



GIBRALTAR

THE RIGHT TO SELF-DETERMINATION

FULL TEXT OF AN ADDRESS

BY THE

CHIEF MINISTER OF GIBRALTAR

THE HON J J BOSSANO

TO

THE UNITED NATIONS

FOURTH COMMITTEE

9 OCTOBER 1995

CHIEF MINISTER'S ADDRESS TO THE FOURTH COMMITTEE AT THE UNITED NATIONS ON MONDAY 9TH OCTOBER 1995.

1. Mr Chairman, it is a privilege to have the opportunity of addressing the Fourth Committee on the occasion of the Fiftieth Anniversary of the United Nations. It is an opportunity which enables me to demonstrate that the history of my country and its people has formed part of the U.N.'s own 50 year history.

2. When the Charter was drafted in 1945, Chapter XI highlighted the importance of the rights of the peoples of the Non Self-Governing Territories. I appear before you to claim the protection of these rights for my people.

3. Under Article 73, Members responsible for colonial territories accepted, as a sacred trust, the obligation to promote to the utmost the well-being of the inhabitants of these territories. To this end, they accepted the obligation to develop self-government and to take account of the political aspirations of the peoples.

4. When you consider the question of Gibraltar, the issue that you have to consider are our rights and our aspirations - not outdated territorial disputes.

5. In 1946, Gibraltar was inscribed as an administered territory with its own separate population as provided for in Article 73. The U.N. was then one year old.

6. On the UN's eighteenth birthday - in 1963 - the recently created Committee of 24, accepted Gibraltar as one of the colonial territories with its own distinct people to whom Resolution 1514 (XV) fully applied.

7. At that point in time, the people of Gibraltar staked their claim to the right of self determination. In the ensuing 32 years of the 50 year life of this organisation, we have been demanding recognition of our inalienable rights. This we are entitled to demand, not just of the administering power, but of the 185 members, who today make up this Assembly, including the Kingdom of Spain.

8. In 1948, the Universal Declaration of Human Rights established the fundamental character of self determination. This was subsequently reflected in the International Covenants of Human Rights which states that the right to self determination is universal.

9. Mr Chairman, when the United Kingdom ratified these Covenants, it extended them to all its dependent territories including the people of Gibraltar.

10. Equally, the Kingdom of Spain, on ratifying the Covenants, did not enter any reservation on its applicability to Gibraltar. I remind the Committee, of Article 1 which requires that:

"The States Parties to the present Covenant including those having responsibility for the administration of non self-governing and trust territories shall promote the realisation of the right of self determination and shall respect that right in conformity with the provisions of the Charter of the United Nations."

This is an obligation placed primarily on the administering power, but not exclusively. It is an obligation that is binding on the United Kingdom, on the Kingdom of Spain and indeed on every State that ratifies the Covenants.

11. Following my last appearance before your Committee in 1994, I addressed the Committee on Economic, Social and Cultural Rights. In paragraph 9 of its Report:

"The Committee notes the concern expressed to it about the situation of Gibraltar in relation to the right of self determination, recognised in Article 1 of the Covenant and calls upon all parties to the existing situation to ensure full respect for all the rights recognised in the Covenant in relation to the future development concerning Gibraltar."

12. This observation, Mr Chairman, fully accords with the view that I have just expressed about the nature of this obligation on all the signatories.

13. No Resolution of the General Assembly can - as Spain claims - create a doctrine which deprives a particular people of a universal, inalienable human right. By definition, Mr Chairman, if human rights could be set aside by resolutions of the General Assembly, they would be neither inalienable nor universal.

14. Of all the peoples that the U.N. requires should be decolonised - only we the Gibraltarians - have had our right to self determination questioned. Yet, no other people can claim as long a pedigree in the struggle to achieve recognition of this fundamental right.

15. Mr Chairman, my people fully subscribe to Resolution 46/181 declaring the International Decade for the Eradication of Colonialism. Article 2 declares that the ultimate goal of the Decade is the free exercise of the right of self determination by the peoples of each and every remaining Non Self-Governing Territory. We are one of those remaining Non Self-Governing Territories and we demand to be treated the same as the rest.

16. That Resolution adopted the proposals contained in the Annex to the Report of the Secretary General as a Plan of Action for the Decade. No Government of any other non self-governing territory has been as committed, as active and as involved in co-operating with the U.N. in the fulfilment of the Plan, as my Government has.

17. Last year's Resolution on decolonisation, 49/89, required that the Committee of 24 carry out, during the 1995 Session, a mid-term review of the Plan in the context of the commemoration of the fiftieth anniversary.

18. My Government supported and welcomed this initiative and actively participated in the deliberations of the Seminar in Trinidad and Tobago.

19. It proved to be an excellent venue for exploring possible forms of decolonisation. It gave all of us who took part, an opportunity to explain our own situation. It enabled us to look jointly with members of the Committee of 24 at the broad spectrum of options open to Non Self-Governing Territories. It also highlighted the crucial point that whatever options were open to us, these had to be on the basis of the exercise of self determination. All of this is fully reflected in the conclusions and recommendations which have been circulated to members of this Committee.

20. Members will have seen that by Recommendation 17, the Seminar,

"Notes the request of Gibraltar that the Special Committee give consideration to the relevance of Article 10 of the Treaty of Utrecht of 1713 as regards the available options in respect of this particular non self-governing territory and suggest that this request be considered by the Special Committee."

21. Mr Chairman, this request was considered by the Special Committee in July this year. In my address to the Committee, I concentrated on the need for the Special Committee to give consideration to this matter.

22. Why is this so important? Because, the administering power claims, it is the only constraint on the full recognition of the Gibraltarians right to self-determination.

23. My Government is totally convinced that this is not a sustainable argument. I have said so repeatedly to the Government of the United Kingdom; before your Committee; before the Special Committee; and, before the Committee on Economic, Social and Cultural Rights.

24. Let me remind the Committee what the General Assembly requires by operative paragraph 5 of Section 2 of the Action Plan.

25. It says that the United Nations, in co-operation with the administering powers, should ensure that the peoples of the Non Self-Governing Territories are kept fully aware of the political status options available to them through increased direct contact with their elected leaders. I am the elected leader of the people of Gibraltar. The U.N., Mr Chairman, is supposed to be acting so that my people are fully aware of the political status options available to them.

26. What are these political status options available to us? Or is it that we have none? If we have no options, what are we supposed to be considering? It is certainly not an option for decolonisation, if what we have is the choice of being a colonial possession of London or Madrid.

27. It is for this reason that I appealed to the Committee of 24 for guidance on this matter. It is for this reason that the Gibraltar position was reflected in the recommendations of the Trinidad and Tobago Seminar. There is a clear need to establish once and for all, the relevance, or otherwise, of Article 10 of the Treaty of Utrecht of 1713. It is for this reason that I now ask you to authorise the Committee of 24 to seek an advisory opinion from the International Court of Justice.

28. Mr Chairman, as required by the Plan, we, in Gibraltar, have continued to publicise the UN role on Decolonisation. This year, we symbolically included in our National Day activities, the issue of a special coin commemorating the 50th Anniversary of the UN. We have continued to gain support in UK, in Spain and in other countries for Gibraltarian self-determination. Additionally, we provide full coverage on public TV of all my UN appearances so that our people can follow events first hand.

29. On the very day of the Fiftieth Anniversary Celebrations we formally launched in London the Association of British Dependent Territories jointly with the other Non Self-Governing Territories. This initiative was warmly welcomed at the mid-term review Seminar and is reflected in paragraph 16 of the Report.

30. As in previous years, we have got the National Day booklet and National Day video of this year to distribute to the distinguished representatives of the Member countries of the United Nations, from which it will be evident how conscious the people of Gibraltar are, of the drive for self determination and for decolonisation.

31. Through our own activities in this area and through the warm relationship we enjoy with the Committee of 24, we have fully met the level of involvement welcomed by them and reflected in paragraph 109 of their Report of October 1994 where it states:

"Bearing in mind the affirmation by the Assembly that the direct association of the non self-governing territories in the work of the United Nations and the specialist agencies is an effective means of promoting the progress of the peoples of these territories towards a position of equality with State Members of the United Nations, the Committee also recommends that the Assembly should continue to invite the administering power to allow the representatives of the territories concerned to participate in the discussions in the Special Political and Decolonisation Committee, the Fourth Committee, i.e. this Committee and in the Committee of 24 in items relating to their respective territory."

32. This is why I am here today. This is why I have appeared before the Committee of 24 since July 1992. This is why my people have got such faith in the U.N. It is precisely in this forum where the concept of equality constantly surfaces. But equality, sad to say, Mr Chairman, is totally absent from the draft Consensus Resolution before you. Far from being treated as an equal, the Resolution treats us as if we do not exist.

33. This is at Spain's insistence. I invite this Committee to analyse Spain's reasoning.

34. Last year, Spain's Foreign Minister referred to my country by saying:

"This General Assembly has clearly established the doctrine whereby the decolonisation of Gibraltar is not a case of self determination but of the restoration of the territorial integrity of Spain".

35. We, the people of Gibraltar totally reject this; we do not accept that it is the doctrine of the General Assembly but rather the doctrine of the Kingdom of Spain. And I now propose to demonstrate the origin of this alleged doctrine.

36. Mr Chairman, the text of the Resolution on the question of Gibraltar this year is predictably identical to that of previous years.

37. It is a Consensus text which we the people of Gibraltar reject. It recalls the 1984 Brussels Statement and urges the UK and Spain to continue their negotiations in the light of the relevant United Nations Resolutions. A similar Resolution has been approved every previous year going back to 1986.

38. In 1985, however, the Consensus Resolution contained a significant difference. It described the Brussels negotiating process as that foreseen in the Consensus Resolution approved by the General Assembly on the 14th December 1973. I emphasise this fact. What was this Consensus Resolution which is the basis of the Brussels negotiating process?

39. That Resolution, in 1973, called for negotiations between the two Governments for Gibraltar's decolonisation taking into account Resolution 2429 (XXIII). In support of this, in 1973, Senor Pinies, representing the then fascist Government of the Caudillo of Spain, General Franco, described the Resolution as reflecting what he labelled "the Doctrine of the United Nations for the decolonisation of Gibraltar".

40. This, Mr Chairman, is the source from which Senor Solana, the Foreign Minister today of a democratic Spain, draws his inspiration and bases his premise about the doctrine of the U.N. on the question of Gibraltar.

41. Since 1946, we the Gibraltarians have been accepted at the UN by virtue of Article 73 as a separate people in our own right. This land of which you talk in your Consensuses is our land and no-one is going to take it away from us.

42. The negotiations called for took account, as I have said, of Resolution 2429 (XXIII). This had requested the administering power to terminate the colonial situation in Gibraltar no later than the 1st October 1969. A call which was interpreted by the fascist regime in Spain as requiring the United Kingdom to hand me and my people over to them, ignoring our right to self determination.

43. It also regretted that the administering power had failed to comply with an earlier one, Resolution 2353 (XXII), which rejected the 1967 Referendum held in Gibraltar. It invited the Governments of Spain and the United Kingdom to resume without delay negotiations, to put an end to the colonial situation.

44. Mr Chairman, we the people of Gibraltar reject Resolution 2353 (XXII) on three main grounds.

45. First, by singling out the principle of territorial integrity and by referring to the disruption of national unity, the Resolution was capable of being interpreted as an endorsement of the Spanish claim to sovereignty over Gibraltar.

46. Secondly, a Resolution which appeared to condemn a free consultation of the wishes of a colonial people was without precedent for the Fourth Committee of the United Nations.

47. Thirdly, the Resolution flaunted the requirements of Chapter XI of the Charter and it would have been scandalous if the fate of the Gibraltarians were to be settled over their heads contrary to their declared wishes. Yet that is what the Resolution required.

48. We deplore the fact that a number of the delegates allowed their votes, at the time, to be determined not by the merits of our case; nor by a paramount concern for the wishes of our people; nor by the principles of the Charter; but by irrelevant and extraneous considerations which had no connection whatsoever with the question of Gibraltar.

49. For all these reasons that I have stated Mr Chairman, we reject that Resolution 2353 (XXII) as unworthy of the United Nations and a disgrace to this Committee.

50. Strong words, you may say, Mr Chairman. I have to tell you they are not mine. If the members of this Committee care to go back and check their records, they will find that I have quoted, verbatim, the reaction of the United Kingdom representative, Lord Caradon in this Committee, to the passing of that Resolution, in December 1967. Every subsequent Resolution that is capable of interpretation as a reaffirmation of this so-called doctrine is also unworthy of the UN and a disgrace to this Committee.

51. Gibraltar's decolonisation can only happen using the established mechanisms and procedures envisaged in the Action Plans which the General Assembly endorsed in 1980 and 1991 for the remaining non self-governing territories.

52. I draw the attention of the Committee to the Action Plan of 1980, adopted in Resolution 35/118, by which, the General Assembly in operative paragraph 5:

"Categorically rejects any agreement, arrangement or unilateral action by colonial and racist powers which ignores, violates, denies or conflicts with the inalienable right of peoples under colonial domination to self determination and independence."

53. I submit, Mr Chairman, that the Brussels Agreement referred to in the Consensus Resolution before you is such an agreement. Spain insists that the Brussels negotiating process denies us, the Gibraltarians, our right to self-determination. They are co-sponsoring this Resolution on the premise that their view is shared by the United Kingdom. This clearly constitutes an agreement between the two of them, in flagrant breach of Resolution 35/118. The Brussels Agreement, in the words of the Resolution, ignores, violates, denies and conflicts with the inalienable rights of a colonial people, the Gibraltarians, to self determination.

54. For as long, therefore, as Spain maintains that it is the doctrine of the General Assembly to deny my people self determination; for as long as that doctrine is claimed to be the basis of the Brussels Statement and its negotiating process, my people and my Government will fight that process every inch of the way.

55. We have already seen how the Committee of 24, after three years of direct dialogue with the people of Gibraltar, has acquired a new perspective on the question of Gibraltar, and understands the aspirations of my people better now, than in the preceding twenty eight years. We expect to see a similar response developing also in the General Assembly with more Members coming round to the view that the colonial situation in Gibraltar is no different, from that in any other part of the world.

56. In time, we also hope to see a change in the attitude of the Kingdom of Spain.

57. I look forward with particular interest this year, to the contribution in this Committee of the Presidency of the European Union of which we Gibraltarians are citizens.

58. Last year, Germany had this to say:-

"The European Union confirms its support for the principle of self determination and for actions consistent with the Charter aimed at the elimination of colonialism, irrespective of the geographical location and population size, of the remaining non self-governing territories."

59. As I have said, I look forward to hearing Spain, who hold the Presidency this year, repeating the same commitment to self determination for all peoples which includes us the Gibraltarians.

60. The 1980 Action Plan was revised in 1991 calling for certain new steps to be taken. My Government is fully committed to working closely with the organs of the United Nations in adhering to those revised objectives.

61. Section 2 of the 1991 Plan identifies the areas in which the UN should take action as a matter of priority. I offer the full support and co-operation of my Government in bringing about this recommended action.

Operative Paragraph 8 requires that:

"The Secretary General or his special representative should visit each of the non self-governing territories as early as possible during the decade and report thereon to the General Assembly."

62. I therefore now formally issue an invitation to the General Secretary or his representative to visit Gibraltar at the earliest possible date and report thereon to the General Assembly.

63. Operative paragraph 7 requires that the review of the situation in the territory should be carried out by the U.N. in consultation with the administering power and the Government of the territory in order to arrange for the holding of a self determination Referendum as soon as possible but not later than the 31st December 1999.

64. My Government is fully committed to the holding of such a Referendum on self determination, supervised and organised under the auspices of the U.N. Mr Chairman, unless, and until, we are told that neither the protection of the Charter nor the provisions of the Resolutions on the Eradication of Colonialism apply to us, we look to you and to your Committee to stand by the people of Gibraltar.

65. Your Excellencies, in putting the case of my people, I have relied on the logical arguments of the technical procedures of this Organisation. In finalising my appeal for your support, I can do no better than to ask you to reflect on the words of His Holiness Pope John Paul II when he addressed the General Assembly here last week, as they apply to the question of Gibraltar. His Holiness said:

"The UN Organisation needs to rise more and more above the cold status of an administrative institution and to become a moral centre where all the nations of the world feel at home and develop a shared awareness of being, as it were, a "family of nations"."

I ask you, is there no place in this family for the Gibraltarians? How can we emerge from colonialism and take our rightful place in the family of nations? Again, I quote from the address of His Holiness:

"There can be historical circumstances in which aggregations different from single state sovereignty can even prove advisable, but only on condition that this takes place in a climate of true freedom guaranteed by the exercise of self-determination of the peoples concerned."

Ladies and gentlemen, I rest my case.

66. Mr Chairman, thank you once again for this opportunity and I will be happy to answer any question any member may wish to put to me.