

Address by
The Chief Minister of Gibraltar
Hon Fabian Picardo
to the
UNITED NATIONS'
SPECIAL COMMITTEE ON DECOLONISATION
(THE 'C-24')

*This speech is dedicated by the Chief Minister to the memory of Mr David Eade,
political journalist, Socialist and friend.*

New York

Monday, 16th June 2014

Mr Chairman

As you know, Gibraltarian leaders have been addressing this Committee – in hope of your assistance – since 1963.

That is over half a century of putting our argument for recognition of our right to self determination and – in parallel - of desiring peaceful co-existence with our neighbour, Spain.

After my address last year your distinguished predecessor, His Excellency Snr Diego Morejon-Pazmino replied to my reference to this Committee's continued silence on the issue of Gibraltar.

He said that my suggestion that the Committee was failing on Gibraltar's decolonisation was unfair and that you have to adhere strictly to UN mandates, "not on your sympathies for one side or another."

Sr Morejon-Pazmino recognised that perhaps there was a need to review how the Committee went about its work, but he said it must be done through the proper UN procedures. "We can't improvise," he said.

Well, I can confidently tell you Mr Chairman that you certainly have sufficient jurisdiction to start assisting us as you are required to do by Articles 73 and 74 of the Charter and the Declaration on the Granting of Independence to Colonial Countries and Peoples Adopted by General Assembly resolution 1514 (XV) of 14 December 1960 and the rest of the underlying resolutions.

Every year we come here and remind you that these oblige you to act to protect our right to self determination in delisting our nation.

Every year we have addressed every part of each one of the documents that deal with delisting and decolonisation in erudite and learned speeches from my distinguished predecessors.

But - every year - instead of seeing ourselves protected by you; instead of seeing you support us in making progress we continue to be treated by your Committee under successive Chairmen to a deafening silence.

I sincerely hope you will seek to change that impasse, Mr Chairman.

Because you must make no mistake : The sound of this Committee's silence resonates through the generations of Gibraltarians who have been denied their right to emerge from the de jure colonialism that we have long ago escaped from de facto.

The sound of your silence speaks to an organisation no longer fit for purpose; no longer able to discharge the functions for which it was established in a harder but much more

idealistic world in the exciting times that have seen the numbers of people living in listed territories reduce from 750m to just over 2m.

That is this Committee's success, Mr Chairman; and also – in the 2m of us that remain - its failure.

Because perhaps most disappointingly, the sound of your silence is a siren call to those who wish to thwart the founding principles of the Charter and the Declaration in a pernicious attempt to create a new doctrine of international law that treats territories subject to a sovereignty dispute in a way that is different to those that are not.

Terrifyingly, what that is designed to do is to do away with the inalienable legal human rights of the 2m who remain in listed territories – exactly the people whose circumstances present the hard cases for whom such principles are created.

And the fact is that Gibraltar's case would have been resolved and our nation delisted long ago in keeping with the Fourth Option for decolonisation if it were not for the Spanish Government's repeated attempts to block it.

Mr Chairman, Spain is a nation that has politically transformed everything about itself in these 50 years EXCEPT for its attitude to Gibraltar.

You MUST be very wary, Mr Chairman, of a nation of 48m people with a territorial extension of OVER HALF A BILLION SQUARE KILOMETRES that expends as much energy as Spain does in order to seek to colonise our beloved 6 square kilometres; the home of the 30,000 Gibraltarians.

The crux of the matter is the Spanish Government's unsustainable insistence that although Gibraltar is in their view definitely a colonial territory, the Gibraltarians are not a colonial people able to avail ourselves of the rights and protections available to such peoples in the Charter and in other principles of international law.

That argument is of course factually and legally fatally flawed at so many levels it almost isn't worth spending time countering it.

But it is worth pointing out that it is actually jurisprudentially entirely contradictory for the Spanish Government to come to this Committee to ask you to approach the decolonisation of a "non-self governing territory" as if all that mattered was the status of the land in question.

The fact is that the very principle underlying the rules and norms created to govern decolonisation are not rules of international conveyancing.

They are not rules that relate to title to the territories as pieces of land.

They are rules designed to protect what are described in terms in the Charter, the Declaration and resolutions as inalienable rights of colonial peoples.

These are therefore rights that relate not to territories but to the people that inhabit them.

It should therefore be clear to the Spanish Government that the issues being considered in this Committee on decolonisation are exclusively the rights in personam that are the personal rights attaching to the people of each of the territories on the list.

And we – the Gibraltarian people - are undeniably a colonial people by dint of the fact that we are THE non-self governing population of the territory that is listed.

Full stop.

Because even the very categorisation based on whether a territory is or is not “non-self governing” is clearly a reference to the social and communal structure of governance of the people of such a territory.

The rug on which the Spanish Government’s argument is based is that the territory and the people of Gibraltar are somehow divisible from each other.

Yet, once included on the list of non-self governing territories – as we were 68 years ago in 1946 – the land and the people of each of the territories become indistinct from each other; joined forever as the people exercise their in personam rights over the territory over which they are the only ones granted rights in rem by the Charter, the Declaration and the resolutions.

The moment of crystallisation – in which colonial people and territory are forever legally fused as one - was the moment in 1946 that the UK listed us and the UN accepted us on to the list.

In other words: What UN public international legal doctrine has joined in protection of the rights and wishes of the colonial people, no third state can now put asunder.

Because you as a Committee are set up as guardians of the rights as a people to self determination. You are not a forum for the prosecution by any third parties – such as Spain – of their irredentist territorial claims.

For that reason, LET US BE CLEAR MR CHAIRMAN, what you do NOT have jurisdiction to entertain is Spain’s assertions and claims over our territory.

Yet that is what you actually do!

And any time spent trying to invent new doctrines about sovereignty disputes being relevant to your work will never result in any new rule of international law that might somehow allow Spain a back door towards the sovereignty of Gibraltar.

I will in any event put it more simply than all that:

This committee is not established in the hierarchy of the United Nations or in international law as a body competent or empowered to resolve territorial disputes.

It is the International Court of Justice that is there for that.

But – as you know and we have repeated ad nauseam – the Spanish Government's bravado has never extended to elevating the territorial matters they boldly argue before you to the ICJ.

You should tell them to do so.

Because, as the distinguished Honourable Joe Bossano told you in Fiji last month during the successful decolonisation seminar, the Spanish arguments of 1964 and those of 2014 actually differ in nothing at all.

The Spanish Government haven't moved on.

But the Gibraltar ship has sailed.

And Spain needs to work that out, deal with it and move on.

Even in physical terms we are now seeing the same problems at our frontier with Spain as we saw in 1964.

At that time Spain started imposing restrictions at the international frontier between our nations as part of the stated policy of trying to strangle us economically.

In 2014 – fifty years later and now despite the fact that we are both part of the European Union – they use the same trumped-up excuses to impede traffic flow across the frontier.

These are de facto economic sanctions which force thousands of Spanish workers to queue for hours before returning home after a hard day's work in Gibraltar.

In a letter from the Deputy Chief Minister, Dr Garcia (who accompanies me today), we have informed this and the 4th Committee of Spain's actions and the repeated illegal incursions of her state vessels into British Gibraltar Territorial Waters in breach of the United Nations Convention on the Law of the Sea.

Spain makes mothers, children, the old, the infirm queue for hours as a result of unnecessary sporadic pedestrian controls.

There is no possible justification for their actions; despite even the most exaggerated concerns about the arbitrage in price in respect of some commodities.

Gibraltar also suffers from undeclared imports; but all our controls are proportional and designed to avoid causing nuisance to people crossing the frontier between our nations.

In taking disproportionate action, Spain stifles business, damages trade and embitters human relations; she manages to make family life fraught with stress for those who have to cross the frontier to work or just to see loved ones.

Almost every day we see Spanish state vessels of its navy or Guardia Civil making illegal incursions into our territorial sea – something which is worse now than it was 50 years ago!

I have no doubt that, one day, a more modern Spanish administration will look back on such behaviour with deep regret.

Indeed, such measures do nothing to enhance the reputation of Spain in seeking temporary membership of the Security Council.

So let us look at what it is you can do to help us under the Charter, the Declaration and the resolutions.

Well, Mr Chairman, you do have jurisdiction to visit Gibraltar; the rules allow you to do that.

The United Kingdom, the “Administering Power” under your quaintly outdated nomenclature, has invited you.

We, the colonial people have repeatedly invited you.

But you have not come.

If you want to be able to say to me and the people of Gibraltar that you are at least doing what you have power to do; at least come to visit Gibraltar.

You also clearly have jurisdiction as a UN NGO to opine or seek an Advisory Opinion on the progress towards a sufficient measure of self-government of the people of each territory.

We have previously left copies of our 2006 Constitution with this Committee.

But you will not answer our repeated call for an opinion on whether that Constitution delivers to us a sufficient measure of self government short of independence so that we might seek to freely determine and consolidate our status under that Constitution as being our choice of tailor made Fourth Option for decolonisation as introduced by General Assembly Resolution 2625(XXV) of 24th October 1970.

You have power to do that. We ask you to do so.

But you neither opine nor do you seek an advisory opinion.

So the words of your predecessor as Chairman last year after my intervention that you “do what you can” are demonstrably untrue.

It is obvious that there is much more you can do to help us which you are not doing.

This year we are holding a symposium on Self Determination after the summer. You have an obligation to promote that right in the non-self governing territories.

So I hereby formally invite you Mr Chairman to attend and speak at our symposium and in that way promote the right in Gibraltar.

If you are not available, we will welcome anyone from the Secretariat or any other representative of the Committee to attend and – if you wish – also to speak.

Separately, I also invite you to organise your next seminar, so successfully held this year in Fiji again, in Gibraltar.

If you have already agreed a destination for the next seminar, make it the one after that.

But do come.

Don't let Spain, that has no rights it can assert before you put you off doing the things that you are empowered to do.

But don't cower away from us. We don't bite!

And if you don't do any of these things that you can do, then there is the evidence that you are wholly failing the people of Gibraltar, failing to fulfil your obligations under the solemn, sacred trust under which you are established.

Indeed, I put it to you Mr Chairman, that you are even failing the Kingdom of Spain with your continued inaction.

You see if you at least told them that they cannot use this Committee to seek to advance their predatory claim, that they should take it to the ICJ if they believe in it, they might finally move them on from their untenable position.

That is why we are crystal clear in explaining our position.

We say clearly that Gibraltar will never be Spanish.

We say clearly that we do not seek to be wooed for an eventual take over that would amount to a re-colonisation.

No amount of wooing will ever persuade us to surrender our right to our land or will ever make us forget the way in which we have been treated for over half a century.

But we also say clearly that this does not dampen our desire for a mature, productive and mutually beneficial dialogue as neighbours.

We seek to respect Spain and to be respected by Spain as a friendly and permanently distinct neighbour who can work closely with our large neighbour to the North as we already seek to do with our similar neighbour to the South.

Indeed, Mr Chairman, these are auspicious times in Spain. This week, a young Spanish Prince with an international education will become King.

To Felipe the Sixth of Spain, Gibraltar offers a hand of friendship and respect as neighbours and supporters of democracy.

This new Head of State must know that we seek only peace, understanding and co-operation.

Let us never fall for the negative, destructive force of futile and purile nationalism which feeds no-one but the dinosaurs who prefer to re-run the long lost battles of yesterday.

Let us prioritise dialogue. We remain strongly committed to the TRILATERAL process of dialogue, as the United Kingdom has also repeatedly said it is.

Let us grab opportunities for such dialogue in a manner that does not compromise any attendant party.

Foreign Secretary Hague of the United Kingdom has been imaginative in seeking to avoid the pitfalls of lateralism by proposing a parallel ad hoc dialogue on matters of mutual interest, where the parties present would be those with relevant Constitutional competences.

Alongside our call for dialogue, Mr Chairman, this Committee should support the people of Gibraltar in all our endeavours in seeking our final delisting.

Support us with the things that are in your power: a visit; attendance at our symposium; organisation of one of your next seminars in our territory; or even by seeking – at last - an Advisory Opinion from the ICJ on our right to self determination .

Support us because THAT is what you are created to do – or tell us why you won't without pretending that you can't.

ENDS