



FULL TEXT OF AN ADDRESS
BY
THE CHIEF MINISTER OF GIBRALTAR
THE HON P R CARUANA QC
TO
THE UNITED NATIONS
COMMITTEE OF 24

(Check against delivery)

4 JUNE 2003

Mr Chairman, distinguished Members of the Committee, my name is Keith Azopardi, and I am Deputy Chief Minister of Gibraltar. I deliver, this speech on behalf of the Chief Minister, Peter Caruana, who is unable to fly due to illness. There have been many developments during the last twelve months relating to Gibraltar about which I must inform you.

First, Mr Chairman, may I congratulate you and the Committee for an apparently successful Regional Seminar in relation to the Caribbean Territories in Anguilla the week before last. I did not, on this occasion, attend because the format was modified to focus on the Caribbean territories. On the occasion of previous seminars, although held regionally, the agenda and structure has been global throughout the seminar, thus allowing representatives from territories in other regions a full participation. I hope that future seminars will revert to the previous format, as otherwise territories such as Gibraltar, that are neither in the Caribbean, nor in the Pacific, will have no seminar forum in which they can have that degree of participation as will allow meaningful focus on their case.

In our absence, brother Chief Ministers and other representatives of other UK non-self governing territories spontaneously took it upon themselves to defend with vigour the right of Gibraltarians to self-determination. I wish to record here the profound gratitude of the people and Government of Gibraltar to them for having done so. It must stir the sentiments of distinguished Members of the Special Committee to witness the spirit of brotherhood and solidarity between colonial peoples from such physically distant countries.

Particularly badly received by those at the Seminar was the Spanish representative's assertion that his Government would not allow the C24 – as provided for in UN Resolutions – to visit Gibraltar. This was described by participants as indefensible.

And indeed, Mr Chairman, it is indefensible. The Spanish representative described such a visit – which I have repeatedly invited and urged the Committee to undertake – as an “interference”. An interference in what? That remark and position is an affront to the mandate, work and responsibility of this Committee. How can a visit by the Committee to a listed Non-Self Governing Territory be an interference? The only part interfering in the work of the Committee is Spain.

The real reason, of course, why Spain does not want the Committee to visit Gibraltar is that she does not want the Committee to see the reality of Gibraltar and its people. Spain's position and arguments here at the United Nations are frequently articulated by reference to statements and allegations about Gibraltar which are false, propagandistic and bear no relationship to the truth and reality of Gibraltar, its people, its society, its economy, its infrastructure and its unique and indisputably separate identity. If the Committee came to Gibraltar and saw for itself the reality of Gibraltar, Spain's arguments would be blown out of the water, and exposed for the factual and argumentational fraud that they are.

I have invited you to visit Gibraltar because Gibraltar has nothing to hid and because my arguments are based on fact and reality. Spain does not want you to visit Gibraltar because she has much to hide about her stance over Gibraltar.

Gibraltar is a listed Non-Self Governing Territory and is therefore part of your mandate. You have every right to visit Gibraltar, and it is none of Spain's business if you do. How long is Spain to be allowed to shelter behind false arguments to have her way in the UN over Gibraltar?

Accordingly, I once again on behalf of the Government and people of Gibraltar invite and urge you to visit Gibraltar. Given that the UK has allowed the Caribbean Seminar to take place in the Non-Self Governing Territory of Anguilla and given also that at the Anguilla Seminar the UK Representative said that the UK would agree to such visits following invitations issued by the territorial Authorities, she cannot have any objection to your visiting Gibraltar. If the UN will not provide the funding for the visit, the Gibraltar Government will pay. And if you do not wish to accept the Gibraltar Government's funding, funding could be raised from the people of Gibraltar in a street collection in one hour, such is the Gibraltarian's plea and enthusiasm for justice to be done to us, to our case and to our rights and aspirations as a people.

Mr Chairman, as a signal to you of the unity that exists in Gibraltar on these issues, I have agreed with the Leader of the Opposition that we shall jointly move a motion at the next meeting of our parliament rectifying the invitation that I have just extended to you.

Mr Chairman, year after year we come here to put our arguments, to no apparent practical effect. No-one appears to address our arguments. The same ineffectual resolutions are adopted each year. I mean no disrespect either to the Committee or to any distinguished representative that may not agree with my arguments. But our frustration is borne out of a sense that the agreed position of UK & Spain, and their weight at the UN, operate to shut out an objective consideration of our case by the Committee.

Passionate as I am in the conviction that our arguments are correct, and while I acknowledge that I am not entitled to acceptance of them simply because I expound them (which Spain is not entitled to either), we are surely entitled to a review and objective consideration of the arguments that we put.

Passionate as I am in my conviction that our case is watertight in international law, no one will agree to seek an advisory opinion from the International Court of Justice. We urge it, and Spain (and probably also the UK) refuses. Why? What does she have to hide and fear if she is a confident of her case as she pretends and asserts? Is it that she knows that she is wrong and that Gibraltarians are being bullied out of legal rights that belong to them as a people but which we lack the power to secure?

Passionate as I am in the conviction that you are systematically being misled about the factual reality of Gibraltar and its people, I cannot persuade the Committee to visit Gibraltar. Spain objects. Why? What does she have to hide?

And so, our collective frustration as a people is borne out of the fact that our arguments are not addressed; the position in international law of our case will not be tested; and the true facts relating to Gibraltar and our worthiness as a people to enjoy and exercise the right to self determination will not be independently verified. Why? Whose interests does this lack of transparency serve? Certainly not those of the Committee nor of the people of Gibraltar whose decolonisation is your mandate and sacred trust to promote in accordance with international law and justice.

I urge the Committee to throw open the windows of the Gibraltar case, to let into it light and fresh air and truth. I urge the Committee to establish a seminar or working group specifically on the Gibraltar case. If necessary we will fund it; I once again urge the Committee to visit

Gibraltar and I once again urge the Committee to recommend the Fourth Committee that it seeks an advisory opinion from the International Court of Justice on the Gibraltar case.

Mr Chairman, the whole of Spain's case to deny to the people of Gibraltar our inalienable right to self determination enshrined in the Charter and in your mandate is based on a wholly false and unsustainable premise, namely, her assertion that under UN Doctrine Gibraltar must be decolonised, not by the principle of self determination but by the principle of territorial integrity.

Similarly, (and as she did in Anguilla) the Spanish Representative haunts and pesters every drafting session to ensure the inclusion of the words "Any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter".

Mr Chairman, this is a wholly spurious argument. There is, in UN doctrine, no such thing as the principle of decolonisation by the application of the principle of territorial integrity. You yourselves acknowledge this when you declare that in the process of decolonisation there is no alternative to the principle of self determination. Therefore if you are talking about territorial integrity you cannot, by definition, be talking about decolonisation and this Committee is concerned only with decolonisation. So, for how long is Spain to be allowed to shelter behind a distortion and misrepresentation and a misapplication of UN Doctrine?

Mr Chairman, General Assembly Resolution 2625 (xxv) of the 24th October 1970 makes it perfectly clear that the principle of territorial integrity (which is to ensure that Self Determination is not used to break up states through secession) has no application to the case of Gibraltar's decolonisation.

The Resolution says that decolonisation can only be brought about "having due regard to the freely expressed will of the peoples concerned".

More importantly still it clarifies, in detail and specifically, what is the correct interaction of the principles of self determination and territorial integrity. Referring to the principle of self determination, the Resolution says:-

"Nothing in the foregoing paragraphs shall be construed as authorising and encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of equal rights and self-determination of peoples and described above and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour".

Mr Chairman, the important words are that for the principle of territorial integrity to displace the principle of self-determination the objecting state must be "possessed of a Government representing the whole people belonging to the territory." Mr Chairman, not even Spain claims to be possessed of a Government representing Gibraltar. Spain is not possessed of such a Government. Gibraltar has its own Government, of which I am the Chief Minister, and to the extent that we do not enjoy a full measure of self Government, the Government powers that are not exercised in Gibraltar by the Gibraltar Government are exercised by the Government of our Administering Power, the United Kingdom. In any event, not by Spain or

the Spanish Government. She cannot therefore properly invoke the principle of territorial integrity.

And so, Mr Chairman, when I say that there is no correct basis for Spain invoking the principle of territorial integrity, this is not a self serving, hair brained argument that I have conjured up. It is the doctrine of the UN, as set out in that General Assembly Resolution. And, if despite the clarity of the issue, Spain still thinks that I am wrong, then let her submit to the judicial scrutiny of the International Court of Justice. That's what it's for! But of course, she won't, because I am right and she knows it. But that is not a good reason for the UN to humour Spain's untenable and indefensible assertion to the contrary! In the light of such doctrine, how can the Committee continue to allow Spain to abuse that principle to deny us our rights, without even challenging or investigating its application?

And so, Mr Chairman, to the events of the last twelve months. When I addressed the Committee last year in June I reported that Spain (the territorial claimant) and UK (our Administering Power) were engaged in bilateral negotiations with the stated objective of a joint sovereignty solution. That is joint sovereignty between them! I told the Committee that Gibraltar was totally opposed to such an agreement, because Gibraltar did not want Spanish sovereignty, because joint sovereignty far from eliminating colonialism perpetuates it, and because the very notion of a bilateral Anglo-Spanish in principle agreement about Gibraltar's future violates and betrays our rights as a colonial people to self determination.

I also told you that in March last year practically the entire population of Gibraltar took part in a public denouncing the principle of sovereignty deals between UK and Spain against our wishes.

The Gibraltar Government, with the help and support of many groups in Gibraltar, has orchestrated and conducted a massive political campaign internationally to focus attention on our plight. I have conducted hundreds of speeches at every forum imaginable. We have spent millions of pounds on political advertising and publicity campaigns, we staged a mass demonstration. The result was that we were able to secure massive and overwhelming support in the UK Press, from British Trade Unions and Business Organisations alike, in the UK Parliament and among the UK public at large, culminating in the receipt of 750,000 letters of support from the UK public alone, and in the publication by the House of Commons Foreign Affairs Committee of a Report indicating and condemning the UK Government for its actions and policy towards Gibraltar. We also received massive support from all over the world. We are enormously proud of the way a small country such as ours, with very limited resources, has been able to fight its political corner, peacefully, with dignity, but effectively.

Despite this on the 11 July last year, 4 months after the demonstration and 1 month after my address to you, the British Foreign Secretary, Jack Straw MP, made a formal statement to Parliament in London. In it he said that, although there was no overall agreement yet, the UK and Spain were nevertheless in broad agreement on many of the principles that should underpin a lasting settlement. The first such agreed principle was that Britain and Spain should share sovereignty of Gibraltar.

Mr Chairman, this statement of British Government policy represented a complete defiance of the known will of the people of Gibraltar as expressed frequently up to that moment in many ways, not least by the mass demonstration of 18th March.

Mr Chairman, as a direct response to Mr Straw's statement in Parliament on 12 July, the Gibraltar Government organised its own referendum. The Referendum was convened by the Gibraltar Government and was ratified, and conducted in accordance with rules approved by the Gibraltar Parliament unanimously. The voter Registration process and the voting process itself was conducted by those that do so for general parliamentary elections. The campaign, registration process, voting process and counting process was observed by an eminent team of international observers chaired by Gerald Kaufman MP and including 13 UK MP's, representatives of the Commonwealth Parliamentary Association, leading UK Trade Unionists, leading UK Journalists and the UK Electoral Reform Society.

The question asked was this:-

"On the 12th July 2002 the Foreign Secretary Jack Straw, in a formal statement in the House of Commons, said that after twelve months of negotiations the British Government and Spain are in broad agreement on many of the principles that should underpin a lasting settlement of Spain's sovereignty claim which included the principle that Britain and Spain should share sovereignty over Gibraltar.

Do you approve of the principle that Britain and Spain should share sovereignty of Gibraltar?

Answer: YES

NO

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The total number of registered voters was 20,675. 18,176 votes, representing a turnout of 88% were cast. 187 voted yes (representing 1.03% of the valid votes cast) 17,900 (representing 98.97% of the valid votes cast) voted no.

I attach to this Speech by way of Special Report to the Committee a copy of the following Reports relating to the Referendum:-

- (1) The Referendum Administrator's Report dated 27th November 2002; and
- (2) The Report, dated December 2002, of the Panel of International Observers.

Mr Chairman, Spain's response to our Referendum has been to describe it, for reasons known only to her, as "illegal". I assure you Mr Chairman, that there was nothing illegal about our referendum under the laws of Gibraltar.

The UK Government's response (for which it has been universally condemned in the UK) was to describe it as a premature, local initiative and an "eccentric waste of money".

Mr Chairman, in a statement to the Fourth Committee on 4th October 2002 (5 weeks before the referendum) the UK Representative told the Fourth Committee that the UK & Spain had agreed the principle of co-sovereignty, which she described as "a historic agreement". In the very next sentence the UK said, in relation to our referendum that "There will be no proposals on the table on which to vote. In these circumstances it is not clear what purpose this referendum will serve."

Mr Chairman, the purpose of the referendum appears to have been crystal clear to everyone other than the British Government. In July the British Government issued a statement to the effect that they had agreed the principle of joint sovereignty. In our referendum we therefore asked a single question: Do you approve the principle of joint sovereignty? 99% voted "NO". The purpose of the Referendum was therefore crystal clear, and it was achieved, namely, to make it clear to HMG that the core principle of its proposed agreement was not acceptable to those very people that the UK says must consent to any change. In short, to deprive the joint sovereignty policy of democratic legitimacy.

Mr Chairman, on 7th November 2002 the UK Parliament's Foreign Affairs Committee (a Committee with a government party Chairman and majority) roundly condemned the position and attitude of the British Government. It published a long and comprehensive Report on Gibraltar in which it:-

- (1) Concluded that the British Government was wrong to negotiate joint sovereignty, when there was no prospect that any agreement on the future of Gibraltar which included joint sovereignty could be made acceptable to the people of Gibraltar; and
- (2) The Committee flatly rejected the British Government's description of the referendum which as I have told you was to describe it as an "eccentric and rather expensive idea to tell us what we already knew." The Committee observed that it is a curious notion of democracy that the British Government should agree to the principle of joint sovereignty, but should not give the people of Gibraltar the chance to accept or reject this principle, because it already knew that they are opposed to it. The Committee said that it was therefore quite understandable that the Gibraltar Government should have decided to hold its own referendum. The Foreign Affairs Committee also recommended that the British Government should take full account of whatever view the people of Gibraltar might express in the referendum.

Mr Chairman, we were not voting for or against a proposal. We were voting for or against the principle upon which it was intended to formulate such a proposal.

Mr Chairman, in the UK Representative's Statement to the Fourth Committee on 4th October 2002, she also said that the principle of Gibraltarian consent, and an eventual referendum, are central to the British Government's approach, and that the people of Gibraltar must decide by referendum on the acceptability of any eventual comprehensive proposal package.

Mr Chairman, this limited application of the right of consent is not the same as respecting our right to decide our own future. The intended objective by UK and Spain is that they will enter into an agreement or Declaration of Principles in which Britain concedes to Spain the principle of Joint Sovereignty. At that point our right to self determination will be betrayed, undermined and effectively denied for all time. When the UK says that we will have the right to decided she means only that no detailed, agreed proposals will be implemented or consummated in practice without our consent. But the Bilateral Declaration of Principles between UK and Spain (including the political joint sovereignty concession) would survive any Referendum rejection which prevented practical implementation of any detailed agreement based on those principles. The Agreement of Principles would thus stand for all time between UK and Spain, determining, defining and limiting our rights, even if we reject practical implementation in referendum.

And that is why we called our Referendum. Because otherwise we would never have had the chance to express our views on the durable principles of any bilateral Anglo-Spanish Agreement of Principles.

We believe that full respect for our political and democratic Rights as a people to decide our own future also requires UK and Spain, determining, defining and limiting our rights, even if we reject practical implementation in referendum.

Mr Chairman, despite the clarity with which the people of Gibraltar have spoken in our Referendum and regardless of the clarity with which the House of Commons Foreign Affairs Committee has criticised the UK Government, the latter has not altered course. Even though the negotiating process appears to be stalled, the UK Government continues to declare that its position remains as set out in the 12th July statement, i.e. agreement on the principle of joint sovereignty and intention to continue to try and seek broad agreement based on that principle.

Mr Chairman, if you still doubt my analysis that the UK's own prospective referendum will be limited only to practical implementation and not the principles agreed, ask yourself this question. What is the point of proceeding to try and reach an agreement of principle on a basis that you know is unacceptable (by a margin of 99%) to the very people whose consent you say is required?

And so, Mr Chairman this brings me back to this Committee's position and actions in relation to Gibraltar. I have urged you over the years, without success, to stop calling for UK & Spain to carry on bilaterally trying to settle their differences over Gibraltar. That formula of works "Their" differences does not accommodate the political rights and wishes of the people of Gibraltar themselves. I have urged you to insert a specific reference to respect for the wishes of the people of Gibraltar, to ensure that we have a primary voice in any discussions about our country and to recognise our right to decide our own future.

The political future status of Gibraltar can only be the product and result of the exercise by the people of Gibraltar of our inalienable right to self determination. It cannot be the result or product of a desire by others to settle by compromise Spain's anachronistic Sovereignty claim, at the expense of our right to self determination. And it is this failure to recognise that the sole factor is our rights and wishes as a people and not the existence of Spain's sovereignty claim and its resolution, that is responsible for the impasse. But it is not an impasse that Gibraltar can or should be expected to break at the expense of our political rights as a people.

You may know how UK and Spain wish to settle their differences. By sharing the sovereignty of my country between them. You know that 99% of the people of Gibraltar reject this. Mr Chairman, this Committee must look to its mandate in that decolonisation declaration and to its proper interpretation. Your doctrine is that in decolonisation the only applicable principle is self determination. Accordingly, unless the Committee sees its mandate as that of refer in a sovereignty dispute between UK and Spain, it must, I would submit with profound respect, better and explicitly recognise in its actions and statements on Gibraltar the rights and wishes of its people. I regret to have to say that the Committee itself may be encouraging the view that sovereignty disputes override and negate the right to self determination. For example, your Seminar conclusions now regularly say that the Special Committee should implement a case by case work programme, but only in cases where "there is no pending sovereignty dispute".

These, and other conclusions, which do not reflect the sentiment of the Non Self Governing Territories and experts participating in the seminar, are put in, at the drafting Committee phase, under extreme pressure (which I have personally witnessed) from Spain and Argentina. They are not the conclusions and recommendations of the Seminar at all. Where, for example, does it say in the Anguilla conclusions and recommendations, that participants were highly critical of Spain's objection to the Committee visiting Gibraltar.

And so, in conclusion, Mr Chairman, it must be clear to everyone that Gibraltarians will not roll over and allow their political rights and aspirations to be trampled on. Like all other UK Non Self Governing Territories we are intending to proceed with a process of Constitutional Reform and Modernisation which will take us to that level of self Government which will justify our delisting. But, Mr Chairman, it is vital that no territory be delisted unless it is done following an act of self determination by its people, namely a referendum.