



Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Advisory Opinion; Madagascar; Marshall Islands; Mauritius; United Kingdom)

ARGUED: 24 October 2020

DECIDED: 24 October 2020

1 This majority opinion was written by Vice President Peters and signed onto by Justice Galgano and Justice
2 Beginski of Germany.

3 This panel of Justices from the International Court of Justice (“ICJ” or “Court”) has concluded that it has
4 jurisdiction to hear this case and provide an advisory opinion. Article 65(1) of the Statute of the International Court
5 of Justice provides that “the Court may give an advisory opinion on any legal question at the request of whatever
6 body may be authorized by or in accordance with the Charter of the United Nations to make such a request.”
7 Furthermore, the Court has recalled many times in the past that Article 65, paragraph 1, of its Statute should be
8 interpreted to mean that the Court has a discretionary power to decline to give an advisory opinion even if the
9 conditions of jurisdiction are met. The power to respond or not respond to a request for an advisory opinion exists
10 so as to protect the integrity of the Court’s function as the principal judicial organ of the United Nation. The Court
11 is, nevertheless, mindful of the fact that its answer to a request for an advisory opinion “represents its participation
12 in the activities of the Organization, and, in principle, should not be refused.” In light of Article 65(1) of the Court’s
13 Statute and Article 96(1) of the UN Charter, which hereby states: “The General Assembly ... may request the
14 International Court of Justice to give an advisory opinion on any legal question,” this Court has decided to present
15 an advisory opinion.

16 In this case, the Court advises that the Chagos Archipelago Islands should be decolonized and returned to
17 Mauritius. Mauritius has the right to self-determination, and the continued presence of the United Kingdom and
18 the United States on the Chagos Archipelago is a direct violation of Mauritius’ right to self-determination.

19 This Court acknowledges the progression and development of the legal circumstances between Mauritius and
20 the United Kingdom. The General Assembly’s consistent advice and oversight over this matter has been overwhelm-
21 ingly in favor of Mauritius’s right to self-determination and territorial integrity. The General Assembly Resolution
22 71/292 requests the ICJ to provide an advisory opinion on this case due to Article 65. Of particular importance to
23 the case at hand is General Assembly Resolution 1514 (XV), which states that “any attempt aimed at the partial or
24 total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and
25 principles of the Charter.” This resolution describes the customary international law concerning a non-self-governing
26 territory’s right to determine the function of its own land in the name of self-determination. As a corollary, the
27 General Assembly established Resolution 1654 (XVI) to monitor the international decolonization process and imple-
28 mentation of Resolution 1514 (XV).

29 Furthermore, the General Assembly Resolution 2066 (XX) and General Assembly Resolution 2232 discuss
30 Mauritius specifically. In Resolution 2066 an invitation was made to the “administering Power to take no action which
31 would dismember the Territory of Mauritius and violate its territorial integrity.” Resolution 2232 addresses territories,
32 stating, “[a]ny attempt aimed at the partial or total disruption of the national unity and the territorial integrity
33 of colonial Territories and the establishment of military bases and installations in these Territories is incompatible
34 with the purposes and principles of the Charter of the United Nations and of General Assembly resolution 1514
35 (XV).” Further strengthening these Resolutions, the Resolution of the Committee of Twenty Four “[d]eplores the
36 dismemberment of Mauritius and Seychelles by the administering Power which violates their territorial integrity, in

37 contravention of General Assembly resolutions 2066 (XX) and 2232 (XXI) and calls upon the administering Power to
38 return to these Territories the islands detached therefrom.” Historically, the international community and Mauritius
39 have both considered the Chagos Archipelago to be a fundamental portion of Mauritius’ domain. Throughout
40 colonization by the Dutch, French, and (up until 1965) the United Kingdom, the Chagos Archipelago remained
41 within the control of Mauritius and its people. The continued presence of the United Kingdom is a clear disruption
42 of the national unity and territorial integrity, as the General Assembly describes throughout its various Resolutions.

43 While such Resolutions serve as the basis for this Court’s advisory opinion, the Lancaster House Agreement is
44 also of important legal consideration. The Lancaster House Agreement of 1965 was negotiated between the Colony of
45 Mauritius and the United Kingdom and predates the independence of Mauritius by three years. As such, Mauritius
46 was not a sovereign nation when the Lancaster House Agreement was signed in 1965 but rather was a non-self-
47 governing territory. While the agreement was legal at the time of signing, once Mauritius gained independence,
48 these provisions became unlawful because Customary International Law protects the right to self-determination of
49 civilians and government. As a signatory to the UN Charter, which upholds the right to self-determination, the
50 United Kingdom agreed to adhere to these principles. Therefore, this Court finds that the United Kingdom is
51 unjustifiably continuing to occupy the sovereign territory of Mauritius in the Chagos Archipelago.

52 The Lancaster House Agreement stated that the United Kingdom could use the detached land of the Chagos
53 Archipelago on the condition that the land would be returned to Mauritius. This position of the agreement was lawful
54 from 1965 until Mauritius gained independence in 1968; however, this Court finds that the Lancaster Agreement
55 of 1965 became void upon the independence of Mauritius and, at the time of independence, should have been
56 renegotiated with the sovereign government of Mauritius. It is in the opinion of the Court that reasons supporting
57 the continued military presence on Chagos Archipelago are unjustified. Since the Chagos Archipelago was considered
58 part of the Colony of Mauritius, it is included in the sovereign territorial claim of the sovereign nation of Mauritius.

59 In consideration of the General Assembly’s Resolutions and the Lancaster House Agreement, this Court
60 will subsequently address the concern that coercion and the difference in power between the United Kingdom and
61 Mauritius may weaken the integrity of the agreement. The Court finds that the United Kingdom had not coerced
62 Mauritius into ceding the Chagos Archipelago Islands. Because the Colony of Mauritius was able to successfully
63 negotiate with and obtain concessions from the British government, and because compensatory measures were made
64 from the United Kingdom to Mauritius, it is of the Court’s majority opinion that the Lancaster House Agreement
65 was entered into freely and that the Colony of Mauritius was not coerced.

66 In forming the advisory opinion, this Court suggests the following actions to be considered. To complete
67 decolonization, the islands Chagos Archipelago must be returned to Mauritius. Furthermore, a renegotiation of the
68 Lancaster House Agreement may be examined, if both parties wish, but Mauritius is under no obligation to do so,
69 as the Chagos Archipelago Islands are part of Mauritius’ sovereign territory. Finally, an allowance must be made for
70 the Chagossian people to return to the detached land. On this point, this Court recognizes the power of the General
71 Assembly to make specific rulings and find a peaceful resolution to this case.

Signed By



Justice Justice Katie Galgano

Gillian E. Beginski

Justice Justice Gillian Beginski



Justice Justice Nicholas Peters