



**24 June 2008**

## **THE CONSTITUTIONAL FUTURE OF GIBRALTAR**

### ***Democracy, Self-Government, Decolonisation and a New Status***

When the PDP backed the 2006 Constitution in the November 2006 referendum we made the point that the new constitution should be supported because it represented a massive leap forward from the 1969 constitution and because it put us in a much better position to then take the next steps. We made the point then and reiterate this now that there was a need to introduce more specific reforms to foster more democracy in Gibraltar. We said then that we did not know how the UN would perceive the 2006 Constitution but that it stood a better chance of satisfying the UN than the 1969 outdated version. In 2006 we emphasised that adoption of the new constitution for us was not the end but rather a stepping-stone to further reforms.

We are now outlining what we consider should be the next steps and what PDP policy on these important questions is. There has been much talk recently about whether the new constitution decolonises Gibraltar or not. The GSD believe so and the GSLP do not. We believe that is not the sole debate that needs to be considered. Both Government and official Opposition make the mistake of focussing on only one consideration. For the GSLP self-government and democracy is almost unimportant. There is no talk of it. It is decolonisation which is the sole obsession whatever the standard of our democracy or the limit of our self-government. For the GSD formal decolonisation and democracy are brushed aside too lightly. The GSD considers the 2006 package its desired outcome and pursues an ostrich-like agenda that fails to accept the massive reality that while we remain on the UN list of non-self-governing territories the international community consider we have not been decolonised. It is not good enough for us to say that we think we have been decolonised. We must achieve recognition of that if we are to enjoy the fruits of decolonisation outside our shores. In other words other countries must also recognise what we have achieved. Both parties are wrong by not considering all the issues that are important in any constitutional process. The insistence of both GSD and GSLP to get bogged down in a sterile debate solely about whether domestically we think we have been decolonised only emphasises how they misunderstand what we need to tackle to improve the way we are governed.

**In any comprehensive approach three issues must be tackled, self-government, democracy and decolonisation. Without achieving progress on all these questions the**

final outcome will be deficient in some way – either by not having sufficient self-government or democracy or by not being recognised as amounting to decolonisation. As such the agenda must be pushed forward equally and simultaneously.

**Three principles govern the PDP approach to constitutional reform. First we believe Gibraltar should govern itself and that we should aspire to the fullest measure of self-government possible. Second we consider that we should enjoy more democracy in Gibraltar. Third our aim is to ensure that our right to self-determination is internationally recognised and with it that we achieve an internationally and domestically recognised decolonised status. We deal with each issue below.**

### ***1. More Democracy***

In July 2006 we issued an extensive policy document on how we would achieve *Living Democracy*. It included a 27 point plan on measures that should be introduced to increase parliamentary accountability, better public participation in the democratic process, more democratic checks and balances on the powers of Government and electoral reform. We stand by all those points. There has been no progress on the issues highlighted by us two years ago and there seems little prospect of change. After the ceremonial opening of Parliament in October 2007 there was an expectation that some things might be looked at when Government said it would constitute a Select Committee to look at certain issues of Parliamentary reform. While insufficient this was a glimmer of hope. It has proved to be another false hope because eight months on nothing much has happened. Above all there needs to be a real political commitment to radically overhaul our democratic system and we do not consider the current Government has that commitment.

In Government we would be committed to introduce the measures set out in our *Living Democracy* paper.<sup>1</sup> In essence we believe that there should be a larger Parliament that is more representative of Gibraltar. This would encourage better and freer debate and hold Government to account more than the current system. Apart from enlarging the size of Parliament we believe there should be electoral reform to ensure the system is more representative of the wishes of the electorate and enhances the objective of open debate. Via electoral reform a system which better represents the views of the people at election time can be achieved. Different options are possible though we would favour combining some system of proportional representation for at least some seats in the Parliament with other seats elected in the usual way. That combined system is used in Scotland or Wales. We also think that there needs to be a gamma of checks and balances on the powers of the Government to ensure that there is more democracy and less autocracy. We would enhance those measures we have already announced with additional complementary policies such as legislation on freedom of information or to protect public interest disclosure in the employment arena.

**Having more democracy does not mean that the Government is unable to govern but that it must govern better. That will improve the quality of governance all citizens enjoy.**

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<sup>1</sup> The full version is available on our website [www.pdp.gi](http://www.pdp.gi)

## *2. More Self-Government and a New Status*

### *Full Self-Government and the European Dimension*

It is clear that we have advanced much since the days of the Legislative Council in 1950 or our first constitution in 1964. Even though it was a big step forward the 2006 constitution was the result of long negotiations so inevitably it was a bag of compromises in some areas. It is still possible to go further by removing some of the remaining unnecessary curbs on self-government. Having power vested in Whitehall rather than Gibraltar is not a guarantee of good government or democracy. Equally simply achieving the transfer of more powers to Gibraltar is not enough. **It is only by repatriating those powers to Gibraltar and introducing proper democratic controls that we will enhance how we are governed.**

Necessarily these are technical issues that require detailed negotiation with the British Government but in Government we would table proposals to London to further advance our self-government. We believe that time has demonstrated that Gibraltar has matured politically and responsibly discharges its devolved powers of Government.<sup>2</sup> In that sense we are confident that we can achieve further reforms in this area to build on the work of successive generations of Gibraltarians. What would drive our efforts would be a belief that Gibraltar can and should govern itself and that any remaining antiquated quasi-colonial mechanisms should be removed. It would also be important in any process of further reform to take a more detailed look at the European Union context so that Gibraltar can secure more power, representation and influence within the Union. Much could be achieved towards that through constitutional reform. Other advances such as our own MEP or a seat at the Committee of the Regions would require agreement with the UK without the need of constitutional change.

### *Our Status – Where Are We Going?*

There is much talk about our right to self-determination. But other political parties do not go much further in telling us where they want to go. The right to self-determination is only the right to decide our future. It is an empty statement unless we know where we want to go and say so. It is incumbent on politicians who seek to lead this community to explain where they want to take Gibraltar. In other words how they would wish to exercise that right to self-determination. Neither the GSD nor GSLP are clear on such questions.

**Our view is clear. First we consider that any fundamental status change should be put to the people of Gibraltar to decide in referendum. Secondly we believe Gibraltar should achieve the fullest measure of self-government possible. We consider that the sovereignty of Gibraltar, politically and legally, vests in the people of Gibraltar.**

Were it not for the continuing presence of the Spanish claim we believe that Gibraltar could aspire to full independence within the Commonwealth. Our economy is sufficiently

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<sup>2</sup> Even if further changes to enhance democracy and public participation in governance are needed.

robust and sustainable for that. Independence would not mean a break of our links with the Crown. Indeed we would seek to maintain such links in the same way as there are many independent countries in the Commonwealth which have the Queen as Head of State – countries as diverse as Canada, Antigua or Belize. Independence with the Queen as Head of State would in an ideal situation be put forward as our recommendation to the people in a referendum. Clearly putting this proposal forward would only be possible if the democratic checks and balances we have set out before have been introduced. Equally it could only happen if the majority of people were to support such an option and only then after detailed negotiations with the British Government. Such negotiations would have to cater for the European dimension and our equal aspiration to maintain membership of the European Union. This would require a Treaty amendment. However we do recognise that the Spanish claim constitutes a real hindrance on the current achievement of such an aspiration and as such this puts an operational constraint on that aspiration. It is economically but not politically viable at this stage.

**In that context the PDP therefore supports a status which would today meet the test of political and economic viability. That status which takes account of the desire to maximise self-government and preserve our membership of the European Union would be a form of free association with Britain.** We think that free association provides the sufficient flexibility for us to achieve that full measure of self-government and also would clearly meet the current UN criteria for de-listing. In our view a Free Association constitution would go further than the 2006 constitution in certain important respects such as making clear that the sovereignty of Gibraltar vests in its people and in clearly demarcating how Gibraltar's external affairs would be conducted. Again such a status would require detailed negotiations with the UK which we would initiate in Government. Whether the political environment changes in future to allow Gibraltar to go further or whether indeed the European Union or its Member States evolve in a way that makes this unnecessary only time will tell.

### ***3. Decolonisation***

The mistake of focussing on decolonisation as the be all and end all is exposed when it is considered that it is possible to achieve decolonisation by integration with another Member State. That would be the opposite of achieving self-government. Decolonisation also has nothing to do with democracy. As such it is possible to achieve decolonisation as long as the UN criteria are met and this concentrates more on self-government than on the quality of democracy in a country. In our view simply achieving that Gibraltar is taken off a list held by the UN cannot be the objective. We must substantively have ceased to be a colony; we should be recognised as such and we should possess a freely chosen internationally recognised status within which our citizens enjoy real democracy. Anything less than that short-changes the people of Gibraltar. Both GSD and GSLP would do well to remember that.

Achieving decolonisation has two dimensions – to achieve it in practice and to have it recognised domestically and internationally. The GSD maintain that the first is enough. Clearly it is not and we need to continue a campaign to achieve international recognition and satisfaction of current UN decolonisation criteria or the modification of that criterion to accommodate territories such as Gibraltar. Indeed it may be that the 2006 constitution

does not go far enough to meet the current UN criteria. Our position in 2006 was that this was an open question and that the constitution was worth adopting on its own merit for advancing Gibraltar on the road to self-government and so as to allow us to lobby the UN for de-listing subsequently. Events since then have emphasised that the UN is politically reluctant to act. That is not Gibraltar's fault but we should objectively recognise that the UN case for refusing to act would be made more difficult if we obtained further self-government through negotiation.

### ***Spain and Dialogue***

Spain is clearly an obstacle to progress on the efforts to obtain decolonisation and a new status as well as seeking to exert pressure on the self-government front. We believe in a policy of dialogue with Spain to achieve better economic, social and environmental co-operation and progress that benefits citizens on both sides of the border. We do not consider that Spain need to be accommodated on the sovereignty agenda. Any discussion of issues of status or decolonisation needs to take place in the context that there is, however, a real need to persuade Spain that she should peacefully cohabit with Gibraltar in the modern European Union accepting the political will of its people now and in the future without seeking to hinder it within the EU, at the UN or internationally.

### ***Conclusion***

All in all therefore we believe that there needs to be a three pronged effort to achieve progress in this are – to secure more democracy, more self-government, decolonisation and a new status for Gibraltar.

This will not be an easy road but the PDP would embark on this confident that it could achieve significant progress on all these fronts.