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Colonialism: next steps in decolonization

St. George's, Grenada

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Statement by the Hon. Claude E. F. ...

(Montserrat)

CONCRETE STEPS AND ACTIONS TO BE TAKEN TO ADVANCE AND COMPLETE THE

PROCESS OF DECOLONIZATION OF THE MOUNTAIN COUNTRIES

THE MOUNTAIN COUNTRIES

paper presented by

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Next Steps in Decolonization

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INTRODUCTORY REMARKS

On behalf the Government of Montserrat, I wish to thank the Committee for the 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 extend warm greetings and best wishes to everyone. Our presentation will focus on the economic and political status of Montserrat and the improbable wishes of its people.

HISTORICAL OVERVIEW.

"Montserrat's history is of a people who have dominated and been dominated in the face of unprecedented disasters. It does not disguise the resultant physical and the continuing burden of economic dependency. But the island is not without high achievements in its political life and civic generosity. These give grounds for hope." (Howard Fergus, 2001)

Montserrat is one of 14 territories under the sovereignty of the United Kingdom 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 1629 and 1632 for economic reasons. Sugar, tobacco, limes and cotton production brought fortune to many settlers. By 1650, Montserrat was a typical sugar island 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 4,980 of a population totalling 5,115. The slaves were 'emancipated' on August 1, 1834.¹

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...

¹ Fergus, H., *Rule Britannia*, 1984

century, there have been achievements and creative achievers along with crises and

Montserrat saw its best days, materially, in the 1950s and 1960s, a period 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 population

emigrated, 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, which struck the island
just at the beginning of the 1990s. The island's economy was based on tourism, services,
housing, construction and a small manufacturing sector. The island's population
numbered about 23,000 in 1994, the standard of education was high and the health of the
population was generally good.

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 of an estimated £1.2 billion of physical assets and most of our productive human

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 suffrage

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 regular
elections at regular intervals demonstrating unparalleled political stability.

² Fergus, H., *Montserrat in the Twentieth Century*, 2001

³ Fergus, H., *Montserrat in the Twentieth Century*, 2001

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 transferred to the Governor. The power to initiate legislation on matters relating to the Governor's powers within 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 government's response to this unsatisfactory state of affairs. No one has much to rejoice about in this episode. The British came over on an expensive and inappropriate basis, not only by personal prejudice and partisan interests many Montserratians failed to appreciate and respond appropriately to the larger implications of constitutional downgrading."

CONSTITUTIONAL REVIEW

In a recent report

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. They have the capacity and the systems in place to ensure modern democratic practices. This is consistent with a recognition that citizens

of Overseas Territories and former British colonies have held and should continue to hold senior positions in their own territories."

WHAT 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. In the UK's 1999 White Paper *Partnership for Progress*, the Secretary of State stated that he would "retain 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, KVI and Montserrat, has meant that as Secretary of State, responsible to the UK

consultations of Montserrat's people, which were
designed to modernise the Constitution and to ensure its compatibility with
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.

Under the Governor's instruction, the Legislative Council (LegCo) referred the report
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 recommendations of the Commission.

The second round took place on March 6-8, 2006, the third October 20-21, 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 determine their own future, in the future, government, and other affairs of our nation.
We are hoping that out of this meeting that our people's
rights and privileges will be respected, those things that we are entitled to have
various considerations. And we hope that we will
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, whatever agreements are reached, these
agreements are provisional until we have a referendum in the year 2014. So we have to be patient
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 be a good thing if the
sides were comfortable and which the people of Montserrat were comfortable. If we are not

successful the present Constitution continues, there is no
a move to independence if that is what the people of Montserrat clearly express their wish to do.
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.
The remaining outstanding points all relate to the
Governor's special responsibilities, which the FCO side has assured us they can predict with
certainty, and the UK Minister will not accept our proposals.

Outstanding and Irreconcilable Matters:

The Montserrat side felt that
to establish a firmness 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 responsibilities as Finance etc. etc. etc.
backward

Power of Government to Borrow on Loan

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's not in the
constitution is not written for today or for our current circumstances and it's
we are presently in an unfortunate position.

Budgetary Support

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 to be independent to address the

public's concern of having one person setting aside the Commission's

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

NATIONAL ADVISORY COUNCIL

The Montserrat side proposed that the constitution should provide 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 Commission's

position that modernisation combined with partnership must allow for positive innovation and

opportunities even at the expense of a reduction in the Governor's powers. It is important that checks and

balances are in place to protect citizens from abuse of power. The Commission's proposals

must allow for political growth and maturity locally. The Commission's proposals

not the only way to provide this. The Commission's proposals

the role of non-political social organisations 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 does not have a monopoly on

privilege and special rights. The Commission's proposals

representatives.⁵

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.

⁵ Report of the Constitutional Commission (2002)

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.

obliged to act in accordance with the Council's advice, the situation is not ideal.

Although the current Legislative Council did not have the authority to recommend

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

Council. There is some support for the interests of the Governor and the United Kingdom to be

represented by a Deputy Governor, the president of which would then be

the Chief Minister.

Regional Affairs

The Constitutional Commissioners recommended that the Governor be 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 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 field 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 revealed.

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 relations, the constitution should contain some provisions to preserve our dependent status, which being in the west of

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.
- ▶ Facilitate negotiations 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 Commission, formed in 2005, 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. However, they recommended that the UK assist in providing sustainable development for independent people ultimately, by providing sustainable development as opposed to a status quo.

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 a meeting in London in 2007, the 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 onus remains 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 no problem that can be solved. 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 wanted 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: "I'll assume

is 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 1514 which did not vote in favour of that Resolution. The main responsibility is on the UK side to ensure that the territory draws up its own Constitution and that it is acceptable to the people of the territory 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 the UK is in a constitutional relationship with the territory and that if you, the people of Montserrat, wish to terminate that relationship, 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 on 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 72 of the United Nations Charter obliges the United Kingdom, as a member state, to act in full accordance with all its provisions but we are particularly concerned with subsection (d). To promote constructive measures of development to be undertaken by the territories 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 Montserrat 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 it did not exercise its right to self-determination by approving the new draft constitution. The ECO team leader responded that the question was premature as the constitution had not been agreed but it would be up to the United Nations to determine adding: "The main responsibility is on the UK side to ensure that the territory draws up its own Constitution and that it is acceptable to the people of the territory 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 the UK is in a constitutional relationship with the territory and that if you, the people of Montserrat, wish to terminate that relationship, you are not being held in chains."

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 is quite a useful way of keeping track of 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 72(a). The ECO (during the public session on May 10, 2007) indicated in response to a comment that the UK seems to study great interest in the Decolonization Committee by not attending its seminars: "[I think it's not a question of knowledge, it's a question of interest. I think the UK is not 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're going to leave the question 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, consideration of any form of liability in an ILO/ICJ case, professional advice, social progress and of course, economic development should not obscure the rights of Montserratians to their inalienable 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

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 process.

Such assistance will be in the form of a grant 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.

And although they have rejected our proposals for advancement. And although they say we are not being pressured to do anything, 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 bring 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 issues, if a new constitution is imposed they would have clawed back responsibilities we currently have. We do not want to let it be seen that we are looking at advancement and development as a matter of course, our ultimate goal is full self-determination. We are looking at advancement and development as a matter of course, our ultimate goal is full self-determination. We are looking at advancement and development as a matter of course, our ultimate goal is full self-determination.

We live with an active volcano and our future rests on the knowledge that the volcano is monitored professionally on a 24 hour basis north of Montserrat is safe, and that we have grasped the opportunity to remodel and 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 international 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 growth 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 temporary accommodation in 2005, but 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 frustration although the sums are not 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 effect of aid in explaining why politicians have been critical of the delivery mode and demanding more. They continue for example, we are in dire need of housing and funds were allocated in March 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

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 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 the United Nations itself. We once again owe our sincere gratitude to an 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 volcanic emergency management in the region and beyond can extract valuable lessons. They can learn not only how not to, but also how to.

We repeat some of our suggestions made in 2001. The colonies need to have greater input in the process of decolonization. Two and a half 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 placing themselves under the care of a United Nations

SUMMARY

Montserrat, and the other islands of the Caribbean, has a history of surviving disasters however, we have become mired in a state of colonial dependence. Internal efforts at creating our own economic independence, a task we had accomplished by 1983 relying on a mix of construction, residential tourism and manufacturing.

By 1989, we had our first Constitution Order placing all hitherto under the Crown for governance in one place, but making the retrograde step of assigning offshore finance as a reserve of the Governor, a decision described as a process cooked consultation.

Between 1999 and 2005, the idea of a "Partnership for Progress and Prosperity" had been evolving into a constitutional review process which provides for the Governor's veto power over the Public Service Commission, a proposed National Advisory Council and considers the grant to HE, powers to withdraw and assign funds from government of Montserrat's consolidated fund.

Thank you for this opportunity to speak for the Government and People of Montserrat.