

**Hon Dr Joseph Garcia MP, Deputy Chief Minister of
Gibraltar**

**The Right of the People of Gibraltar to Self-
Determination**

**Liechtenstein Institute for Self-Determination,
Woodrow Wilson School of Public and International
Affairs, Princeton University**

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Thank you for the kind invitation to speak to you today.

In my brief talk, I hope to persuade you that the Gibraltarians are a people with the right to freely determine their political future – not only in a moral and political sense, but also in a legal sense.

Let me begin by telling you a little about Gibraltar, whose people I am honoured to represent.

A POTTED HISTORY OF THE ROCK OF GIBRALTAR AND ITS PEOPLE

Gibraltar is one of the smallest political units in the world. Many of you will have seen pictures of the iconic Rock, which occupies an imposing strategic position at the entrance to the Mediterranean. At the foot of the Rock lies the town and the port.

All in all, the territory measures about 3.5 square miles and is home to 32,000 Gibraltarians.

Gibraltar is surrounded by water except for a narrow isthmus to the north, which connects the territory to the European continent. This is where our border with Spain lies. It is one of the shortest land borders in the world.

The Phoenicians, Carthaginians, Romans and Visigoths all left their mark on the territory before Tariq ibn-Ziyad landed his forces there in 711, launching the Moorish conquest of Iberia.

751 years and eight sieges later, the Rock that the Moors had named Jebel Tariq (the mountain, or rock, of Tariq), was finally wrested from Moorish control by the Castillian forces of the 'Reconquista' in 1462.

Spanish rule lasted about 240 years. It was brought to an end when British and Dutch marines seized the Rock on behalf of the Hapsburg pretender to the Spanish throne during the War of the Spanish Succession in 1704. A few years later Spain ceded Gibraltar to Britain under Article X of the Treaty of Utrecht 1713.

Paragraph 1 of Article X provides that Gibraltar is ceded (and I quote): 'absolutely with all manner of right for ever, without any exception or impediment whatsoever'.

In the intervening 300 years, Gibraltar has developed into a thriving and diverse country. Our ancestors are mainly migrants from around the Mediterranean – from places like Genoa and Malta – who travelled to Gibraltar in search of a living and laid down roots there.

We are a thoroughly Mediterranean society.

But we have also been shaped by the British influence – our schooling, our institutions, our legal system are all based on the British model.

For many decades our forefathers lived under British colonial rule, with little say on the direction of their community. This began to change after the Second World War, and we gradually made strides towards self-government.

In 1969 a constitution was promulgated for Gibraltar that gave locally elected representatives competence over a finite list of ‘defined domestic matters’.

In 2006, a new constitution gave us virtually full self-government. The only matters that the Her Majesty’s Government in the United Kingdom remains responsible for in Gibraltar are defence, security and foreign affairs – everything else is the province of Her Majesty’s Government of Gibraltar.

The path towards increasing levels of self-government was not an easy one.

The United Kingdom has not always been eager to devolve power to the Gibraltar Government.

And when our 1969 constitution came into force, the Spanish dictator General Franco closed the Gibraltar border and cut off all ties. The blockade lasted 16 years, and only ended because the re-opening of the border in 1985 was a condition of Spain joining the EEC (as it was then).

I hope this potted history has given you some idea of how we have evolved as a people, and why we consider ourselves to be a distinctive community.

We are British, yes, but we boast a separate and unique identity.

This makes us different to the English, Scottish, Welsh and Northern Irish.

We are Gibraltarians, and proudly so.

Now that I have explained who we are and how we got here, I will explain the basis on which Gibraltar enjoys a right to self-determination.

GIBRALTAR AND THE RIGHT TO SELF-DETERMINATION

The statement ‘all peoples have the right to self-determination’ is well worn, but it begs the question: who is the people – who is the bearer of this right?

Woodrow Wilson, whose presence looms large in this institution, championed the self-determination of peoples long before that question had an answer that most of the world could agree on.

Wilson's Secretary of State, Robert Lansing, was famously less enthusiastic about the concept of self-determination, and wary of its disruptive potential.

In a 1918 diary entry, he wrote (and I quote):

“The phrase is simply loaded with dynamite. It will raise hopes which can never be realised. It will, I fear, cost thousands of lives. In the end, it is bound to be discredited, to be called the dream of an idealist who failed to realize the danger until too late to check those who attempt to put the principle into force. What a calamity that the phrase was ever uttered! What misery it will cause! Think of the feelings of the author when he counts the dead who died because he uttered a phrase!”
(End quote).

With the benefit of hindsight we know that Lansing was partly right and partly wrong.

Self-determination was invoked by Hitler to justify the annexation of the Sudetenland, and more recently by Putin to justify the annexation of Crimea.

Self-determination has over the years been the battle cry of countless secessionist movements.

Whatever one thinks of the merits of such cases, a claim to self-determination has often been a claim to the carving up of a State.

But since 1945 self-determination has also served as the basis for the emancipation of colonial peoples.

And it is this widely accepted formulation of self-determination in the colonial context, enshrined in the UN Charter and in the 1960 Declaration on the Independence of Colonial Countries and Peoples, that is the basis of the right of the people of Gibraltar to determine their political future.

Gibraltar is – in UN speak – a Non-Self-Governing Territory.

It has been listed as such since 1946, when the UK first began reporting on the territory under Article 73e of the UN Charter.

The Charter says that “the interests of the inhabitants of these territories are paramount”.

It also creates an obligation “to develop self-government, to take due account of the political aspirations of the peoples and to assist them in the progressive development of their free political institutions, **according to the particular circumstances of each territory...**”

This last clause evokes the possibility of tailor-made solutions – something that I shall return to.

It is a well-established principle that size doesn't matter when it comes to the right to self-determination.

Many small countries – some of them with populations smaller than Gibraltar – have achieved their independence, or opted for integration or free association with another State.

While we have made incremental steps towards self-government at home via negotiations with the United Kingdom, we have made little progress at the UN.

This is because Spain maintains its centuries-old claim to our homeland and objects to the exercise of self-determination by the Gibraltarians.

Let me now deal with the Spanish objections to Gibraltar's right to self-determination, which are based on two principal arguments.

First, Spain claims that the situation in Gibraltar breaches the territorial integrity of Spain.

Second, Spain has long claimed that the Gibraltarians are not a 'people'; rather, we are an 'artificial' population with no legitimate roots in the territory.

I will deal with each of these objections in turn.

SPAIN'S TERRITORIAL INTEGRITY

Spain's territorial integrity was violently disrupted in the War of the Spanish Succession in 1704, when Gibraltar was captured by force.

Whether or not Britain acquired title over Gibraltar by conquest is now a moot point. Spain ceded Gibraltar to Britain definitively in the Treaty of Utrecht in 1713, in perpetuity.

There was nothing irregular about the Utrecht cession.

This was a time, now thankfully behind us, when monarchs traded territories as if they were personal possessions.

Moreover, the Treaty of Utrecht contained a series of *reciprocal* undertakings – Spain gave up Gibraltar and Minorca in the Treaty, but it also acquired other territories that had been under British control, like West Florida.

In short, Spain gave up Gibraltar fair and square.

The stability of existing territorial boundaries was a cornerstone of the post-1945 settlement.

What Spain is really asking for, when it complains that its territorial integrity is being violated, is a revision of the present borders of Europe in the UN era.

They want to revert to the borders that existed in 1713!

We say that this is an absurd and dangerous proposition.

And we are encouraged by the fact that when Britain made a formal proposal in 1966 to submit all aspects of

the Gibraltar dispute to the International Court of Justice, Spain refused.

ARE WE A GENUINE 'PEOPLE' OR ARE WE AN ARTIFICIAL POPULATION?

The Spanish accusation that we are an artificial population with no genuine roots in our homeland is a particularly hurtful one. The language with which the accusation is expressed is frequently dehumanising.

It is also to some extent influential in the UN.

The Gibraltarians were described in one UN meeting by a Sudanese representative as (I quote) 'aliens imported by a colonial regime' (End quote).

Franco, in an interview with an English newspaper, put the argument in his own inimitable style, saying that the Gibraltarians were (I quote):

'almost entirely Spanish, though they take advantage of

their British citizenship, and the rest, Jews and aliens, who can live as well under one flag as under another.’

There are two types of answer to the ‘artificial population’ argument.

The first is that, empirically, it is not difficult to show that the Gibraltarians are a diverse population that has evolved over 300 years, and that is separate and distinct from the Colonial Power and also from our neighbouring state.

But our claim to self-determination does not rest on this sociological understanding of who we are as a people.

The ‘people’ – for the purposes of decolonisation and self-determination – is defined by reference to the territory, and not by reference to racial, cultural, or linguistic factors.

This is an essential feature of the way self-determination has developed as a right under international law, under the auspices of the UN.

In fact, the post-1945 settlement involves a conscious move away from the types of ethnic and racial justifications for self-determination that caused so many problems in the past.

In short: the right to self-determination claimed by the people of Gibraltar is based on the well-established principle that the populations of non-self-governing territories have the right to determine their own political futures, and that the territorial boundaries of those colonies must be preserved during the decolonisation process.

The last question that remains for me to address relates to the modalities of the exercise of self-determination.

What kind of political future do the Gibraltarians want?

GIBRALTAR'S SELF-DETERMINATION OPTIONS

In 1960 the UN General Assembly stated that the decolonisation process could result in three different outcomes: independence, integration with another state, or free association.

In 1970 it added a fourth option:

They called this 'any other status freely determined by the people'.

The articulation of the so-called fourth option reflects the principle that the peoples of non-self-governing territories should have flexibility when it comes to choosing their future political arrangements.

There are no political parties or Members of Parliament in Gibraltar advocating independence.

The UK says we could not have independence even if we wanted it, due to a reversionary clause in the Treaty of Utrecht, which states that Spain must be given a right of

first refusal should Britain ever grant, sell or (quote) 'otherwise alienate' (unquote) Gibraltar. .

I would like to stress that this is the view of the United Kingdom and not the position of Gibraltar.

We do not accept, nor do we agree, with the United Kingdom's interpretation.

In any event, Gibraltarians are proud of their links with Britain and wish to retain them in some form.

However, it is relevant to note the following.

First that there are a number of territories with the British Crown as Head of State that are not on the United Nations list of Non-Self-Governing Territories. These are Jersey, Guernsey and the Isle of Man.

Second, that the British Crown is Head of State in sixteen independent, sovereign countries.

Some would argue that the British Crown would not be alienating the territory of Gibraltar while it remained as Head of State, and that therefore Utrecht is not a bar to independence.

The integration of colonial territories into the United Kingdom has not been the practice in British colonial history.

This was offered to Malta and Rhodesia but it never materialised.

Free Association has been the method of decolonisation in a very limited number of cases and sometimes as a stepping-stone to independence.

In 2002 Gibraltar tabled constitutional proposals for a tailor-made decolonisation that would allow us to retain our links with Britain and also retain our distinctiveness as a community.

However, the 2006 Constitution increased the level of self-government but left the international legal status of the territory unchanged.

The exact shape of a final decolonised status for Gibraltar, in this sense, remains an open question.

On the immediate horizon, we face the significant political challenge of Brexit – the UK's departure from the European Union, which will also result in Gibraltar's departure, despite 96% of our electorate voting to remain in the EU.

As we confront this challenge, we will continue to pursue our right to self-determination, pushing Britain for the maximum level of self-government, and pushing the UN to exercise meaningful oversight in the decolonisation process.

We realise that the pursuit of our right to self-determination is an intergenerational struggle.

This is one of the reasons we believe in investing heavily in the education of our young people.

I am particularly pleased that a group of young people from Gibraltar are present here today.

It is people like them who will carry the torch forward when the Chief Minister and I are no longer around.

My predecessors first came to petition the UN over 50 years ago.

I hope it does not take another 50 years to resolve our status, but even if it does, the effort will have been worth it.

I am confident that we will get there in the end.

Thank you.

I am very happy to take your questions.