

WRITTEN REPLY OF THE REPUBLIC OF MAURITIUS 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 Chagos Archipelago having always been an integral part of the territory of Mauritius, the “process of decolonization relating to the Chagos Archipelago” could only be treated as a part of the decolonization of Mauritius as a whole.
2. Accordingly, the position in international law, as at November 1965 (when the right of self-determination was already established in international law), was that the Chagos Archipelago could not be detached from the territory of Mauritius, unless the express consent of the people of Mauritius, including Mauritians residing in the Chagos Archipelago or of Chagossian origin, to such a detachment had been obtained.
3. No such consent was obtained either prior to 12 March 1968 when Mauritius achieved independence, nor was any consent obtained thereafter.
4. Accordingly, as at that date, and continuing until today, the purported “detachment” of the Chagos Archipelago has been, and continues to be, unlawful under international law. The process of decolonization of Mauritius therefore remains incomplete. As a consequence, the United Kingdom is under an obligation under international law to complete the decolonization of Mauritius, by taking immediate steps to withdraw its unlawful colonial administration and restore the integrity of the territory of Mauritius.
5. As regards the “will” of the population of Chagossian origin, this was required to be taken into account by the administering power in determining whether the consent of the people of Mauritius as a whole had been obtained to the purported “detachment” of the Chagos Archipelago from the territory of Mauritius. As noted above, the will of the people of Mauritius, including the “will of the population of Chagossian origin”, was not taken into account prior to the detachment of Chagos Archipelago in 1965, or prior to the independence of Mauritius. This was a manifest violation of the right of the people of Mauritius, including its population of Chagossian origin, to self-determination.
6. The withdrawal of the unlawful colonial administration, the recognition of the territorial integrity of Mauritius as including the Chagos Archipelago and the exercise of sovereignty over the totality of its territory by Mauritius, will allow the return to the Chagos Archipelago, and the resettlement there of all individuals of Chagossian origin wishing to do so, in accordance with the laws of Mauritius.
7. Mauritius reaffirms its commitment to respect the “will of the population of Chagossian origin”, by facilitating resettlement. Whether to return and resettle is a matter of free choice to be decided on an individual basis by each person of Chagossian origin.