial configuration of the country with the end of the division. Even though the meeting could not reached a final formulation but the effort of Batasuna to hold this meeting could be seen as a proof that the power of ETA to control the electorate did not decreasing.

While on the opposition side the agreement brought a positive effect regarding to the power of ETA, on the side of Spanish government there wasn't many changes. Even though there was no certain event clearly described the situation but things seem to run contrary.

Point Zero agreement was like affecting the power of the President towards the electorate (parliament/ political parties). It can be seen from the statement of the president of EAJ-PNV, Josu Jon Imaz, about the complete disarmament of ETA before peace process continue and the statement of PSOE that they would not have peace talk publicly before Batasuna was legalized. Those statements were opposing the previous statement of President Zapatero right after ceasefire declared on 17 May 2005 to guarantee the Point Zero implementation process. On the Zapatero announcement said, *"To accept **de facto** that the **patriotic left-wing organizations** shall be able to carry out a political life under equal conditions with the rest of the political and social*

forces, with no limitations in their civil or political rights". While President were putting efforts to manage peace process (such as: making statement after declaring ceasefire to support the Point Zero agreement (including the reduction of police pressure, giving an equality of political right for left-wing parties, and abolish detention from any military forces) and ordering PSOE to hold peace talk with Batasuna), the political parties on parliament were like avoiding the peace talk.

Those contradictory statements against the President statement proved that the power of government to control the electorate was reducing. The inability of Zapatero to synchronize their thoughts and actions, to support the will of President to stop the violation with peace attempts, showed how actually his power as the head of state was diminish.

The power of President to control those parties is really important during implementation process. When the President is less powerful then it will trigger the emergence other factors such as existence of "spoilers".

Refer to Stedman (1997) spoiler is "...leaders and parties who believe the emerging peace threatens their power, world view, and interest and who use violence to undermine attempts to achieve it".⁴⁰ In other word, spoiler is an organization, sector, and personal actor that oppose the content of the agreement.

In an agreement, one party must get more benefit than the other. There is no such agreement which bring an exactly equal solution that covers all the demand of all conflicting parties. The existence of the loser or the party who get less benefit from the peace is the source of the spoiler. Those who see that peace is not beneficial enough for them are likely to be spoilers.

⁴⁰ Stedman, S. J. (1997). *International Security: Spoiler Problems in Peace Processes*, Vol. 22, no.2, pp.5-53. Retrieved from: <http://www.jstor.org/stable/2539366>

Looking at the content of Point Zero agreement, from the first until the last point, all are making direction to ETA's goal. Since the first establishment, the main objective of ETA is the freedom of Basque people that refer to the establishment of a new sovereign state for Basque. The first until third point clearly mentioned about the approval of the government for the Basque people to decide their own future. It means that there is big possibility of ETA to create an independent sovereign Basque Country only by persuading the Basque citizens. The only requirement and limit which was emphasized in the agreement was no violation means used. The benefit from the agreement event strengthen with the statement that made by President after the ceasefire declaration.

In this state, Point Zero is so beneficial for ETA. So that it can be seen that there is no particular party within ETA who is trying to undermine Point Zero implementation. Therefore, it means that Spanish government is the side who get less benefit and likely to generate spoilers.

Like discussed in the previous point of political constrain, from the government side, there were two political parties who tried to undermine the implementation process of Point Zero. One form of unpleasant response of the spoiler was a statement said by Josu Jon Imaz, the leader of EAJ-PNV. When in Point Zero there is no actual sentence that mentioned about full disarmament, yet he made a new requirement for ETA to fully disarm before the peace process is continued. As the losing party, this statement can be interpreted as a form of obstacle that they give to revoke the unbeneficial agreement.

Another proof is the event when PSE mentioned about its unwillingness to hold an opened discussion with Batasuna before it is legalized.⁴¹ This can be considered as the attempts

⁴¹ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

to discontinue the peace process because it is such irrelevant statement. Right after ceasefire was declared by President Rodriguez, the president statements clearly mentioned on the third point of the declaration that left-wing party has the same equal political right without limitation as much as the right of other political parties.⁴² This statement was really suitable and supportive towards the third point on Point Zero about the responsibility of Basque political parties to organize the citizen opinion to find the final decision for Basque future. However, president statement and Point Zero that should become the fundamental thought of the actions taken regarding the peace process seems neglected by these spoilers.

This fact is in accordance with the characteristic of inside spoiler said by Stedman (1997) that the spoiler who directly involved in the peace agreement would likely to hide their motive to discontinue the unbeneficial process.⁴³ They will keep their good image by minimizing the use of violent as much as possible and use it as a tactic to deceive the opponent.

In the process of Point Zero implementation, the behavior of PSE and EAJ- PNV showed the characteristic of inside spoiler. Rather than using violence they try to push ETA to its limit by making such pressure. Such irrelevant statements were a form of tactic used to hide their motive to contra against Point Zero which is so unbeneficial for them. By avoiding the public peace talk with Batasuna, PSE tried to hide their unwillingness to implement the peace process. While actually those actions are the effort to push ETA to break the rule and make Point Zero failed.

The last factor of political situation that disturb the implementation process is occurred during the promotion of peace agreement. During that time, some communities or formations

⁴² Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

⁴³ Stedman, S. J. (1997). *International Security: Spoiler Problems in Peace Processes*, Vol. 22, no.2, pp.5-53. Retrieved from: <http://www.jstor.org/stable/2539366>

will help to promote the peace agreement to the people. However Arnault (2001) argued that in this step, it would tend to result the opposite effect.⁴⁴ While the pro- agreement parties try to persuade the people to join the peace process, they will likely to have problem with the people who oppose the agreement. A little pressure possibly would trigger the re- emergence of the movement.

It is so common that after the agreement was made, the condition will seems to be calmer but actually in this period the tension are not fully settled. The change of the condition make people stay in their awareness anticipating the unfamiliar changes. It is especially happened within those who feeling displeased with the agreement. They will anticipate the negative impact of the agreement. It is what makes the condition is in high tension and sensitive.

During the implementation of Point Zero, there was not many of help come from other party such as NGO or any formation. After both parties declared ceasefire, there are some support comes. A good response from the Basque society and politician can be seen from the arrangement of meeting held by Table for Dialogue and Political Agreement (Batasuna party, Aralar party, EA party, nationalist unions, and social forces) with more than 80,000 people participated.⁴⁵ There was also a result of survey from the Basque Country University's Eurobarometer that shows 90% of the Basque people continued hoping that peace would be consolidated in the next few years.⁴⁶ Those activities are a form of support and positive response but there is no big impact towards the agreement.

⁴⁴ Arnault, J. Good Agreement? Bad Agreement? An Implementation Perspective. Princeton, NJ: Princeton University, Center of International Studies. Retrieved from: <http://www.stanford.edu/class/psych165/Arnault.doc>

⁴⁵ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

⁴⁶ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

The only direct activity related to the implementation was held by the Batasuna on 5 April 2006 to promote the agreement and discuss the decision people would take regarding Basque future was banned. Fortunately it caused no re-emergence of conflict. Batasuna continued their effort by making dialogue with other political parties and else but using violent.

From international society, there were actually some attempts to support the peace process when there is crisis of trust during the implementation. First, support of international figure (such as Francesco Cossiga, Mário Soares, Cuauhtémoc Cárdenas, Gerry Adams, Kgalema Motlanthe, and Adolfo Maria Pérez Esquivel) urged both parties to eradicate the causes of the conflict and seek democratic solutions. Second, a declaration of the European Parliament also supported a negotiated solution. Also the last comes from The Friendship Group, formed by members of the European Parliament from different parties and countries in favor of a peace process in the Basque Country, helped to raise support within the European Union. All these progrese that called as Truce declaration was failed.⁴⁷

The failure of Truce declaration was caused by the violation towards the promises. After the declaration of Truce, there were 45 person summoned and 53 political initiatives banned. More over 106 people arrested since the ceasefire declared in March, which 33 were being in jail and 2 were reported being tortured, and 227 people were judged in 75 trials in both, Spanish National Court and Section 14 of the Paris High Court.

This failure then came as trigger of the re-emergence of the violent movement. ETA who was already agreed on the permanent ceasefire is back to violence means. On 30 December 2006,

⁴⁷ Zabalo, J., Aiartza, U. *The Basque Country: The Long Walk to a Democratic Scenario*. Berlin: Berghof Conflict Research

ETA committed car bombing at parking area of Madrid- Barajas Airport. It killed 2 peoples and injured 52 people.

So, it can be concluded that Point Zero was failed because of the lack of regime in term of legal law and third party existence, the inability of Spanish Government and ETA to calculate their compliance towards Point Zero, the power reduction of Spanish Government to control its electorate, the existence of “spoiler” and the high tension during the implementation that cannot be handled by ETA and Spanish Government were affecting their compliance towards Point Zero. This compliance issue then led to the ending of Point Zero.