



Statement of the delegation of Cyprus on the
Advisory Opinion of the International Court of Justice on the Legal Consequences of the
Separation of the Chagos Archipelago from Mauritius in 1965
General Assembly, 22 May 2019

Madam President,

Cyprus welcomes the advisory opinion of the International Court of Justice, the very clear direction given by the Court, as well as its forward-looking and co-operative approach.

By clarifying the scope of decolonization and what it entails, the Court makes a very significant contribution to an endeavor consubstantial to the United Nations: it guides us in finally laying to rest the remnants of colonialism as a necessary step towards achieving the sovereign equality of states in a global order built on shared values and principles, and governed by the rule of law.

It is this commitment towards the rules-based international order in general, and international law in particular, which compelled Cyprus to participate in the proceedings before the ICJ more than the analogies that could be drawn with our own decolonization experience. We wanted to be part of this process because we are keenly aware that our global order, still today, has not fully escaped the colonial mindset that prevailed at the time of the genesis of the international community of states with the UN at its core. We are equally cognizant that the transition we are seeking is only possible through co-operation and not confrontation.

This is why we are particularly pleased that the Court's interpretation of the right to self-determination definitively rejects any arguments and methods employed to prevent complete decolonization. The Court has reaffirmed that decolonization is incomplete if the entire territory of a former colony is not an integral part of the state which emerges, against the will of its people.

Self-determination, which is at the core of decolonization, is an inalienable right that no people can – wholly or partly – waive, surrender, cede or transfer. The *jus cogens* character of the right to self-determination and the *erga omnes* character of the obligations it generates engage the responsibility of all states to give proper effect to this right. As the Court has reaffirmed, colonial powers are under a continuing obligation to give full effect to the right to self-determination in respect of countries and territories, which are wholly or partly deprived of that right. In our view, no arrangements may be invoked to absolve the administering power of its legal duties or enable it to escape its obligations under international law as it stands today.

Madam President,

According to the Court's advisory opinion, territorial integrity is a key element in giving proper effect to the right to self-determination. Beyond the general incompatibility with the purposes and principles of the UN Charter of the disruption of the national unity and territorial integrity of a country, there is, specifically with respect to decolonization, a presumption in favour of independence of a territorial unit as a whole.

Territorially handicapped independence cannot but constitute a violation of the obligations relating to the right to self-determination. The disruption of the territorial integrity of a colony through the excision and retention of part of its territory by the colonial power prior to granting

independence is prohibited, unless it is based on the free and genuine acceptance by the people of the territory concerned. We would go beyond this however and argue that genuine will to part with a parcel of one's territory is a myth. We consider that an element of coercion is always present when a parcel of colonial territory is excised, irrespective of whether this is done in keeping with legal convention.

Particularly in cases of decolonization, territorial dismemberment – or indeed any conditions imposed by the colonial power as a price for independence – cannot be argued to have been genuinely consented to, given the inherent inequalities of power between the colonial power and a people under its control and domination. This is also why no legal effect may be created by a situation resulting from such conditions.

Madam President,

I turn now to our obligations as the United Nations General Assembly. Colonialism is a violation of the UN Charter specifically and the Charter gives the General Assembly explicit overall competence in respect of decolonization precisely because the obligations generated in this respect are owed to the international community as a whole.

The ICJ has responded to our call, in line with its purpose to uphold the rule of law in international relations and to protect the integrity of the international legal order. As an Assembly, we now have the responsibility, but also the informed basis, upon which to consider appropriate action in the interest of the principles of equal rights and self-determination of peoples.

Holding all of us – the Member States – accountable for our actions *vis-à-vis* one another in this international legal framework we have developed, with our own judicial organ as its guardian, is at the core of the UN's *raison d'être*. States responsible for wrongful acts are under an obligation to cease such acts and make full reparation for the injury caused.

We have before us an opinion which deems that the incomplete decolonization of Mauritius due to the unlawful and non-consensual dismemberment of its territory is an ongoing wrongful act that should be remedied by rapidly terminating the administration of the Chagos Archipelago by the colonial power, with the co-operation of all Member States of the United Nations.

Implementation of the draft resolution before us would mean compliance with the obligation to cooperate in effecting the modalities for completing the decolonization of Mauritius and thus discharging the Assembly's functions under the Charter in this case. This is why my delegation will be voting in favour of the draft resolution.

Let us move away from the colonial paradigm by establishing partnerships among equals because this is the only way to legitimately achieve collective goals in good faith.

Lastly, Madam President, we would be remiss if we did not refer to the human dimension of the question at hand and the need to provide remedies for human rights violations. We wish to particularly highlight the right of return of persons displaced from their places of origin, the right of persons to enjoy freedom of movement within their own countries, and the right of restitution of property to persons forcibly dispossessed thereof, in line with the Pinheiro Principles and general international law.

Thank you.