

## **The Rock stands firm for liberty**

Governments do not, as a rule, much care for referendums. Freed from the usual constraints of class or party loyalty, electorates sometimes have the perverse habit of voting against the enlightened wishes of their rulers.

When this happens, as in Denmark over Maastricht or Ireland over Nice, the general reaction from Government shows all the exasperated petulance of the schoolmaster whose errant pupil has just flunked his maths exam: "Stay behind and do it again until you get it right!"

When the difference between the two sides is only the matter of a few percentage points, a second poll, after a decent interval to allow the Establishment to recover from its shock at the ingratitude of the masses, usually does the trick. Stern finger wagging, threats of eternal darkness and the confiscation of the first born if the 'wrong' verdict is delivered, plus bucketloads of cash liberally dispensed to the 'yes' camp, produces a more 'representative' result.

On this basis, however, the people of Gibraltar are likely to be 'in detention' for the foreseeable future. For, in a turnout of 87.9%, the electorate of the Rock voted on November by 17,900 (98.97%) to 187 (1.03%) against the proposition, favoured by both London and Madrid, that Gibraltarian sovereignty be shared between the UK and Spain.

Although this result is an unequivocal a declaration of the wishes of the people of Gibraltar as it is possible to imagine, the poll was declared invalid by London and Madrid even before it took place. Spain asserted that the referendum was contrary to the wishes of the United Nations and 'lacked any legal foundation'. To Whitehall it was 'an eccentric waste of money'. Democracy is now apparently subject to a cost benefit analysis.

Spain has, of course, wanted the Rock back ever since losing it to the British in 1704 and signing, in 1713, the Treaty of Utrecht which ceded Gibraltar to Britain in perpetuity. Gibraltar resisted siege from 1779-83, and in 1805 the Battle of Trafalgar was fought off its shores. In 1940 Hitler and Franco discussed 'Operation Felix', an annexation of Gibraltar in the event of Spain joining the Axis, but Gibraltar was never invaded, although it was bombed by the Vichy French. In 1969 Franco closed the border, and it remained shut until, grudgingly, Spain re-opened it in 1985 when it joined the EU.

Today, Gibraltar is listed by the UN as a non-self governing territory subject to decolonization under the UN's Decolonization Declaration. It is the frequently stated view of the UN, supported by judicial statements of the International Court of Justice, that in the process of decolonization there is no alternative to the principle of self-determination. Britain, as the Administering Power, cannot simply dispose of Gibraltar in any way deemed expedient.

Nevertheless, the UN continues to invoke the 'Brussels Process', the agreement concluded between the UK and Spain in the run-up to Spanish accession to the EC, as the only acceptable basis for a settlement. This calls for Britain and Spain to solve their differences bilaterally, without necessarily any reference to the views of the people of Gibraltar, and despite the fact that the abandonment of territorial claims on other members is supposed to be a pre-requisite for EU membership.

Is there not a double standard at work here? Would the UN be willing to discount the wishes of the Gibraltarians if Gibraltar was a small Caribbean or African nation? Indeed, in the somewhat similar case of Western Sahara, formerly Spanish and now claimed (and occupied) by Morocco, the UN has repeatedly insisted that the rights of the Sahrawis must be taken into account. Why is that right for Western Sahara and not for Gibraltar?

Be that as it may, the practical result of Spain's continuing claim to Gibraltar is that EU-wide negotiations, whether over telecoms or open skies policy, are consistently stymied by Spanish insistence that the relevant agreements must specifically exclude Gibraltar. This involves the drafters and other bureaucrats in much tedious work. Without question, the EU has placed pressure on Madrid and London to solve the 'Gibraltar problem' as soon as possible.

Moreover, Peter Caruana, Gibraltar's Chief Minister, believes Gibraltar is seen as an obstacle to the creation of an axis, comprising Britain, Spain and Italy, to counteract the dominance of France and Germany within the EU. There is also a broader sentiment which recognizes that the British Government, or more accurately the Foreign & Commonwealth Office, views outlying outposts of Britishness, such as the Falkland Islands, Gibraltar, or indeed Northern Ireland, as embarrassing impediments to smooth dialogue between nations. No-one, at least not in the diplomatic service, wants to be discussing the rights of 30,000 Gibraltarians when the high affairs of state are being determined over the canopes and champagne at posh Embassy receptions. And as Sir Humphrey reminds us in *Yes Minister*, "no-one ever accused the Foreign Office of patriotism."

Essentially, therefore, the British Government wishes the problem would just go away. The British people, in contrast, are wholeheartedly behind Gibraltar - over 300,000, ten times the Rock's population - have signed a petition in support. The Gibraltarians themselves maintain that their right to self-determination must take precedence. And the Spanish continue to argue the case for their 'territorial integrity'. Yet if, say, Austria were to make a bid for the restoration of the borders of the Hapsburg Empire on identical grounds she would rightly be laughed out of court. One surely cannot fashion modern international relationships on the basis of centuries-old demarcations. To do so is the thin end of the wedge that leads to ethnic cleansing. Spain's protests that the people of Gibraltar are not 'indigenous' would be instantly recognizable to the warlords and factions of the Balkans.

The UN-enshrined principle of 'territorial integrity' was never intended to facilitate expansionism; it was intended to protect the sanctity of *existing* state borders. Let us leave aside the fact that this doctrine has, from Biafra to Burma, been the direct cause of immense human suffering. In any case, since 1990, with the breakup of Yugoslavia, Czechoslovakia, and the Soviet Union, the integrity of states is widely accepted in practice as secondary to the right of peoples to self-determination. Even the Organization of African Unity, hitherto committed to the preservation of its colonial-era borders, recognized the break up of Ethiopia, admittedly by claiming that Eritrea was a special case. With the disastrous and unpopular exception of the coalescing of power in the European Union, the whole drift of governance - including in Britain and Spain - is towards devolved, less centralized administration, if not outright independence.

It is to resolve this impasse that the meaningless compromise of 'joint sovereignty' has been dreamed up. Like most compromises, it runs the risk of opening further cans of worms. Spain itself faces 'shared sovereignty' calls from the Basque Country and Catalonia. Meanwhile, Morocco insists that Spain must surrender its north African enclaves of Ceuta and Melilla -

not to mention tiny Parsley Island, where a Moroccan peasant is now suing the Spanish ministry of defence over the death of four of her goats during Spain's 'recapture' of the island in July 2002.

In tacit acceptance of its unreality, and recognizing the impossibility of getting the Rock to buy joint sovereignty, Madrid and London now seem to accept that any agreement between them will have to be 'parked' until the Gibraltarians come to their senses. Far from resolving the Gibraltar issue, the red herring of 'joint sovereignty' will only prolong it. The options potentially acceptable to the Gibraltarians themselves, ranging from full integration (with Gibraltar returning a member to Westminster) to independence within the Commonwealth, cannot be properly canvassed, let alone implemented, while any unacceptable and undemocratic Anglo-Spanish 'agreement' remains the only deal on the table. And any solution which does not include the wholesale support of the people directly concerned is surely anathema in the 21st Century. Small nations have rights too.

*Stuart Notholt was one of the team of independent Referendum Observers, chaired by the veteran Labour MP Gerald Kaufman, who monitored the Gibraltar referendum.*

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