



PRESS RELEASE (26/2/2019)

International Court of Justice and the Chagos Archipelago Advisory Opinion

On 25 February 2019, the International Court of Justice (ICJ) delivered a resounding Advisory Opinion on the legality of the UK's administration of the Chagos Islands as part of the British Indian Overseas Territory, finding that the UK's administration of the islands is a continuing unlawful act, that the UK has an obligation to bring to an end its administration of the Chagos Islands "as rapidly as possible" and that all member States must cooperate with the UN to complete the decolonisation of Mauritius.

In order to bring the Advisory Opinion to the Court, Vanuatu voted in favour of a resolution at the UN General Assembly to refer the question concerning the legality of the UK's administration of the Chagos Islands to the ICJ. The Prime Minister of Mauritius, Pravind Kumar Jugnauth, then wrote to Prime Minister of Vanuatu Charlot Salwai in early 2018 requesting Vanuatu to make oral submissions in the ICJ case in support of Mauritius. Vanuatu agreed, appearing before the Court last year for the first time since independence. Ultimately, Vanuatu's oral submissions were almost entirely reflected in the findings of the ICJ in this historic Advisory Opinion.

The issue at stake in this case was whether the United Kingdom's division of its former colony into two separate territories, Mauritius and the Chagos Islands, ensured that the people living in the Chagos Islands were able to exercise their right to self-determination. The UK divided Mauritius, a colonial territory, in 1965 in order to lease the main island of the Chagos Islands - Diego Garcia - to the United States for its military purposes. Diego Garcia is a key strategic military base for the US and UK. As a consequence of this lease, which has been repeatedly renewed, the UK forcibly removed all the inhabitants of all of the islands of the Chagos Islands from their homes and sent them to Mauritius and other locations. They have never been allowed to return. The ICJ was asked by the United Nations General Assembly whether these actions were lawful under international law.

The ICJ had three issues to decide. First, whether it would accept the request by the General Assembly to give an Advisory Opinion. Second, whether there was a rule of international law that protected the Chagossian's right to self-determination in 1965. Third, if so, whether there were implications for the UK's current administration of the Chagos Islands as part of the British Indian Overseas Territory.

Vanuatu supported the position of Mauritius, along with a number of small island states and the African Union, because the facts in this case raised broader issues affecting many other States around the world, including in the Asia-Pacific region. In particular, Vanuatu argued that international law protected the rights of the Chagossians to freely and genuinely decide their future – i.e. their right to self-determination – and that the fact of this case showed that the Chagossians had so far been deprived of that right. Vanuatu has long taken a principled position on the right to self-determination, including with respect of East Timor and West Papua. Its action is also consistent with the words of Father Walter Lini, the first Prime Minister of an independent Vanuatu:

“[The] Pacific is one of the last regions of the world where the heavy hand of colonialism continues to be played. [...] These remnants of the past must be lifted from our ocean, for, in all truth, and as I have remarked before, until all of us are free, none of us are.”

Vanuatu was among a number of states which made their first appearance before the Court, in recognition of the importance of this case and for the right to self-determination. The African Union, Botswana, Kenya and Zambia also appeared for the first time.

After the hearings in September 2018, Foreign Minister of Vanuatu, Ralph Regenvanu, said Mauritius was “thrilled” with Vanuatu’s submissions and reported that Prime Minister of Mauritius Jugnauth – who was in Court observing the proceedings and who personally congratulated the Vanuatu delegation – called Vanuatu’s oral intervention “one of the best of the week”.

After the historic decision of the Court this week, Foreign Minister Ralph Regenvanu said:

“Vanuatu appeared in this case to have a voice on the international stage to clarify the right to self-determination – and the International Court of Justice has listened. Vanuatu has long been committed to standing up for self-determination and to ending colonisation, wherever it occurs – including in our own region. Vanuatu is pleased to have supported Mauritius and the African Union in this case. The principles set down by the ICJ in this case will contribute to the resolution of ongoing disputes beyond the Chagos Islands, including in our negotiations with France over Matthew and Hunter Islands, and for the people of West Papua. We reiterate that all States have the obligation to refrain from any action that deprives people of their right to self-determination.”

Vanuatu was represented in these proceedings by Professor Robert McCorquodale of Brick Court Chambers, Jennifer Robinson of Doughty Street Chambers, Nicola Peart of Three Crowns LLP, and Mr. Noah Patrick Kouback, Permanent Mission of Vanuatu in Geneva.