

STATEMENT BY THE GSLP/LIBERAL OPPOSITION - 62/2007 - 6 June 2007

GIBRALTAR

THE RIGHT TO SELF-DETERMINATION

FULL TEXT OF AN ADDRESS

BY THE

LEADER OF THE OPPOSITION THE

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TO

THE UNITED NATIONS

COMMITTEE OF 24

5TH JUNE 2007

Madam Chair, Your Excellencies,

The committee will no doubt have studied the conclusions and recommendations of the Grenada Seminar which provided fully interactive debates on the issues that concern this committee and the road map for the Eradication of Colonialism, to which we are fully committed.

I wish to follow up on what was achieved in Grenada by developing further some of the concepts we discussed.

One controversial issue was **not** resolved at the seminar, and has been referred to the full committee.

The annual conclusion which said "...in the process of decolonization, there is no alternative to the principle of self-determination, which is also a Fundamental Human Right," was changed in 2004 by inserting words that limit its application to those N.S.G.T's where there is no dispute over sovereignty.

In this committee, in past seminars, members such as India in 1995 and Indonesia in 2002 have made their position clear, namely that self-determination is the only way to bring about decolonization. Nothing has happened since to justify a change in this position.

I will not repeat the arguments I used in Grenada to show why this should be so. However I would like to add that, in my view, the attempt to introduce this new "UN doctrine" as Spain called it in Grenada is in flagrant breach of the UN Charter and International law.

The text which the UN World Conference on the Human Rights adopted and which 171 member states have ratified makes this clear.

It declared that all peoples have the right to Self-determination, that its universal nature was beyond question, and further, that it considered the denial of self-determination as a violation of Human Rights.

I put it to you, Madam Chair, how can anyone ask this committee to perpetrate a violation of the very human right it is mandated to pursue and defend, and which is the very foundation of its existence?

More recently the Human Rights Committee and the Committee on Economic, Social and Cultural Rights declared that: 1) the principle of self-determination, is enshrined in Art. 1. Para 2 of the Charter and Art. 1. of both the I.C.C.P.R. and I.C.E.S.C.R. covenants, 2) affirm the right of all peoples to Self-Determination and 3) lay upon state parties the obligation to respect it and promote its realization.

UK and Spain are such states party to these covenants.

How can anyone ask this committee to support a policy in conflict with the position adopted by these other UN Committees?

The one Human Right which led, half a century ago, to the creation of the Special Committee.

Especially above Self-Determination.

The one Human Right, of which you have been the torch bearers in the success story of decolonization in these 50 years.

How can any member of this Committee fail to uphold this right and yet subscribe, as you rightly do, to the view that for as long as there remains any territory whose people have yet to exercise the right to self-determination, the implementation of the Decolonization Declaration will not have been completed.

Its not in the gift of this committee nor indeed, even of the General Assembly, to introduce such a change, other than by a Resolution that would alter the entire system of International Law on Human Rights and Decolonization that has been developed since 1945.

What is clear is that the realization of the Right is not intended to be to promote the breakup of existing states. However in post or non-colonial situations this has happened and has been accepted by the UN.

In the 1960's Anguilla achieved Decolonization as part of St. Kitts, Nevis and Anguilla, and then there was a revolution to secede from the federated state and return to British colonial rule under which, it still is today. That was accepted by this committee as a legitimate act of Self-Determination.

Last year a referendum in Montenegro led to the separation of this territory from Serbia and it emerged as a sovereign state, a clear case of the pre eminence of the right to Self-Determination over the concept of territorial integrity, albeit in a non-colonial context.

This Committee, I submit, has the obligation under its own terms of reference to defend the people of Gibraltar as a people under colonial rule to whom the Declaration on Decolonization is and has always been fully applicable, hence possessed of the inalienable Human Right to Self-Determine their own future status.

Another question altogether is whether that right has already been realized in the Referendum that took place last year.

Whether the realization of the Right has resulted in a full measure of self-government being obtained by the people.

Whether as a result of the 2007 Constitution, the UK is no longer the administering power, Gibraltar is no longer an NSGT, and there is therefore, no longer any requirement under international law for UK to submit Art. 73e Reports on the territory, to the Secretary General.

Madam Chair, Your Excellencies, we believe you have a duty to address this question and give a view.

We do not accept that there is a thing called *Ipsa facto* Decolonization governed by the views of the administering power or the degree of well being of the inhabitants of a territory. This is not what the 'Second Decade for the Eradication of Colonialism' is about. Indeed, if it were, the UK would be right in its view that British Overseas Territories should have been removed from the NSGT list long ago, even without modernized constitutions.

At present the modernizations taking place as a result of the 1999 White Paper, in all the listed territories other than Gibraltar, are not described by the UK as involving an act of Self-Determination. Moreover what is clear from recent seminar discussions is that none of these other British NSGT's, nor those of the US whose constitutional modernization is also taking place, consider themselves to be engaged in acts of Decolonization. This would only be the case following the use of the right to Self-Determination to bring about the attainment of a full measure of self-government.

UK is being inconsistent in arguing that it is creating modern and mature relationships with the British Overseas Territories, which cannot be described as based on colonialism, but accepting that it continues to have the legal obligation to answer for these territories under Art. 73e, that it has had since they were first identified as colonies thus accepting that this obligation has not ended, as it must, when the Decolonization process is completed.

This committee, Madam Chair, according to your own documentation, provided to the territories for their information, is required to monitor the progress and evolution towards Decolonization. There is therefore, a clear duty to examine the modern and mature relationships being delivered between the UK and its overseas territories, to establish, in each case, what has been achieved in terms of progress towards full self-government and what remains to be done.

As you yourself have said, Madam Chair, the Special Committee has a duty to find a case by case solution, always keeping as their paramount consideration the wishes and well being of the peoples of the territories.

In our case we look to you to tell us whether you are satisfied, 1) that the 2006 Referendum achieved the realization of Self- Determination by the Gibraltarian people and, 2) that the

text of the New Constitution provides a full measure of self government, such that the decolonization of the territory is now complete and the requirements of Art 73e no longer applicable.

Irrespective of the opinion of the UK, who says it has, or for that matter of Spain, who says it hasn't!

In essence I am asking the committee to act as chairman Hunte told us a year ago, when he explained the procedure. He said that the administering power was required to advise the Committee of territorial changes and the Committee would then weigh up whether this constituted self-government, and once it is confirmed that a full measure of self-government has been achieved, delisting results.

We fully support this procedure and ask you to apply it.

Madam Chair, I have dealt with UK's position but what about Spain's?

Last year here; in October in the 4th Committee; in the Fiji Seminar in November; and two weeks ago in Grenada, Spain has pointed out shortcomings in Gibraltar's New Constitution and defects in the 2006 Referendum.

Alas, these are not the well meaning, constructive, criticisms of a friendly neighbour wanting to see our people emerge from Colonialism and attain a full measure of self-government – far from it.

Spain still maintains that Gibraltar must retain, unchanged, its constitutional status as a non-self governing territory, i.e. a colony, unless and until it passes under Spanish Sovereignty.

The failed attempt of 2002 led to a recognition on the part of Spain that what they used to describe as 'the stick and carrot approach' was not working.

Hence the 2004 Trilateral Forum of Dialogue, which Spain's representative at the Yanuka Seminar said, not even I, had opposed. Identifying me, presumably, as the last bastion of Gibraltarian resistance.

Let me make clear that mutually beneficial cooperation has always been considered desirable by everyone in Gibraltar. At the same time, as your 2004 country report reflected, no Gibraltar government has ever been willing and no Gibraltar Government will ever be willing to share any of Gibraltar's Sovereignty with Spain. And I would add, not one inch.

The Trilateral Forum exists. However in any arrangements for cooperation with Spain which emerge, there could be instances where one party's 'Pink Line' might well become another's 'Red line', with a change of Government in any one of the three participant countries.

That said, Spain should not be under any illusion that any level of improvement in cross-border cooperation carries with it increased prospects of a return to the Brussels Process or to an acceptance that Gibraltar's future status and its attainment of a full measure of Self-

Government is ever going to be a matter for negotiation with Spain. That approach was vehemently opposed by my party in 1984 when it was launched is now rejected throughout the political spectrum in Gibraltar, and even UK is publicly committed not to return to it without our consent, which will not be given.

This then, is the true state of affairs and leaves the ball very much in your court, I am sorry to say, Madam Chair.

I therefore look to this committee to deliver the proactive response that the Second Decade requires of it.

In summary I ask the committee to note the following:

- 1) The Right to Self-Determination to a people cannot be constrained, let alone denied by third parties territorial sovereignty disputes.
- 2) The Brussels' Process is dead and buried and it will not be reactivated.
- 3) The committee is required to monitor the evolution of NSGT's towards achieving Self-Determination and should produce a check list of what is required, this applies fully to Gibraltar.

Thank you for your attention, I will be happy to answer any questions.

END OF SPEECH.