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SECOND INTERNATIONAL DECADE FOR THE ERADICATION OF COLONIALISM

Caribbean regional seminar on the implementation of the Second International Decade
for the Eradication of Colonialism: challenges and opportunities in the process of
decolonization in today's world

Frigate Bay, Saint Kitts and Nevis
12 to 14 May 2009

STATEMENT

BY THE REPRESENTATIVE

OF MONTSERRAT

**UNITED NATIONS 2009 CARIBBEAN REGIONAL SEMINAR ON
IMPLEMENTATION OF THE SECOND INTERNATIONAL DECADE FOR THE
ERADICATION OF COLONIALISM:
CHALLENGES AND OPPORTUNITIES IN THE PROCESS OF DECOLONIZATION
IN TODAY'S WORLD.

CONCRETE STEPS AND ACTIONS TO BE TAKEN TO ADVANCE AND COMPLETE THE
PROCESS OF DECOLONIZATION OF THE NON-SELF-GOVERNING TERRITORIES
THE MONTSERRAT CASE**

Paper presented by

Hon Dr Lowell L Lewis FRCS DPH

Chief Minister
Government of Montserrat

Frigate Bay St Kitts 12-15 May 2009

INTRODUCTORY REMARKS

Mr Chairman, Heads of Government, Honourable Ministers of Government and Legislators, Distinguished Guests, Ladies and Gentlemen

I bring you greetings from the Government and people of Montserrat. We are the Caribbean island with an active volcano, rising from the ashes of what may be described as the most devastating natural disaster to affect an Island in recent times.

Having lost over 70% of our infrastructure and suffered forced migration of 70% of our population, who lost their homes and employment, we are rebuilding our community in the safe northern 20 square miles of Montserrat, which is at negligible risk from the effects of the volcano. We have learnt to live with our volcano, and accept that it may remain active with intermittent eruptions for several decades

I wish to thank the Committee for yet another opportunity to participate in this Seminar to discuss tangible actions that must be carried out to advance and make real the process for non-self-governing countries and peoples to attain full self-determination. The Government and People of Montserrat also wish to thank our host, the Government of St Kitts and Nevis, and extend warm greetings and best wishes to everyone.

For continuity I refer to the historical back ground and recommendations of our paper of 2007, (copy attached) in which we presented our experience as a British Dependent Territory over the last 300 years and the process of constitutional evolution that has taken place and is currently taking place in Montserrat.

We reported the view of The Montserrat Constitutional Commissioners, after wide consultation with Montserradians, reported that there was no great division in the population on the issue of independence, the main difference between one of timing and methodology and not one of aspiration. Consequently, they felt unable to recommend independence or dismiss it as unattainable. However, they recommended that HMG assists Montserradians in striving to be an independent people ultimately, by providing sustainable development as opposed to survival aid and that Government of Montserrat explores the possibility of a "Free Association" relationship with the UK. We also shared our view of the adequacy of the delivery of development aid available to us, in particular the delays and provision of essential recovery financing in the painfully leisurely business as usual manner.

Despite all of this, we continue as a fledgling nation, retaining our status as a non self governing island community, with a constitution that professes our right to self determination. We have a special and unique experience, being the only non independent, full founder member of the regional organizations CARICOM and OECS.

Our current constitutional status and our commitment to regional integration with our Caribbean brothers, who share a common heritage, space and future, suggests that we expect to follow the example of our CARICOM and OECS Brothers.

Over the past 10 years, there has been a maturing of the relationship between the United Kingdom and its Overseas Territories, with successive policy papers promoting meaningful partnerships based on the principles of democracy:- “ Freedom, Equity and Justice, linked to good governance and accountability and the right to self determination.”

The events in the Turks and Caicos Islands have highlighted the insecurity of our relationship with the United Kingdom. The people of the TCI, who themselves brought about change by demanding a Commission of Enquiry, have now taken measures that should make it unnecessary for the mother country, regarded by many as the cradle of Parliamentary Democracy, to reintroduce direct colonial rule. Many of us were shocked to learn of the proposals for suspension of the constitution, and concerned that this may include suspension of trial by jury and the reversal of measures in place to preserve the identity of a community, which now has a large proportion of residents who are not nationals.

We do not condone any form of discrimination in Montserrat. Our people who migrated have benefited from being able to enjoy the privileges of their new homelands, and immigrants to our shores should be treated similarly, but the small size of our population justifies special measures and derogations from international commitments to protect and preserve certain aspects of the heritage and culture of our island community.

Montserrat expects the Government of the United Kingdom to fulfill its responsibility to ensure good governance in its territories, while at the same time, preparing us for eventual self determination, in accordance with the objectives of the Montserrat government and people and the relevant UN resolutions.

It is with this in mind, that we are working to enact legislation for Integrity in Public Life, that is appropriate for our small community, and modernizing our constitution to one that is consistent with a pre-independence document.

It will be up to the people of Montserrat to decide when to make the next step, but some of us believe that it is natural for our people to aspire to achieve political maturity, and administrative capacity to interact with our regional partners in an equal way. Montserrat would now need to embark on a program and time table to achieve this by 2015.

Despite our objections, the current draft of our revised Constitution Order, retains the pre-existing powers of the Governor and the United Kingdom's Secretary of State, even though we continue to make the case that the establishment of appropriate institutions of democracy on the island, such as independent Public Service Commission, Police Commission, Electoral and Integrity Commission and Human Rights Commission and an

all party National Advisory Council, chaired by the Governor, makes it unnecessary for retention of the undemocratic personal veto of the Governor and Secretary of State.

The responsibility for security and justice is critical to the advancement of self determination. Good governance must come from within. The rule of law is indispensable, and for us the protection and support of our security and justice personnel is sacrosanct. Territories must be assisted in absorbing this responsibility.

The change in global systems of governance and trade makes it imperative for small island states to be integrated with regional organizations in such a way, that equal political status makes the sharing of resources, institutions and responsibilities practicable.

We already share the Eastern Caribbean Currency Union (ECCU), the Eastern Caribbean Supreme Court, the University of the West Indies, markets for our export products, and programs in Education, Health, Agriculture and Tourism. These are all essential economic activities which are affordable, because of our collaboration.

Montserrat is attempting to contribute to the regional efforts by using our unfortunate experience, turning misfortune into opportunity. We have millions of volcanic sand to export. We are establishing ourselves as a centre of excellence for training of Community Emergency Response Teams, and making our volcano a special feature to attract tourists to the sub-region. We were in the process of trying to establish our first regional institution in Montserrat in the form of a Climate and Volcano Institute.

The theme of this Conference, "Implementation of the Second International Decade for the Eradication of Colonialism: challenges and opportunities in the process of decolonization in today's world" is appropriate.

The global financial crisis has exposed the vulnerable undeveloped countries and colonies to the consequences of inappropriate financial practices in the mother countries and colonial homelands. Despite the international conventions, which are meant to guarantee a reasonable standard of living and essential services in all member countries of the United Nations, there is need for a more equitable share of the stimulus and rescue packages to developing countries and colonies. This crisis has reduced activity in our small open economies. The reduced demand for tourism and other related services is having severe impacts on employment and incomes

The opportunity comes from our obligation to look within our countries towards self sustainability, food security and family support. Opportunities for administering and administered countries to be relieved of their colonial liabilities and burdens, by fulfilment of their responsibility, to prepare colonies for self determination.

It is our fundamental right to be governed by those we elect. We have no desire to be delisted from the United Nation's list of non-self governing territories, until we become self governing.

RECOMMENDATION

So what are the concrete steps to be taken? Our recommendation at the last meeting was that the UN finds some means of enforcing all of its articles in a meaningful way and beyond that, the remaining colonies are given the option of removing themselves from their administering power and place themselves under the care of a United Nations body until such as time as they can enter the family of nations as a full-self governing state. Not much has happened since then.

Perhaps the first step should be the transfer of the administration of the European Overseas Territories that wish to participate, to a European Union Overseas Territories Department, with the intention of this Department becoming the nucleus of a United Nations Overseas Territories Unit.

Secondly, each territory should be assisted in establishing a program for achieving political maturity, administrative capacity and economic sustainability, where possible, through regional integration. Where this assistance is not forthcoming from the United Kingdom, the United Nations should make it possible for islands like Montserrat to seek direct assistance from the United Nations to move forward into a fully self governing state.

Thirdly, the process of constitutional modernisation must continue in way that is consistent with the mandate of the United Nations Decolonisation Committee, preferably retaining the special relationships that currently exist between administering countries and their previous colonies.

Lastly, it will be necessary for the Committee's mandate to be extended for another decade, if the fundamental rights of the peoples of the non self-governing territories is to be respected.

Ladies and gentlemen, I end by inviting you to visit Montserrat. It has been an honour and privilege to share our thoughts at this auspicious meeting.

I thank you for your attention.

**CONCRETE STEPS AND ACTIONS TO BE TAKEN TO ADVANCE AND COMPLETE THE
PROCESS OF DECOLONIZATION OF THE NON-SELF-GOVERNING TERRITORIES
THE MONTSERRAT CASE**

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at the United Nations Caribbean Regional Seminar on the
**Implementation of the Second International Decade for the Eradication of Colonialism:
Next Steps in Decolonization**
Saint George's, Grenada
22-24 May 2007

INTRODUCTORY REMARKS

On behalf the Government of Montserrat, I wish to thank the Committee for this opportunity to participate in this Seminar to discuss tangible actions that must be carried out (obligatory) to advance and make real the process for non-self-governing countries and peoples to attain full self-determination (however *they* so define it) before the end of this decade or more likely, the next. The Government and People of Montserrat also wish to thank our host, the Government of Grenada, and extend warm greetings and best wishes to everyone. Our presentation will focus on the economic and political status of Montserrat and the wishes of its people.

HISTORICAL OVERVIEW¹:

Montserrat is one of 14 territories under the sovereignty of the United Kingdom, but not considered part of the United Kingdom itself. We are not considered British other than as a person. Apart from two very short periods of French occupation, the island has been a British colony after it was settled, mostly by Irish Catholics, between 1632 and 1634 for religious and economic reasons. Sugar, tobacco, limes and cotton production brought fortune and fame to many settlers. By 1650, Montserrat was a typical sugar and slave colony with a population of 1,000, rising to 3,674 persons in 1678, of whom, 992 was black slaves. The racial make up was reversed permanently in the early 1700s when black slaves comprised 3,850 of a population totalling 5,115. The slaves were '*emancipated*' on August 1, 1834.

Our 375-year history as a British colony has been one of tribulations characterized by: exploitative colonialism; post-emancipation slavery and oppressive landlordism; and Devastating natural disasters. Despite having the shadows of slavery lingering up to first half of the 20th century, there have been achievements and creative achievers along with episodes of courage and sacrificial commitment.

Montserrat saw its best days, materially, between the 1970s and 1995, barely 25 years of relative good times before the volcano reconfigured our destiny. The eruption virtually destroyed the island's economy. By 1997, nearly two-thirds of the island's cultivable space, our

¹ Much of the information contained in this paper comes (with the author's permission) from two books written by Dr. Howard A. Fergus: *Rule Britannia* (1984) and *Montserrat in the Twentieth Century* (2001)

capital and only town, and our airport were destroyed and our economy came to a virtual halt. This caused unemployment as well as flight of skills. About 6,500 or 62% of the population left, producing a large Diaspora, part permanent or semi-permanent, part fluid. Whereas prior periods of emigration brought revenue through financial remittances to Montserrat, today we see the reverse where the breadwinner at home is forced to send remittances to relatives forced to relocate abroad.

By 1995, the island had recovered from hurricane Hugo as well as the offshore banking bust at the beginning of the 1990s. We enjoyed relative prosperity based on villa tourism, housing, construction and a small manufacturing sector. The island's up-market winter visitors numbered about 23,000 in 1994, the standard of education was high and the health of the population was generally good, aided by an excellent hospital built by the British after Hugo. While political independence was not an instant goal, talk and action surfaced in preparation for it, in the *foreseeable* future. The Soufriere Hills volcano consumed these prospects resulting in the loss an estimated £1.2 billion of physical assets and most of our productive human resources.

Constitutional Evolution²: Occasional changes to Montserrat's constitution have taken place over the past 375 years but all within the framework of colony status. It wasn't until 1951 when the five members elected by universal adult suffrage exceeded the official and nominated members by one and a Committee system, presaging the Ministerial system, was also introduced. The most significant development was the introduction of the Ministerial system in 1960. Except for one snap election in 1973, between 1952 and 2007, the island has held general elections at regular intervals demonstrating unparalleled political stability.

Our present and first written constitution (Montserrat Constitution Order 1989) came into force in 1990 in the immediate aftermath of the disastrous hurricane, Hugo. Montserratians were not consulted and the document was retrogressive because certain financial powers previously within the remit of the Minister of Finance were assigned to the Governor, who was also given the power to initiate legislation on matters relating to the Governor's reserve powers. Writing on the UK's decision to extend the Governor's powers due to the worldwide financial scandals at the time, an eminent Montserratian said: "*A pressure-cooked constitution was the British*

² Report of the Montserrat Constitutional Commissioners 2002

government's response to this unsatisfactory state of affairs. No one has much to rejoice about in this episode. The British came over as excessively and unnecessarily authoritarian. Blinkered by personal prejudice and partisan interests many Montserratians failed to appreciate and respond appropriately to the larger implications of constitutional downgrading."

CONSTITUTIONAL REVIEW:

WHY IS THE MONTSERRAT CONSTITUTION BEING REFORMED?

In 1996, Secretary of State, Malcolm Rifkind sent a letter dated December 17th to the UK's five Caribbean dependent territories to clarify HMG's policy towards them, foreshadowing the UK's 1999 White Paper, *Partnership for Progress and Prosperity*. He warned that "*in future, continued dependence may, in some cases, require that there should be an extension of those reserve powers which may, if necessary, be exercised by the Governor with my approval. This is because experience has shown that over the years constitutional advance, particularly in Anguilla, BVI and Montserrat, has meant that as Secretary of State, responsible to the UK Parliament for the good government of a Dependent Territory, I no longer have the necessary powers to ensure that I am able to fulfil my undoubted obligations to Parliament. Whether extended reserve powers prove to be necessary or not will depend on the acceptability or otherwise of the future conduct of public affairs in the territory concerned. I am confident that is your aim, as well as HMG's, to provide good government. Only if standards of government and the conduct of public affairs fall below acceptable standards would it be necessary to hold discussions with the governments concerned about action needed.*"

Three years later, the UK issued its policy paper, *Partnership for Progress and Prosperity: Britain and the Overseas Territories*. According to the then Foreign Secretary, Robin Cook:

The review is now complete. Its aim is a renewed contract between Britain and the Overseas Territories. Its recommendations are contained in this White Paper. They cover a range of issues fundamental to both Britain and the Overseas Territories – the constitutional link; citizenship; the environment; financial standards; good governance and human rights. The basis for our partnership remains the same as it has for generations – the deep bond of affection and respect that exists between the people of Britain and the peoples of the Overseas Territories.

This '*renewed contract*' would involve a 'partnership' built on principles that are based on: self-determination; mutual obligations and responsibilities; freedom for the territories to run their own affairs to the greatest degree possible; and a firm commitment from the UK to help the territories develop economically and to assist them in emergencies.

The 1989 constitution came right after the worst hurricane Montserrat ever experienced and coincidentally or perhaps providentially, HMG invited us to submit proposals for constitutional reform for Her Majesty's Government's (HMG's) consideration in the midst of the worst natural disaster in Montserrat's recorded history.

Governor Abbott invited the Legislative Council to review Montserrat's constitution in April 2001 and provided guidelines prepared by FCO to *guide* OT governments on the standards, obligations and expectations they should strive to meet when reviewing their constitutions. After consulting Council, Governor Longrigg appointed a five-member Commission in October 2001:

To examine the present Constitution of Montserrat and following wide consultations of Montserratians at home and abroad, to make recommendations designed to modernise the Constitution and to ensure its compatibility with the present aspirations and expectations of the people of Montserrat.

The Constitutional Review Commission started its work in January 2002, finished in December 2002, and submitted its comprehensive report to the Governor in February 2003.

Pursuant to the Governor's instructions, the Legislative Council established a Committee of the whole House to review the Constitutional Commissioner's Report. The Committee reported on its review during Council's April 2005 sitting and the Legislative Council (LegCo) accepted almost all the Constitutional Commissioners recommendations. LegCo's report formed the basis of the first round of discussions with the FCO team held on September 26-27, 2005. The second round took place on March 6-8, 2006, the third October 30-31, 2006, and the fourth May 8-10, 2007.

CURRENT STATUS OF CONSTITUTIONAL REVIEW:

The first round of talks opened with Montserrat's then Chief Minister saying: "*I would like to say on behalf of the whole nation that we are happy to have you all here for us to discuss what we hope is the advancement of our present Constitution, hoping that our final discussions*

and agreement will give more autonomy to the people of this country to be able, more so, to run their own affairs and hopefully, with God's blessing, in the future, our entire affairs as a nation. We are hoping that out of this meeting that we can have proper understanding and that all our rights and privileges will be respected, those things that we are asking to change would be given serious consideration. And we hope that we will have a very good meeting and at the end of it that we will be much happier for the end result of what we are going to discuss."

FCO's team leader set the tone in his opening remarks by saying "In doing that I hope we'll be able to reach agreement over the next couple of days on a wide range of these recommendations but at the end of the day, wherever we leave it at the end of tomorrow, any agreements are provisional until we have a package at the end. So, in short, nothing is agreed until everything is agreed. If we succeed with these constitutional review discussions, well and good; there will be a revised, modernized Constitution and it would have to be one with which both sides were comfortable and which the people of Montserrat were comfortable. If we are not successful, the present Constitution continues; there is no alternative. Of course, none of this rules a move to independence if that is what the people of Montserrat clearly express their wish to be. But in the current circumstances, there is a Constitution which functions and if we can improve it, that's still well and good; if we can't, it continues."

The fourth round of negotiations ended on May 10th leaving only three or four items on which compromise might be reached. The remaining outstanding points all relate to the Governor's special responsibilities, which the FCO side has assured us, they can predict with certainty, the UK Minister will not accept our proposals.

Outstanding and Irreconcilable Matters:

Governor's Right to Withdraw Funds from the Consolidated Fund

The Montserrat side felt this is a very retrograde step in a constitution where one is trying to establish a partnership and demonstrate that there's mutual trust and confidence. In negotiating the advance of our constitution and the democratization of our society where the parliament has always had such responsibility as Finance, it's obviously not desirable to go backward.

Power of Government to Borrow or Lend

The draft added a provision requiring government to obtain prior approval of a UK Secretary of state before we can borrow or raise or loan. This was added in view of the need for Montserrat to agree and comply with borrowing guidelines issued by the UK government.

There is no comparable section in the constitutions of Gibraltar, BVI, or Bermuda and the Montserrat side wanted this section removed because it doesn't belong in a constitution. The constitution is not written for today or for our current circumstances and therefore the UK shouldn't limit our ability to borrow because we are presently in an unfortunate position.

Budgetary Support

The Montserrat side proposed that where Government is for any reason unable to meet the reasonable costs of providing essential public services, HMG shall provide budgetary support to GoM as provided by law or by any other written agreement between both parties.

Public Service Commission

Both sides have agreed to include a new part in the constitution on the Public Service. The Montserrat side wants the PSC (and all other commissions) to be independent to address the public's concern of having one person setting aside the Commission's recommendation. This provides an opportunity to include civil society and to remove the PSC from the Governor's control. The Governor would be required to act in accordance with the Commission's advice.

National Advisory Council

The Montserrat side proposed that the constitution provides for a National Advisory Council to advise the Governor on matters relating to his or her special responsibilities and during a periods of public emergency whereby the Governor is obliged to act in accordance with such advice unless otherwise instructed by Her Majesty through a Secretary of State. This Council would consist of the Governor as Chair, the Chief Minister and one other Minister, the Leader of the Opposition, the Attorney General, Financial Secretary and two distinguished members from the community, one recommended by the Chief Minister and the other by the Leader of the Opposition.

The concept of a National Advisory Council supports our Constitutional Commissioners' position that modernisation combined with partnership must allow for positive innovation and creativity even it means a reduction in the Governor's powers. It is important that checks and balances are in place to protect citizens from abuse through political power but modernisation must allow for political growth and maturity locally. But the Governor's 'reserved' powers are not the only way to provide this. The Commissioners suggested that greater emphasis is given to the role of non-political societal organizations in the constitution. The people of Montserrat should help determine what constitutes sufficiency and modernisation must make allowance for political growth and maturity on the local scene, whereby the UK places less emphasis on pupilage and overlordship, and provide some devolution of responsibility to the people's elected representatives.³

Montserrat feels that by including civil society and the Opposition, this body helps to improve democracy and governance as decisions or advice given would be national in outlook, not coming from the Governor acting on his or her own or just the government in power. Presently, the Governor can act contrary to Executive Council's advice so if he or she is not obliged to act in accordance with the Council's advice, the situation would not have improved.

Although the current Legislative Council did not give approval, there is strong support for an increase in the numbers of Legislators to eleven and the number of Ministers to five, to enhance the capacity of Government to be able to manage its own affairs. There is also strong support to end the voting rights of non elected members of the Executive and Legislative Councils.

There is some support for the interests of the Governor and the United Kingdom to be represented by the Deputy Governor in Executive Council, the president of which would then be the Chief Minister.

Regional Affairs

The Constitutional Commissioners recommended that the local government is made fully responsible for regional affairs and more specifically, Inter-Caribbean affairs and this would only formalize what already exists in practice. They also recommended that within this subset of

³ *Report of the Constitutional Commissioners (2002)*

external affairs, control is given to local government for matters with direct bearing on social and economic development but adding a proviso which allows HMG to retain responsibility for matters pertaining to war and peace.

The current draft requires the Governor to delegate regional affairs to a Minister on terms and conditions that include: requiring separate authority for the negotiation and conclusion of any treaty or international agreement, memorandum of understanding, political declaration in the filed of foreign policy; the cost of any such activities shall be borne by the Government of Montserrat; and pursuant to any instructions given by HMG, the terms and conditions may be varied and directions may be revoked.

International Agreements

The Commissioners noted that constitutions often seek to establish a framework within which economic justice and advancement can be realized. And considering Montserrat's colonial status, including the UK's responsibility for Montserrat's international affairs, the constitution should contain some way to prevent our dependent status from getting in the way of our ability to trade in international markets as well as enable us to benefit from certain international agreements and conventions. As recommended by the Commission, the constitution should include **commitments from the UK** to:

- Promote Montserrat's association with other countries and participation in ventures which may be economically and socially advantageous to us.
- Negotiate on behalf of OTs where there are potential benefits to be derived.
- Ensure that the privileges to be derived from international treaties are made available to the OTs in the same way it extends to them its international obligations in such areas as human rights.

Alternatives to Independence and the Status Quo

The Montserrat Constitutional Commissioners, after wide consultation with Montserratians, reported that there was no great division in the population on the issue of independence, the main difference between one of timing and methodology and not one of aspiration. Consequently, they felt unable to recommend independence or dismiss it as unattainable. However, they recommended that HMG assists Montserratians in striving to be an independent people ultimately, by providing sustainable development as opposed to survival aid

and that GoM explores the possibility of a "Free Association" relationship with the UK. In accord with the Commission's recommendations, the Montserrat side presented these proposals.

Round after round, the UK side has told us that our present constitution is just like that of a territory in 'free association' with the UK. In fact, at an open forum held on May 10, 2007 for FCO to meet with representatives of NGOs and others, the FCO team leader said: *"Of course, if you had intelligent people conducting a constitutional review of a territory which is not going to be independent then it is obvious that the United Kingdom remaining as the sovereign power will not be stupid as to give up all its reserved power so that it can't meet its responsibilities. Now that is a matter of reality, and within that framework, there is an awful lot that can be done. But there was no question of saying that this or this or this is out of bounds. And indeed, if as a result of the process, the people of Montserrat had expressed the wish to move to independence that would have been accommodated too."*

And we have responded from the very start of the talks in 2005 and round after round that we wish to move to independence, just not right now. The UK's response was: *"What I assume we're talking about here or what the Review Commission is talking about is a Free Association Agreement along the lines or as defined in the UN General Assembly Resolution 1541. And the problem with that is that the way that kind of agreement is defined is unacceptable to the UK, which did not vote in favour of that Resolution. The main reason why is if you look at that definition, it says that the territory draws up its own Constitution, has autonomy to decide whatever it likes in its own Constitution and it should be obvious from what I was saying yesterday and what the British Government policy is that that is not going to be acceptable. I find this a sort of strange thing really because without that problematic definition in the General Assembly Resolution, you could look at the words 'free association' and say well, this is what we have. This is what we have. The position at the moment is that both sides freely are in a constitutional relationship with each other and we have made absolutely clear many, many times that if you, the people of Montserrat, wish to terminate that relationship, you can do so. So, you are not being held in chains."*

The UK has made its position crystal clear and the Montserrat side has acknowledged that under international law and the Charter of the United Nations, the UK is ultimately

responsible for the governance of Montserrat and has the right to have the final say. We accept this. But when we ask for provisions similar to those contained in Bermuda's more advanced constitution, we are told we can't have them. We also maintain that Article 73 of the United Nations Charter obliges the United Kingdom, as the administering power for Montserrat, to act in full accordance with all its provisions but we are particularly concerned with subsection (d): To promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article.

The UK team participated in a live radio-call in panel discussion aired on Radio ZJB on Wednesday, May 9, 2007. A caller asked whether the UK would request Montserrat's removal from the UN's list of non-self-governing territories if we exercised our right to self-determination by approving the new draft constitution. The FCO team leader responded that the question was premature as the constitution had not been agreed but it would be up the United Nations to determine adding: *"The main question consequence of Montserrat appearing on the list of NSG territories is that the UK government has to make annual reports about developments in Montserrat and the other territories which are on the list. And this is not something which we find at all difficult or onerous. In fact, it quite a useful way of keeping track on economic, social, political developments in a territory, putting them together into a report and submitting them to the United Nations."*

Based on his answer, we conclude that the UK does not feel obliged to fulfil any obligation other than clause 73(e). The FCO (during the public forum on May 10, 2007) also indicated in response to a comment that the UK seems to show great disrespect to the UN Decolonization Committee by not attending its seminars: *"I think it's not a question of showing disrespect. I think the position of the C24 Committee has shown in the past that they are not really interested in the present status of the territories [because] it doesn't fall into one of the categories that they regard as acceptable. And the cooperation we've had with them in the past has led to nothing. And that's why I think for the time being, we've given up trying to move the position forward."*

The UK side claims that one of the foundations of our *renewed partnership* for progress and prosperity is self-determination and we support that wholeheartedly. We also agree with the following observations made by our Constitutional Commissioners:

- While modernization connotes greater democratization and consequently greater local control over the territory's internal affairs, reason dictates that such advancement must be consistent with the UK's international responsibility for its remaining colonial outposts. But, considerations of contingent liability and HMG's role in fighting drugs, money laundering, global terrorism and in ensuring 'good government' should not obscure the legitimate interests of Montserratians and their right to self-determination.
- The critical concept of *partnership* must carry weight and worth, even when one accepts the reality that constitutional partners are not equal.
- Montserrat graduated from recurrent aid ahead of the British-determined schedule in 1983 and Montserratians are hardworking people. Therefore, in assessing the modicum of modernisation proposed, HMG should not allow our present abnormal circumstances to dominate its response.
- The new Constitution must be based on principle and especially the fundamental principle of self-determination so vital to a people who have tarried so long on the road from slavery to real freedom.
- The Commissioners believe the UK government welcomes any aspiration that Montserratians might have for self-determination and are willing to help them in the preparatory process. Such assistance will find its most impressive expression, both in quality development aid and in the delegation and devolution of authority to the local government to the highest degree practicable.

The last point however, seems to be off the table. Presently FCO and Montserrat are at a stalemate except the UK side has the upper hand because, they have the final say. We have agreed some provisions that modernise our constitution in terms of bridging certain gaps in the Fundamental Rights Part and the introduction of Parts on the Public Service and the National Advisory Council. They have rejected all our proposals for advancement. And although they say we are not being pressured to agree to anything, we live with the constant reminder that we are in deficit and are dependent on them. We are living alongside a live volcano for 12 years now and under a Declared State of Emergency of almost the same duration so the Governor can

easily revoke the constitution at any time or the UK could impose direct rule as they considered doing in 1996.

Only the UK has a right to grant us a new constitution and since we can't seem to agree on the outstanding points, if what the FCO team leader said at the start of the talks is true, our 1989 constitution will stand. And if the draft new constitution is imposed they would have clawed back responsibilities we currently have. We do not want to let it be seen that we agree with our present constitutional status; our ultimate goal is full self-determination. We are looking at advancement and hope we can find some special way of dealing with the 'reserve' matters rather than it seeming as though we are giving in and going backwards rather than forwards.

We live with an active volcano and are praised for resilience and courage. Our positive existence demands an element of psychic adjustment and an element of faith. Our hope in the future rests on the knowledge that the volcano is monitored professionally on a 24-hour basis, the north of Montserrat is safe, and that we have grasped the opportunity to remodel our economy to bring it out of the doldrums of dependence on the British treasury through a national Sustainable Development Plan (SDP). Our plan emerged from a consultative process to enhance ownership by all stakeholders and therefore integrates social, economic and environmental sectors. The investment and time put into our SDP confirms government's intention to pursue development rather than relapse into dependency.

Yet, we still face some major challenges: adequate housing and essential infrastructure necessary to form the foundation for economic viability. There is an urgent need for at least 1000 new housing units already identified just to address the needs of the remaining population. About 241 people were living in emergency shelters and other temporary housing people in 2006; 734 applied for housing assistance during the first eight months. British aid have sometimes been little in comparison to the need and sometimes late in comparison with the warranted speed.

The disbursement of aid generally has and continues to be an occasion of contention although the sums are sizeable. The most recent data transmitted to the UN Decolonization Committee indicate GDP estimates for 2005 of EC\$101 million or US\$22,000 per capita; this is

very misleading. Many depressed Montserratians do not feel the effectiveness of this aid, explaining why politicians have been critical of the delivery mode and demanding more. Delays continue, for example, we are in dire need of housing and funds were approved since November 2005 but not one house has been built in the intervening period from these funds. We hoped that by now one lesson learned is that it is patently misguided to dispense emergency aid for people living in forced primitive conditions in the painfully leisurely business as usual manner.

The *temporary* government headquarters at Brades has become a *permanent* monument of one of DFID's failures and by extension the UK government. Originally estimated to cost £758,000, overruns, some admittedly unavoidable, have carried the total to £2,250,000 or a whopping increase of 196.88% as of 2000. It is generally agreed that this was achieved by ignoring local technical advice and experience and by jettisoning the consultative process. The sums expended could have produced a more functional and commodious complex for ostensibly permanent occupation.

The extended family of regional territories opened both their purses and homes to Montserratians. We also received substantial assistance from extra-regional donors and the United Nations itself. We once again extend our sincere gratitude to all who helped and continue to help us on our road to recovery. The management of our ongoing volcanic crisis can be used to formulate a model which benefits from the mistakes, for there were mistakes underlined by hindsight; but there were positives enough that volcano emergency management in the region and beyond can extract valuable lessons. They can learn not only how not to, but also how to.

RECOMMENDATION

We repeat some of our suggestions made in 2001. The colonies need to have greater input in the process of decolonization. Three and a half years remain during the 2nd decade to eradicate colonialism and that doesn't seem likely. We therefore suggest that the UN finds some means of enforcing all of its articles in a meaningful way and beyond that, the remaining colonies are given the option of removing themselves from their administering power and place themselves under the care of a United Nations body until such as time as they can enter the family of nations as a full-self governing state.

In a recent press statement to mark the announcement of the retirement of Prime Minister Tony Blair, the Chief Minister said of the relationship between the Government of Montserrat and the United Kingdom:-

“There has been a sense of equity and mutual respect, with his Ministers showing willingness to divest authority to local political leaders, once their governments have the capacity and the systems in place to ensure good governance and modern democratic practices. This is consistent with a recognition that citizens of Overseas Territories and former British colonies have held, and continue to hold senior positions in the armed forces, as well as in civil, academic and political institutions.”

We close with the words of one of our most esteemed scholars: *“Montserrat’s history is of a people who have demonstrated incredible courage in the face of unprecedented disasters. It does not disguise the resultant physical and the continuing burden of a tedious development, dogged by a belittling dependency. But the island is not without high achievers in arts, industry, political life and civic generosity. These give grounds for hope.”*

Mr. Chairman, thank you for this opportunity to speak for the Government and People of Montserrat.