
GIBRALTAR



FULL TEXT OF AN ADDRESS

BY THE

CHIEF MINISTER OF GIBRALTAR

THE HON P R CARUANA

TO

THE UNITED NATIONS

COMMITTEE OF 24

29 JUNE 1998

Mr Chairman,

I am grateful for the opportunity once again, to address the Special Committee, on behalf of the people of Gibraltar whom I have the honour to serve as Chief Minister that is, the leader of their elected Government. I am accompanied once again, by my Deputy Chief Minister, Peter Montegriffo and by Mr Ernest Montado who is the senior Civil Servant in the Gibraltar Government. Also with us is Mr Perry Stieglitz director of the Gibraltar Government's office in Washington.

You are all aware of the basic facts. Gibraltar is a British Overseas Territory (previously known as Dependent Territories and before that as Colonies) located at the southern extremity of the Iberian Peninsula in Europe. It is located in the Straits of Gibraltar directly opposite the Spanish enclave of Ceuta in North Africa. Gibraltar was taken by the British from the Spanish in 1704. Subsequently it was ceded by Spain to Britain in perpetuity by the Treaty of Utrecht of 1713 and several subsequent Treaties. It has been British ever since, that is 294 years.

Over those 294 years a population has established itself in Gibraltar and developed into a unique people with their own very strong culture, characteristics and identity. They are the Gibraltarian of today. We enjoy a very large measure of self government. We govern our own affairs, through our elected Government except in respect of external affairs, security and defence. Before 1704 Gibraltar had been Spanish for 266 years in two periods between 1300 and 1704, that is 266 years out of 400 years. But before that it had been Moorish for 727 years between 711 to 1462.

Spain's position is also well known. She maintains that because Gibraltar was taken from her by the British in 1704, therefore Gibraltar is still Spanish territory and the people of Gibraltar have no rights over their homeland and certainly no right to self determination. Spain regards Gibraltar as a bilateral issue between Britain and Spain and expects Britain, our administering power, and you for that matter, to deny Gibraltar the right to self determination.

The people of Gibraltar who have established themselves in Gibraltar over a period of 300 years find this Spanish position incomprehensible. How long does it take to acquire the rights given to colonial people by the Charter of the UN? Other ex colonial peoples have exercised the right to self determination after a much shorter tenure, for examples the USA, Australia, Canada, New Zealand, and all the Caribbean countries. All these countries were once colonies – like Gibraltar. Why should the colony of Gibraltar be any different? We are no less indigenous than the peoples who exercised the right of self determination in those and many other counties. Why should the colony of Gibraltar be the only one in respect of which historical acts of 294 years ago need to be analysed to assess the merit of the claim to self determination of their inhabitants? How can recent fundamental concepts of human rights, democracy, the charter and covenants of the UN – all be tossed out of the window – in favour of a unique attempt to re-write the consequences of our history of 294 years ago. The people of Gibraltar cannot comprehend how such an argument can be entertained. The rights of people on the eve of the 21st Century cannot be sacrificed to a desire to reverse the wrongs of 300 years ago!

In the past Spain has attempted to discredit the view that we are a people worthy of recognition. There have been incessant and in the main unfounded allegations of involvement in drug smuggling, money laundering and environmental bad practices; that we are nothing

more than displaced persons, camp followers of a foreign military base on its territory, with an unviable and lecherous economy. These things are simply not true. Nor would they be relevant to the issue of self determination even if they were true.

Gibraltar has a thriving, self sufficient economy. We welcome 6 million tourists a year. We operate one of the most strictly regulated offshore financial services centres in the world. Our port operates one of the worlds most strategically located ship repair facilities and is the biggest bunkering port in the Mediterranean. We are rapidly expanding into new areas of manufacturing and telecommunications activity. Only last week I inaugurated in Gibraltar Europe's most modern wine bottling plant.

The fast dwindling British military presence in Gibraltar constitutes no more than about 6 percent of our economy.

Mr Chairman, if the truth of what I am saying about Gibraltar and its people, were not verifiable I would run the risk that some people might think that I have painted an exaggerated and inaccurate self service picture. But it is verifiable. I can do no better than to repeat the invitation that I extended to you two years ago for the members of the Committee to visit Gibraltar and see and assess it for themselves. Everybody that does so leaves with the conviction that the people of Gibraltar are truly worthy of the right of self determination.

During previous years I and my predecessors in office, have reviewed and rehearsed before you all the political and legal arguments that demonstrate the existence of our inalienable right of self determination, contrary to the unsubstantiated and anachronistic contentions of the Kingdom of Spain.

And so we have shown how the principle of territorial integrity (upon which Spain relies) has no application to the case of Gibraltar, since we are not seeking to secede from Spain, indeed we cannot secede from Spain, because we are not part of Spain. We have also shown that, in any case, there is no recognised principle of retrocession of territory in the context of decolonisation. Indeed, we have shown how the International Court of Justice has ruled that, even where there is a territorial dispute, the freely expressed will of the people remains the very sine qua non of all decolonisation. Similarly we have shown that it is settled international law and UN doctrine that in the process of decolonisation there is no alternative to the principle of self determination and that this applies to all Non Self Governing Territories, without exception. The International Court of Justice has so ruled. Gibraltar is such a Non Self Governing Territory. It is on your list of Non Self Governing Territories.

In seeking from you a clear recognition of our right to self determination we do not disregard such obstacles, difficulties and practical limitations as may exist to the exercise of those rights. But such practical obstacles and difficulties in the exercise of the right cannot prejudice the existence of the right itself. Numerous UN Resolutions and Covenants establish this principle.

The people of Gibraltar are seeking to achieve decolonisation through the modernisation of our constitutional relationship with the UK in a manner that will result in a non colonial situation, although retaining political and constitutional links with Great Britain.

Decolonisation in the manner proposed, or any other, will not of course put an end to the Spanish sovereignty claim and its lamentable consequences. That is quite different and

distinct to the issue of the existence of our right to self determination. The existence of that claim cannot curtail, still less extinguish, our rights.

We do not seek to turn our backs on Spain. She will always be our neighbour. She is part of the EU with us. She should be a natural friend and ally to us. And we want and seek that friendship. But Spain has no formal role in our decolonisation nor can she have any such role. Our future status is a matter exclusively for the administering power, the UK and the people of Gibraltar who have the right to freely and democratically choose their status, in exercise of that right to self determination. However it would obviously be our preference that we could thereafter live in harmony side by side with our neighbour, Spain. For that reason it would also be our preference, within the parameters that I have stated, that our future status, as well as being freely acceptable to the people of Gibraltar should also be one with which Spain was content to co-exist.

I have made clear my willingness, indeed I actively seek to meet with Senor Matutes, the Spanish Foreign Minister to hold dialogue in an attempt to break the sterility of the current impasse. There is much to talk about. Such dialogue must attempt to take the historical tension and mistrust out of the relationship, it must seek to bring about mutual co operation and good neighbourliness in economic, environmental, social, cultural, judicial and law enforcement matters. In such dialogue we shall be able to acknowledge our respective positions and differences on many issues that divide us. But more importantly, we shall be able to explore the possibilities for a new and better relationship between us.

Senor Matutes has recently signalled the Spanish Government's agreement that such a meeting should take place. Indeed this is referred to in this year's General Assembly Working Paper on Gibraltar. We applaud that and hope that recent delays in fixing an appropriate date will not prevent the meeting taking place soon. That is my wish. I stand ready, willing and able to meet Senor Matutes on any date convenient to him.

The Principle of Consent

The underlying principle being increasingly accepted in many seemingly intractable problems around the world, is the principle of democratic consent. This is the main feature of the recent historic agreement relating to Northern Ireland.

On the 10th December 1997 the Spanish Foreign Minister delivered a paper to his British counterpart which, apart from a statement of the traditional unacceptable Spanish position, contained the following ground breaking statement referring to the British Government's commitment not to transfer sovereignty of Gibraltar contrary to the wishes of the people of Gibraltar. (I translate from the Spanish text, as follows):

“However, it not escape us that this commitment constitutes an objective obstacle in the solution of our problem given that, as a democratic state we cannot conceive the obtention of a solution to the problem of sovereignty which is imposed by force upon the wishes of the citizens of Gibraltar who would find themselves affected by a new situation of sovereignty.”

This new statement of adherence by Spain to the principle of consent, whilst falling considerably short of recognition of our right to self determination, is nevertheless a most welcome first step in the right direction. A step and a direction which are the inevitable

consequence of Spain's credentials as one of the leading democratic states of Europe. Spain cannot preach democracy to the world, as port of her own conviction and that of the EU, and deny it in its most basic manifestation to the council people of Gibraltar on her very doorstep. The people of Gibraltar have watched in disbelief as they have seen the Kingdom of Spain espouse adherence to the highest quality of democratic principles in the conduct of her internal and external affairs, yet apparently willing to pursue the recovery, after 294 years, of a territory in Western Europe against the wishes of that territories people – the right of self determination. On the eve of the 21st Century it is not possible to aspire to 18th Century solutions just because the problem was cased in the 18th Century. People, especially colonial people, have acquired inalienable rights since the days of the 18th Century!

And so, in welcoming the adherence by Spain to the principle of consent, I have to say that it must follow that that consent must be exercisable freely, and once exercised must be respected. It cannot be exercised under duress or under the effect of actions intended by Spain to coerce a particular objective. Sincere adherence to the principle of consent means that Spain must allow Gibraltar to develop freely and without constraint politically, economically, socially, culturally and in every other respect. This is not consistent with Spain's continuing policy of isolating Gibraltar.

There are numerous examples of this continuing policy of pressure. Primarily within the EU Spain continues to try and block any measure which has the effect of confirming the separate existence of our administrative and jurisdictional system and thus impedes our development. Communications between Gibraltar and Spain remain constrained at the land frontier and totally blocked with regard to maritime and air links. And, of course, Spain seeks to prevent any further constitutional advancement for Gibraltar in what should be a natural process of greater self Government.

These measures are not consistent with the principle of consent. You cannot say that you respect someone's right to consent and then bludgeon him until he gives his consent to what you seek from him.

My point is, I think illustrated by a statement made by Senor Matutes in November last year to the effect that if Gibraltar did not fall into line with Spanish aspirations, Spain would progressively "tighten the screws on Gibraltar". Such action would not only be a flagrant breach of Spain's obligations under the Charter and Covenants of the UN, but indeed would deprive of genuine meaning and sincerity the stated adherence to the principle of democratic consent as contained in Senor Matutes document of 10 December 1997.

In looking at a framework for a possible solution to the dispute over Gibraltar, Senor Matutues speaks of the changing concept of sovereignty in Europe as power is devolved from the individual nation state to the European Union and is also decentralised to autonomous regions or provinces. He draws particular attention to Spain's credentials today as a democracy in marked contrast to the dictatorship of the 1960s.

In this context, Senor Matutues offers the Gibraltarians self-Government and the preservation of its separate judiciary, provided hate is agreement for transitional Anglo-Spanish co-sovereignty ending with a transfer of sovereignty to Spain. In other words, the Gibraltarians can continue to govern themselves, enjoy their freedoms and exercise their jurisdictional competence on condition that they accept an eventual transfer of sovereignty to Spain.

Mr Chairman, I entirely agree with, and accept, the analysis that Western Europe is now a place where, increasingly, the concept of State sovereignty is being transformed within a supra-national framework. But that is a reason for not pursuing claims relating to obsolescent forms of sovereignty. And we also live in an age where, in effect, state sovereignty should only be legitimate if supported by the will of the people. The fact that democratic Spain now accepts the principle of consent by the people of Gibraltar clearly underscores the point.

What I therefore cannot accept, or understand, Mr Chairman, is why Senor Matutes should qualify his proposals in conditioning the exercise of self-Government in Gibraltar to the transfer of sovereignty to Spain. Why is it that Gibraltar can exercise self-Government and jurisdictional competence, without external threat or pressure, only if it were under the Spanish flag or, in a transition under both the Spanish and British flags? Surely, it is also incumbent on anyone who adheres to the principle of democracy to respect such democratic rights and credentials now. The position of the people of Gibraltar is that they do not wish to accept Senor Matutes proposals. Spain should accept this expression of democratic will. It took the people of Gibraltar many years, much effort and sacrifice, to achieve the existing level of self-Government from the administering power. We have already succeeded in removing most of the features of colonialism. We want to go further and complete that process. That is why we are pursuing a modernisation of our Constitution. Why should we surrender that objective and instead accept a different form of limitation on our constitutional development under the sovereignty of another country?

Mr Chairman, Senor Matutes may not be fully aware of the level of self-Government that Gibraltar already enjoys and he may therefore genuinely regard his proposal as generous. But they are not. Firstly, we already enjoy a higher level of de facto autonomy than the autonomous regions of Spain. Secondly we cannot regard as generous an offer that requires Gibraltar's sovereignty to be held by a country to which the people of Gibraltar do not have political allegiance and of which we do not therefore wish to form part – even though we do seek their friendship.

Mr Chairman, Senor Matutes' proposals are not new proposals. They are very similar to proposals which were submitted by Spain in 1984. As we said when they were made public in December of last year, they are not acceptable to the people of Gibraltar.

However, what may be new is the spirit in which the proposals have been retabled. If there is such a new spirit that may enable us to work towards a better understanding and relationship.

It is clear that in every process of better understanding it must be the wishes of the people that prevail. The mechanism of a Referendum in Gibraltar would always remain the best way of determining the wishes of the people of Gibraltar now and at any point or points in the future.

Mr Chairman, this is my third annual address to you. My predecessor in office as Chief Minister of Gibraltar made four annual addresses. For seven years now we have been coming twice a year to New York, once to address this Special Committee, and again in the autumn to address the Fourth Committee. In addition we have been participating in both the Pacific and Caribbean Regional Seminars organised by this Committee.

Year after year we have brought our case to you and last year I pleaded with you for a clear recognition of our inalienable right to self determination. I also urged to you to support the right of the colonial people of Gibraltar to a properly structured process of dialogue in which we

have our own, separate voice. You have responded to neither of our requests. The result was the passage by the Fourth Committee, with your recommendation, of the same old, annual, now tired, consensus resolution between the UK and the Kingdom of Spain calling for a continuation of the sterile and fruitless bilateral dialogue between UK (the Administering power) and Spain (the third party claimant). Gibraltar will not take part in such dialogue. To take part in purely bilateral dialogue between Britain and Spain in which Gibraltar does have a proper and separate voice is to acknowledge the Spanish argument that the people of Gibraltar have no rights in their homeland which, Spain's says, is nothing more than a piece of Spanish land in British occupation. We cannot go along with that and we will not do so.

With respect, this Committee does not exist to rubber stamp arrangements agreed to bilaterally between the administering power and a third party territorial claimant. The Committee exists to help, and to promote and protect the rights of, the people of the Non Self Governing Territories. Whilst other organs of the UN exist for the seeking of consensus between rival claimants, this is not so of this Committee. This Committee exists exclusively to declare and uphold the rights of Non Self Governing Territories and their people to self determination and to assist them to exercise those rights.

We will not give up. How can we? The people of Gibraltar have dignity and full confidence in their rights and aspirations. How can such a people sell out their own, and their childrens birthright and fundamental human rights. The people of Gibraltar will never do this.

I therefore urge you to be imaginative. I urge you to demonstrate what the Special Committee is for. I urge you to demonstrate to the sceptics and to its critics that this Committee is not spend and continues to have a vital role to play in respect of the remaining 17 territories on its own list of Non Self Governing Territories. And I therefore ask you to break out of the sterile mould of recent years and the bankrupt text of the current form of the so-called "consensus resolution". That consensus does not include the people of Gibraltar whose rights and wishes you have a sacred trust to uphold. On behalf of the people of Gibraltar I therefore call on you to declare the inalienable right of self determination of the people of Gibraltar and not to endorse or recommend any resolution which does not recognise that right and also the right of the people of Gibraltar to a separate voice at any talks relating to their homeland.

Thank you, Mr Chairman