

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

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Ref: BC/OLC/10.9/2126.18

Date: 12 September 2018

Dear Sir,

I have the honour to refer to your letter dated 3 September 2018 relating to the question put to the Republic of Mauritius by Judge Gaja at the end of the morning's public sitting of 3 September 2018 and to forward to you the comments of the African Union on the written reply of the Republic of Mauritius.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Namira Negm', written over a faint circular stamp.

Ambassador Dr. Namira Negm
The Legal Counsel
African Union

To: Mr. Philippe Couvreur
Registrar
International Court of Justice
The Hague
Netherlands

WRITTEN REPLY OF THE AFRICAN UNION TO JUDGE GAJA'S QUESTION

"In the process of decolonization relating to the Chagos Archipelago, what is the relevance of the will of the population of Chagossian origin?"

1. The African Union fully agrees with the reply of the Republic Mauritius concerning the relevance of the will of the people of Mauritius, including the will of the population of Chagossian origin, in the process of decolonization of Maurice in 1965/1968.
2. As the African Union has emphasized in its Written Statement, its Written Observations as well as its Oral statement of 6 September 2018, under customary international the will of the colonized people must be respected in the process of decolonization.
3. The will of the people is a sine qua non of the right to self-determination.
4. As such, the detachment of the Chagos Archipelago from Mauritius in 1965 was unlawful since the people of Mauritius in its whole, including those of Chagossian origin, did not express their will and did not consent to the said detachment.
5. In the view of the African Union, the so-called consent of few Mauritian political representatives does not meet the threshold required under customary international law.
6. Since the population of Chagossian origin, including the Mauritians of non-Chagossian origin, did not express their will and their consent to the detachment of Chagos from Mauritius, there is no doubt that the process of decolonization was incomplete.
7. Under customary international law, as applicable as of 1965, it is for the people of Mauritius, including the population of Chagossian origin, to decide of the future of the Chagos Archipelago. It is not for the United Kingdom to decide, under its own internal law, when to return the Archipelago. The position of the United Kingdom contradicts the principle according to which international law prevails over domestic law. International law requires to give primacy to the will of the people of Mauritius, including those of Chagossian origin.