



**ICJ Study Guide for Simulations of the International Court of Justice (ICJ)
at the NUST International Model United Nations**

**Legal Consequences of the Separation of the Chagos
Archipelago from Mauritius in 1965**

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International Court of Justice

1. Committee Introduction

1.1. History

The International Court of Justice (ICJ) represents the culmination of centuries of efforts toward pacific dispute resolution among states. Historically, mediation and arbitration paved the way for judicial settlement, with roots in ancient civilizations like India, Greece, and China. Modern arbitration gained momentum with the 1794 Jay Treaty between the United States and Great Britain, and landmark cases like the Alabama Claims arbitration of 1872 showcased arbitration's effectiveness. The Hague Peace Conferences of 1899 and 1907 institutionalised arbitration through the creation of the Permanent Court of Arbitration (PCA), which facilitated arbitral tribunals but lacked consistency and mandatory jurisdiction. Inspired by the PCA's successes and limitations, the Permanent Court of International Justice (PCIJ) was established in 1920 under the League of Nations, becoming the first permanent international tribunal with its own statute, rules, and registry. Operating from 1922 to 1946, the PCIJ resolved disputes, developed international legal practices, and clarified areas of law. However, the outbreak of World War II and the decline of the League of Nations necessitated a new international judicial system. In 1945, during the San Francisco Conference, the ICJ was created as the principal judicial organ of the United Nations, inheriting the PCIJ's statute with necessary revisions. The ICJ aimed to provide universal accessibility and address the evolving dynamics of the international community, which included a growing number of non-European states. Officially inaugurated in 1946 at the Peace Palace in The Hague, the ICJ succeeded the PCIJ and has since served as the primary forum for the peaceful resolution of international disputes and the development of international law.

1.2. Members

The International Court of Justice (ICJ) consists of 15 judges elected to nine-year terms by the United Nations General Assembly and Security Council through simultaneous but independent voting, requiring an absolute majority in both bodies. To maintain continuity, a third of the judges are elected every three years, with re-election permitted. In cases of death or resignation, special elections are held to fill the remainder of the term. Elections take place during the General Assembly's autumn session in New York, and newly elected judges begin their terms on February 6 of the following year. The Court then elects a President and Vice-President for three-year terms via a secret ballot. States party to the Court's Statute nominate candidates through groups of jurists linked to the Permanent Court of Arbitration or equivalent bodies in non-member states. Each group may nominate up to four candidates, adhering to nationality restrictions. Judges must meet high standards of moral character and legal expertise, and the Court's composition reflects global legal systems and civilizations, with no two judges from the same country. Once elected, judges serve as independent officials, not as representatives of their governments, and pledge to perform their duties impartially and conscientiously.

1.3. Functioning

The International Court of Justice (ICJ) handles two types of cases: contentious cases, which involve legal disputes between States, and advisory proceedings, where legal questions are referred to it by United Nations organs and specialised agencies. Only States that are parties to the Court's Statute or have accepted its jurisdiction can be parties in contentious cases. The Court's jurisdiction is established through special agreements between States, jurisdictional clauses in treaties, or reciprocal declarations of acceptance of compulsory jurisdiction. States typically communicate with the Court through their agents, who serve a role similar to that of a solicitor in national courts, representing the State in all aspects of the case, such as submitting pleadings and making oral arguments. Agents may be assisted by co-agents, deputy agents, or

assistant agents, and always coordinate with counsel or advocates. A case may be initiated by either a special agreement, which is a bilateral document lodged by the States involved, or by an application, which is a unilateral document filed by one State against another. The Court then follows a two-phase process: a written phase where the parties submit detailed pleadings, and an oral phase with public hearings where the parties present their arguments. All proceedings are conducted in the Court's two official languages, English and French, and everything in one language is translated into the other. After the oral hearings, the Court deliberates in private and issues a judgement, which is final and binding on the parties. The judgement cannot be appealed, though it may be subject to interpretation or revision if new facts arise. States are obligated to comply with the Court's decisions, and if a State fails to implement a judgement, the other State may bring the matter before the UN Security Council, which can recommend measures to enforce the judgement. The Court's normal procedure may be altered by incidental proceedings such as preliminary objections, where a party challenges the Court's competence, provisional measures, which are interim steps to protect a party's rights, or intervention by a third State with a legal interest in the case. In certain situations, the Court may consolidate related cases or form ad hoc chambers to examine specific cases. The Court applies a variety of sources of law, including international treaties, custom, general principles of law, judicial decisions, and scholarly teachings. In some cases, if both parties agree, the Court may decide a case *ex aequo et bono*, meaning based on fairness, rather than strictly following existing legal principles. In advisory proceedings, only five UN organs and 16 specialised agencies can request legal opinions from the Court. While advisory opinions are non-binding, they carry significant authority and may influence international law. The Court examines the facts surrounding the request and holds both written and oral proceedings, though these are typically shorter than in contentious cases. Although the opinions are advisory and not obligatory, they may be binding in certain contexts, such as specific conventions relating to the privileges and immunities of the UN. The Court also considers the views of other relevant States and organisations, though only the requesting body is considered a party in the advisory

proceedings. The Court's opinions are influential, and when endorsed by the requesting organ or agency, they are effectively regarded as part of international law.

2. Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965: An Overview

The Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 encompass significant issues in international law, focusing on territorial integrity, self-determination, human rights, decolonization, and state responsibility. These legal consequences stem from the detachment of the Chagos Archipelago by the United Kingdom (UK) before granting independence to Mauritius and have implications for both the sovereignty of Mauritius and the displaced Chagossian people.

The International Court of Justice (ICJ) provided an Advisory Opinion addressing two critical questions raised by the United Nations General Assembly. The first question asked whether the process of decolonization for Mauritius had been fully completed when it attained independence in 1968, given the excision of the Chagos Archipelago in 1965. The second question sought to clarify the legal consequences arising from the United Kingdom's ongoing administration of the Archipelago.

The principle of self-determination, as outlined in the UN Charter and numerous international legal instruments, is central to this case. Mauritius argued that it was entitled to the Chagos Archipelago as part of its natural territory under the principle of territorial integrity, which prohibits the dismemberment of a colonial territory prior to its independence. The separation of the Archipelago by the UK violated this principle, as it took place without the genuine consent of the Mauritian people or government representatives.

The International Court of Justice (ICJ), in its 2019 advisory opinion, ruled that the separation was unlawful, as it contravened international law by failing to respect Mauritius' territorial integrity. The ICJ highlighted that the process did not comply with the principles of

decolonization, which requires colonial powers to allow territories to transition to full sovereignty without territorial fragmentation. This judgement reaffirmed the obligation of colonial powers to maintain the territorial unity of a dependent territory during the process of granting independence.

The Chagos Archipelago's separation was facilitated by a series of agreements between the UK and Mauritian colonial representatives, but these agreements lacked genuine consultation and consent. Under international law, such agreements are not considered valid if they result from coercion or unequal power dynamics. The ICJ found that the arrangement violated international norms governing colonial administrations.

Mauritius claimed that the detachment of the islands was part of an unequal bargain made under duress, as independence for Mauritius was conditional upon accepting the separation of the Archipelago. The ICJ's ruling supported this claim, emphasising that the process failed to meet the standard of free and fair negotiations, a requirement under international legal frameworks for decolonization.

A key consequence of the separation was the forced displacement of the Chagossian people, the indigenous population of the Archipelago. The UK forcibly removed the Chagossians between 1968 and 1973 to make way for the construction of a US military base on Diego Garcia. This mass displacement constitutes a grave violation of human rights, including the right to reside in one's homeland, freedom from forced eviction, and the right to self-determination.

The legal consequences of these actions have been debated extensively in human rights forums. The displacement deprived the Chagossians of their homes, livelihoods, and cultural identity, leaving them in conditions of poverty and marginalisation in exile. The ICJ's advisory opinion acknowledged the plight of the Chagossians, and subsequent legal and diplomatic pressures have called for their right to return to their homeland. However, the UK has consistently resisted these calls, citing security and strategic concerns linked to the US military base.

The separation of the Chagos Archipelago occurred in the broader context of decolonization. Decolonization is governed by international law, particularly through UN resolutions such as General Assembly Resolution 1514 (XV) on the Granting of Independence to Colonial Countries and Peoples. These instruments emphasise that colonial powers must respect the sovereignty and territorial integrity of dependent territories and allow their populations to freely determine their future.

“Moreover, both the United Kingdom itself and the United Nations treated the detachment of the Chagos Archipelago as a matter of decolonization rather than a territorial issue. Recently declassified archives of the Foreign Office of the United Kingdom reveal that at the time when the detachment plan was being contemplated, the United Kingdom officials were aware, and even acknowledged, that by detaching the Chagos Archipelago and other islands to set up the British Indian Ocean Territory (hereinafter as the “BIOT”), the United Kingdom was actually creating a new colony. Considering the United Kingdom’s mandate as an administering Power under the Charter of the United Nations, they doubted that the planned action could escape criticism in the United Nations.”

In its advisory opinion, the ICJ found that the detachment of the Chagos Archipelago violated the principles of decolonization, as the process was incomplete and flawed. The Court emphasised that Mauritius could not be considered fully decolonized until it regained sovereignty over the Archipelago. This ruling has reinforced the legal precedent that decolonization processes must prioritise the territorial integrity and rights of the people in the colonial territory.

The ICJ’s ruling placed significant obligations on the UK. The advisory opinion stated that the UK was under an obligation to end its administration of the Chagos Archipelago "as rapidly as possible" and facilitate the transfer of sovereignty to Mauritius.

This stance has strained the UK's diplomatic relations with Mauritius and other countries advocating for decolonization and adherence to international law. The ICJ's opinion has also bolstered Mauritius' position in international forums, such as the United Nations General Assembly, which has passed resolutions demanding that the UK withdraw from the Archipelago. The legal consequences thus extend to global perceptions of state compliance with international law and the credibility of international legal institutions.

The case has significant implications for the interpretation and application of international legal principles, particularly those relating to self-determination and decolonization. The ICJ's advisory opinion reaffirmed that colonial powers have a legal obligation to respect the sovereignty and territorial integrity of dependent territories and cannot unilaterally alter their boundaries or administer their resources.

Additionally, the ruling underscores the rights of displaced populations, emphasising that their forced removal and denial of return constitute ongoing violations of international law. The case serves as a precedent for addressing similar disputes involving territorial fragmentation, sovereignty claims, and the legacy of colonialism.

2.1. The Case

On 22 June 2017 the General Assembly adopted resolution 71/292, in which, referring to Article 65 of the Statute of the Court, it requested the Court to render an advisory opinion on the following questions:

- (a) Was the process of decolonization of Mauritius lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law, including obligations reflected

in General Assembly resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967?

(b) What are the consequences under international law, including obligations reflected in the above-mentioned resolutions, arising from the continued administration by the United Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago, including with respect to the inability of Mauritius to implement a programme for the resettlement on the Chagos Archipelago of its nationals, in particular those of Chagossian origin?

Thirty-one Member States of the United Nations and the African Union filed written statements, and ten States and the African Union filed written comments on the written statements. Twenty-one States and the African Union participated in the oral proceedings, which took place from 3 to 6 September 2018.

In its Advisory Opinion delivered on 25 February 2019, the Court concluded that “the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence” and that “the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible”. Before reaching this conclusion, the Court first addressed the question of whether it possessed jurisdiction to give the advisory opinion requested by the General Assembly. Having established that it did have jurisdiction to render the advisory opinion requested, the Court examined the question, raised by a number of participants, as to whether it should nevertheless decline to exercise that jurisdiction as a matter of discretion. It concluded that, in light of its jurisprudence, there were

“no compelling reasons for it to decline to give the opinion requested by the General Assembly”.

After examining the factual circumstances surrounding the separation of the archipelago from Mauritius, as well as those relating to the removal of the Chagossians from this territory, the Court addressed the questions submitted to it by the General Assembly, having found that there was “no need to reformulate the questions submitted to it for an advisory opinion in [the] proceedings”.

In examining the first question, the Court turned to the nature, content and scope of the right to self-determination applicable to the process of decolonization of Mauritius. It began by recalling that, having made respect for the principle of equal rights and self-determination of peoples one of the purposes of the United Nations, the Charter included provisions that would enable non-self-governing territories ultimately to govern themselves. Moreover, the Court noted that “the adoption of resolution 1514 (XV) represents a defining moment in the consolidation of State practice on decolonization” and that “[b]oth State practice and opinio juris at the relevant time confirm the customary law character of the right to territorial integrity of a non-self-governing territory as a corollary of the right to self-determination”. The Court considered that the peoples of non-self-governing territories are entitled to exercise their right to self-determination in relation to their territory as a whole, the integrity of which must be respected by the administering Power. After having examined the functions of the General Assembly in matters of decolonization, the Court also considered, in its analysis of the international law applicable to the process of decolonization of Mauritius, the obligations reflected in General Assembly resolutions mentioned in the first question before the Court. In the Court’s view, “by inviting the United Kingdom to comply with its international obligations in conducting the process of decolonization of Mauritius, the General Assembly acted within

the framework of the Charter and within the scope of the functions assigned to it to oversee the application of the right to self-determination". After recalling the circumstances in which the colony of Mauritius agreed in principle to the detachment of the Chagos Archipelago, the Court considered that this detachment was not based on the free and genuine expression of the will of the people concerned. It took the view that the obligations arising under international law and reflected in the resolutions adopted by the General Assembly during the process of decolonization of Mauritius required the United Kingdom, as the administering Power, to respect the territorial integrity of that country, including the Chagos Archipelago. The Court concluded that, "as a result of the Chagos Archipelago's unlawful detachment and its incorporation into a new colony, known as the [British Indian Ocean Territory] BIOT, the process of decolonization of Mauritius was not lawfully completed when Mauritius acceded to independence in 1968".

In addressing the second question, having established that the process of decolonization of Mauritius was not lawfully completed in 1968, the Court examined the consequences, under international law, arising from the United Kingdom's continued administration of the Chagos Archipelago. In particular, it was of the opinion that the United Kingdom's continued administration of the Chagos Archipelago "constitutes a wrongful act entailing the international responsibility of that State", that the United Kingdom "has an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible, and that all Member States must cooperate with the United Nations to complete the decolonization of Mauritius". Since respect for the right to self-determination is an obligation erga omnes, all States have a legal interest in protecting that right, the Court found. It considered that, while it is for the General Assembly to pronounce on the modalities required to ensure the completion of the decolonization of Mauritius, all Member States must co-operate with the United Nations to put those modalities into effect. As regards the resettlement on the Chagos Archipelago of

Mauritian nationals, including those of Chagossian origin, the Court was of the view that this is an issue relating to the protection of the human rights of those concerned, which should be addressed by the General Assembly during the completion of the decolonization of Mauritius.

2.2. Background

In 1964, a U.K./U.S. survey of the Indian Ocean revealed that Diego Garcia, in the remote Chagos Archipelago, would make an ideal site for a U.S. military base. The Archipelago was a distant dependency of the Non-Self-Governing Territory of Mauritius and home to the Chagossians. In 1965, the United Kingdom entered into the "Lancaster House Agreement" with Mauritian ministers to detach the Chagos Islands from Mauritius. It applied considerable pressure to obtain consent and the transaction was tied up with the decision to grant Mauritius its independence. The British Indian Ocean Territory (BIOT) was created in 1965 and the Chagos Islands were separated from Mauritius accordingly. In 1966, the United Kingdom and United States concluded a treaty regarding the use of Diego Garcia. Pursuant to the planned construction of a U.S. base on this island, the Chagossians were forcibly removed from the entire Archipelago. Most were transported to Mauritius where they experienced chronic impoverishment.

Mauritius has demanded the return of the Chagos Islands for decades. In 2010, it instituted proceedings under the UN Convention on the Law of the Sea (LOSC) in response to the United Kingdom's declaration of a huge Marine Protected Area (MPA) around the Archipelago. Mauritius tried to shoe-horn its sovereignty claim into this case; however, in its *Chagos Award*, the Tribunal ruled that it lacked the jurisdiction to adjudicate this specific claim. Nonetheless, it decided that the MPA's creation had violated the Convention's provisions. Subsequent bilateral discussions came to nothing and so Mauritius took the matter to the UN General Assembly.

2.2.1. Legality of Background

(i) Mauritius was listed as a Non-Self-Governing Territory in G.A. Res. 66(I), December 14, 1946.

“In 1946, by resolution 66 (I), the Assembly enumerated seventy-four Territories in respect of which the Administering Members had at that time transmitted or undertaken to transmit information in pursuance of Article 73 e of the Charter. In 1947 and 1948, for reasons of constitutional change, information was not transmitted on eleven of these Territories. Attention was drawn to this situation in the Fourth Committee, and the General Assembly, by resolution 222 (III), expressed the opinion that it was essential for the United Nations to be informed of any changes in the constitutional status of the Territories which resulted in the cessation of the transmission of information in those instances, and invited the Members concerned in any such case to send to the Secretary-General appropriate information.”

(ii) The tale of the Chagos Archipelago (British Indian Ocean Territory, BIOT) raises a wide spectrum of transnational legal questions, all across the fields of human rights, environment and disarmament. Last-born of the Empire's colonies, the BIOT was established – and systematically depopulated – for the sole purpose of accommodating a strategic US military base during the Cold War years in 1965–1966.¹ The territory has since generated extensive litigation in the national courts of the United Kingdom (UK) and the USA as well as proceedings in the European Court of Human Rights and an arbitration under Annex VII of the Convention on the Law of the Sea (UNCLOS).

“British Indian Ocean Territory Order of 8 November 1965, *Statutory Instruments* [1965] No. 1920, amended by *Statutory Instruments* [1968] No. 111; UK–US Agreement on the Availability for Defence Purposes of the British Indian Ocean

Territory 30 December 1966, 603 UNTS 273, supplemented by exchanges of notes 1972–2004. Yet, the military facility on the principal Chagos atoll of Diego Garcia (one of the strategically most important American bases overseas) has remained ‘virtually unknown in the US’. N. Chomsky, *Hegemony or Survival: America’s Quest for Global Domination* (2004), at 162.”

(iii) In the “Chagos Marine Protected Area Arbitration (Mauritius vs United Kingdom), the judges Judge James Kateka and Judge Rüdiger Wolfrum reached the following conclusion:

- a. To our regret we are not able to agree with the reasoning and the findings of the Tribunal on Mauritius’ Submissions Nos. 1 and 2; we, however, concur with the findings on Submissions Nos. 3 and 4, although not with all the relevant reasoning.
- b. This Opinion will concentrate on the areas of disagreement, namely the characterization of the legal dispute between the Parties and the jurisdiction of the Tribunal concerning Submissions Nos. 1 and 2 of Mauritius. It will also deal with some issues concerning the merits of the case.

(iv) **Under the declaration made by Vice President Xue (pt.13.)**

“Historical documents show that at the time when the United Kingdom was contemplating the separation of the Chagos Archipelago from Mauritius, there was no dispute between the administering Power and the colony of Mauritius over the fact that the Chagos Archipelago had always constituted part of the territory of Mauritius. Both the United Kingdom’s administrative acts concerning the relationship of the Chagos Archipelago with Mauritius and the way in which it handled the detachment negotiations with Mauritius, give clear indication that the

United Kingdom recognized that the Chagos Archipelago formed part of Mauritius.”

3. Memorial of Mauritius

3.1. Introduction

1. On March 1, 2018, the Republic of Mauritius submitted its Written Statement to the International Court of Justice (ICJ) in response to the United Nations General Assembly's request for an Advisory Opinion regarding the legal consequences of the detachment of the Chagos Archipelago from Mauritius in 1965.

2. In this Memorial:

(a) The International Court of Justice will be referred to as the ICJ or the Court.

(b) The United Kingdom of Great Britain and Northern Ireland will be referred to as the United Kingdom.

(c) The United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples will be referred to as the Colonial Declaration.

3. Mauritius contends that the detachment of the Chagos Archipelago from its territory, prior to its independence in 1968, constituted a violation of the principles of self-determination and territorial integrity as enshrined in international law. The forced excision of the Chagos Archipelago, which was an integral part of the Mauritian territory, was carried out without the free and genuine consent of the Mauritian people. This excision, undertaken by the United Kingdom under duress, undermined the decolonization process and perpetuated an unlawful colonial situation that continues to this day.

4. This Memorial outlines the following:

(a) **Historical and Factual Background:**

- The Chagos Archipelago, a group of islands in the Indian Ocean, had been an integral part of the colonial territory of Mauritius for centuries, under both French and British rule.
- In 1965, prior to Mauritius gaining independence, the United Kingdom excised the Chagos Archipelago from Mauritius and created the British Indian Ocean Territory (BIOT), a move made to facilitate the establishment of a US military base on Diego Garcia.
- The forced removal of the Chagossian population from the Archipelago, with no consultation or consent from the affected people, resulted in significant hardship and displacement. This expulsion remains a central issue, as Mauritius seeks justice for the Chagossians who were denied their right to return to their homeland.
- Mauritius asserts that this detachment was a violation of the principle of self-determination, as Mauritius was never given the opportunity to fully express its will regarding the excision, and this action violated its territorial integrity.

(b) Legal Principles Governing Decolonization and Self-Determination:

- The detachment of the Chagos Archipelago occurred during a critical period in the decolonization of the 20th century when the right to self-determination was firmly established as a binding principle in international law.
- The right to self-determination, enshrined in **UN General Assembly Resolution 1514 (XV)**, the **Charter of the United Nations**, and the **International Covenant on Civil and Political Rights (ICCPR)**, dictates that colonized peoples have the right to freely determine their political status and pursue their economic, social, and cultural development.
- In Mauritius' case, the detachment of the Chagos Archipelago before independence effectively deprived its people of the right to freely determine the future of their entire territory. This excision contravened the principles of territorial integrity and non-interference in the internal affairs of a state.
- The act of detachment was conducted in secrecy and under duress, violating the fundamental rights of the people of Mauritius, who were not consulted or informed about this critical decision. The Mauritian Ministers were coerced into accepting the excision of the

Archipelago in exchange for independence.

(c) Legal Consequences of the United Kingdom's Continued Administration of the Chagos Archipelago:

- The continued administration of the Chagos Archipelago by the United Kingdom, in contravention of the rights of Mauritius and its people, perpetuates a situation of unlawful colonial occupation.
- The situation remains unresolved, as the United Kingdom has failed to acknowledge the legitimacy of Mauritius' claim to sovereignty over the Archipelago. The continued existence of the British Indian Ocean Territory (BIOT) has created an ongoing state of legal limbo, impeding Mauritius' full sovereignty and the resettlement of its citizens, including the Chagossians.
- This Memorial calls for the immediate end to the United Kingdom's administration of the Archipelago, as it violates Mauritius' right to sovereignty and the self-determination of its people.

5. Legal Jurisdiction and Basis of the Court's Opinion

The jurisdiction of the Court to give the Advisory Opinion requested by the General Assembly is firmly established by the Statute of the Court, in particular, **Article 65**, which provides the Court with the authority to offer advisory opinions on legal questions referred to it by the General Assembly, Security Council, or other authorised organs of the United Nations. The General Assembly, acting under its Charter mandate, has the authority to request the Court's opinion on the matter.

(a) Article 65 of the Statute of the ICJ grants the Court the jurisdiction to issue advisory opinions at the request of the UN General Assembly on matters of international law, which include issues of decolonization and territorial integrity. This is further supported by **Article 96 of the UN Charter**, which empowers the General Assembly to request advisory opinions from the Court on any legal question.

(b) **UN General Assembly Resolutions:** The issue at hand is grounded in the resolutions adopted by the General Assembly, notably **Resolution 1514 (XV)**, which affirms the inalienable right of all peoples to self-determination and the obligation of colonial powers to respect the territorial integrity of colonised territories. Mauritius argues that the detachment of the Chagos Archipelago from its territory in 1965, carried out by the United Kingdom, violated this principle.

(c) The General Assembly, by adopting **Resolution 71/292**, requested the ICJ's advisory opinion on the legal consequences of the detachment and the continued administration of the Chagos Archipelago. This resolution further reinforces the ongoing international concern regarding the legal status of the Archipelago and the rights of the people of Mauritius.

(d) **Previous ICJ Advisory Opinions:** Previous opinions by the Court, including the **Namibia Advisory Opinion (1971)** and the **Western Sahara Advisory Opinion (1975)**, have established that issues of self-determination and territorial integrity are central to the international legal order, and the Court has consistently affirmed the right of peoples to freely determine their political status without external interference.

(e) **Obligations of the United Kingdom under International Law:** The United Kingdom's continued administration of the Chagos Archipelago is unlawful under international law, and the Court is called upon to recognize that the United Kingdom is violating the principles of self-determination and territorial integrity. The UK's actions, which include forcibly removing the Chagossians and preventing their return, exacerbate the ongoing legal violations and perpetuate a situation that contravenes the Charter of the United Nations and international human rights law.

In compliance with the Rules of Court, this Memorial contains:

- a. A statement of relevant facts;
- b. A statement of law; and
- c. Mauritius' submissions to the ICJ, calling for the cessation of the unlawful administration of

the Chagos Archipelago by the United Kingdom and the restoration of full sovereignty to Mauritius.

3.2. Statement of Facts

1. Historical Context of Mauritius and the Chagos Archipelago

A. Geographical and Political Context: The Republic of Mauritius, located in the Indian Ocean, comprises the main island of Mauritius, Rodrigues Island, Agalega, and the Chagos Archipelago. The Chagos Archipelago, which lies approximately 2,200 kilometres to the north-east of Mauritius, is made up of a group of atolls, with **Diego Garcia** being the largest and most strategically significant island. Historically, the Chagos Archipelago has been an integral part of Mauritius, both geographically and politically.

B. Colonial Period:

(i) **French Rule (1715–1810):** The Chagos Archipelago was first colonised by the French in 1715, as part of their control over the larger Mauritius territory. During this period, the French established plantations and utilised the islands for economic purposes, and the Chagossians were brought to the islands as labourers.

(ii) **British Rule (1810–1965):** After British forces defeated the French in the Napoleonic Wars, the Chagos Archipelago, along with the rest of Mauritius, came under British control in 1810. The islands continued to be administered as part of Mauritius, and the indigenous Chagossian people remained living there. Over the following century and a half, the Chagos Archipelago served as part of Mauritius' broader colonial governance structure, with administrative and economic ties to the larger island.

C. The Chagos Archipelago as Part of Mauritius: Under British rule, the Chagos Archipelago was officially incorporated into the British Crown Colony of Mauritius. The islands were managed as integral to the colony's governance, and the Chagossian population, which had been living on the islands for generations, was recognized as part of the Mauritian populace. The

Chagossians worked on the islands primarily as labourers in various economic sectors, including agriculture, fishing, and coconut plantations.

2. The British Decision to Exclude the Chagos Archipelago (1965)

(A) Excision of the Chagos Archipelago: In 1965, just prior to Mauritius gaining independence, the United Kingdom issued an Order in Council that detached the Chagos Archipelago from Mauritius. The decision to exercise the Archipelago was made in order to create the British Indian Ocean Territory (BIOT), which would provide the United States with an area to establish a large military base on Diego Garcia, a strategic island in the Archipelago.

(B) The Coercion of Mauritius:

(i) Constitutional Conference in London (1965): Mauritius was in the process of negotiating independence with the British government when the excision took place. At the 1965 Constitutional Conference, the British government made it clear that Mauritius would only be granted independence if it accepted the detachment of the Chagos Archipelago. The Mauritian ministers, led by Sir Seewoosagur Ramgoolam, were subjected to heavy pressure from the UK.

(ii) No Consultation with the People of Mauritius: Mauritius was not consulted regarding the detachment, and the Mauritian people had no opportunity to express their will on the matter. The decision was made without a democratic process, and the forced nature of the agreement was compounded by the fact that the independence of Mauritius itself was tied to the excision of its territory.

(iii) The UK's Secret Plan for the Military Base: The UK's primary motivation for excising the Chagos Archipelago was to facilitate the establishment of a military base on Diego Garcia, to serve as a strategic location for the United States during the Cold War. The agreement between the UK and the US was finalised in 1966, but this was done in secret, with little regard for the rights or wishes of the inhabitants of the Chagos Archipelago or Mauritius.

3. The Forced Removal of the Chagossians

(A) Eviction and Displacement: Following the excision of the Chagos Archipelago, the British government forcibly removed the entire Chagossian population, which was between 2,000 to 3,000 people, between 1967 and 1973. The Chagossians were relocated to Mauritius and Seychelles under harsh conditions, with no formal settlement plans or provisions for their future.

(B) Conditions of the Eviction:

(i) Coercion and False Promises: The Chagossians were told they would be temporarily relocated and could return to their homes once the US military base was completed. However, this promise was never kept, and the Chagossians were never allowed to return to the Archipelago.

(ii) Poor Treatment and Misrepresentation: The British government initially misrepresented the Chagossians as temporary labourers, claiming that the islands were sparsely populated. This false narrative ignored the fact that the Chagossians had lived on the islands for generations, with established communities and deep cultural ties to the land.

(iii) Inadequate Resettlement: The Chagossians were displaced without adequate resources or support. Many were forced into overcrowded and impoverished conditions in Mauritius and Seychelles, with limited access to employment, education, or social services. The lack of support led to significant social and economic hardships, with many Chagossians facing severe discrimination and marginalisation in their new homes.

4. Legal and Political Implications of the Detachment

(A) Violation of Self-Determination and Territorial Integrity: The excision of the Chagos Archipelago violated the fundamental principles of self-determination and territorial integrity, which are enshrined in international law, particularly in UN General Assembly Resolution 1514 (XV).

(i) Self-Determination: The people of Mauritius were not consulted on the excision of the Chagos Archipelago, denying them the right to freely determine the political status and territorial integrity of their country.

(ii) Territorial Integrity: The detachment of the Chagos Archipelago was an arbitrary division of Mauritius' territory, carried out without the consent of its people, and without any legal justification under international law.

(B) Continued British Control of the Chagos Archipelago: Since the detachment, the UK has continued to administer the Chagos Archipelago as part of the British Indian Ocean Territory (BIOT). Despite numerous calls from the United Nations, the Commonwealth, and other international bodies for the return of the territory to Mauritius, the UK has refused to relinquish control over the islands. The presence of a US military base on Diego Garcia, which remains operational to this day, has further entrenched the UK's continued administration of the territory.

(C) International Reactions: The international community has repeatedly condemned the UK's actions. In UN General Assembly Resolution 2066 (XX), passed shortly after the excision, the UN called for the immediate return of the Chagos Archipelago to Mauritius. The UN Special Committee on Decolonization has consistently reaffirmed Mauritius' sovereignty over the islands.

(i) International Support for Mauritius: Various international organisations, including the African Union and the Non-Aligned Movement, have expressed their solidarity with Mauritius in its claim over the Chagos Archipelago.

(ii) Human Rights Violations: The forced removal of the Chagossians and the continued denial of their right to return to their homeland have been widely recognized as human rights violations. The Chagossians continue to fight for their right to return to the Archipelago, and Mauritius has advocated for their repatriation and full restitution of their rights.

5. Mauritius' Legal and Political Efforts to Resolve the Dispute

(A) UN General Assembly Resolution 2066 (XX): In 1965, the UN General Assembly passed **Resolution 2066 (XX)**, which called for the immediate cessation of the UK's colonial administration of the Chagos Archipelago and the restoration of the territory to Mauritius.

(B) Mauritius' Continued Advocacy for Self-Determination: Mauritius has consistently advocated for the return of the Chagos Archipelago to its sovereign control. The country has raised the issue in various UN fora, calling for the immediate end to colonial rule and the restoration of its territorial integrity.

(C) International Support for Mauritius: The international community, including the **African Union** and the **Non-Aligned Movement**, has shown strong support for Mauritius' claim to the Chagos Archipelago. Countries from across the world have condemned the UK's continued occupation of the Archipelago and have called for the return of the territory to Mauritius.

(D) Legal Action and ICJ Involvement: Mauritius has taken the issue to the **International Court of Justice**, seeking an advisory opinion on the legal consequences of the continued administration of the Chagos Archipelago by the United Kingdom. Mauritius argues that the excision of the Archipelago in 1965 violated international law, including the right to self-determination and the prohibition against the dismemberment of territories.

3.3. *Statement of Laws*

1. The Right to Self-Determination

(A) Self-Determination as a Fundamental Right under International Law: The right of peoples to self-determination is a fundamental principle of international law, enshrined in Article 1 of the United Nations Charter, Article 55 of the Charter, and the International Covenant on Civil and Political Rights (ICCPR), as well as the International Covenant on Economic, Social and Cultural Rights (ICESCR). The right to self-determination is recognized as a foundational principle that governs the relationship between states and peoples, asserting that all peoples have the right to freely

determine their political status and to pursue their economic, social, and cultural development without interference.

(B) Application to Mauritius: Mauritius, as a colonised state, was entitled to exercise its right to self-determination when it gained independence from the British colonial power. The excision of the Chagos Archipelago in 1965, carried out by the British prior to Mauritius' independence, violated the core principle of self-determination. The forced detachment of part of Mauritius' territory was done without the free, prior, and informed consent of its people, making the excision of the Chagos Archipelago an unlawful act under international law.

(C) The UN General Assembly's Declaration on Self-Determination: The Declaration on the Granting of Independence to Colonial Countries and Peoples (UN Resolution 1514 (XV)), adopted by the UN General Assembly in 1960, emphasises that any attempt to disrupt the territorial integrity or unity of a country, especially during the process of decolonization, is incompatible with the purposes and principles of the United Nations. The detachment of the Chagos Archipelago undermined the territorial integrity of Mauritius and was carried out without the consent of the Mauritian people, in direct violation of this Declaration.

(D) The Principle of Non-Interference in Internal Affairs: International law upholds the principle that no state or external entity may interfere in the internal affairs of a sovereign state without its consent. The United Kingdom's forced excision of the Chagos Archipelago from Mauritius, especially when conducted under duress, amounts to an external interference in the sovereign rights of Mauritius to determine the future of its entire territory, constituting a violation of this principle.

2. Territorial Integrity

(A) The Principle of Territorial Integrity under International Law: Territorial integrity is a fundamental principle of international law, expressed in Article 2(4) of the United Nations Charter, which prohibits any threat or use of force against the territorial integrity or political independence of

any state. This principle asserts that the territorial boundaries of a state should not be altered without the consent of the people concerned and the state itself.

(B) Violation of Territorial Integrity in Mauritius' Case: The excision of the Chagos Archipelago from Mauritius prior to its independence was an arbitrary act that violated Mauritius' territorial integrity. The detachment, which was done unilaterally by the United Kingdom and without the consultation or consent of the Mauritian people, deprived Mauritius of an integral part of its territory. The United Kingdom's continued administration of the Chagos Archipelago, as part of the British Indian Ocean Territory (BIOT), perpetuates this violation of territorial integrity, as it prevents Mauritius from exercising full sovereignty over its territory.

(C) International Precedents: The principle of territorial integrity has been upheld in several landmark cases by the International Court of Justice (ICJ). For example, in the Western Sahara Advisory Opinion (1975), the ICJ emphasised that the principle of territorial integrity applies to colonised territories, and any effort to divide a colonial territory must be in accordance with the principle of self-determination. The forced excision of the Chagos Archipelago from Mauritius in 1965 was done without the will of the people and undermines the territorial integrity of Mauritius in a manner contrary to established international law.

3. The Prohibition of Forced Population Transfer

(A) International Human Rights Law on Forced Displacement: Forced displacement and the removal of indigenous populations are prohibited under various international instruments, including the Universal Declaration of Human Rights (UDHR), particularly Article 13, which asserts the right of all people to freedom of movement and residence within their own country. Additionally, Article 9 of the ICCPR recognizes that no one shall be arbitrarily deprived of their liberty, which would include the forced removal of individuals from their homes.

(B) Forced Removal of the Chagossians: The forced removal of the Chagossian population from the Chagos Archipelago constitutes a grave violation of their human rights. The Chagossians were forcibly evicted from their homes without adequate compensation, resettlement, or opportunities for return. They were relocated to Mauritius and Seychelles under harsh and inhumane conditions, resulting in lasting socio-economic hardships and a denial of their basic rights to live in their homeland.

(C) The United Nations and Forced Displacement: The UN Declaration on the Rights of Indigenous Peoples (2007) affirms the right of indigenous peoples to remain in their territories and to determine their own political status. The Chagossians, as an indigenous community with deep historical, cultural, and familial ties to the Chagos Archipelago, were denied this fundamental right when forcibly removed from their homeland by the United Kingdom. Furthermore, the fact that they have been denied the right to return to their homeland for over five decades exacerbates the violation of their rights under international law.

4. The Legal Consequences of Unlawful Territorial Alteration

(A) International Law on the Unlawfulness of Territorial Dismemberment: The detachment of the Chagos Archipelago from Mauritius was carried out without the consent of the people of Mauritius and constitutes an unlawful act under international law. The ICJ's advisory opinion in the Namibia case (1971) clarified that the unlawful division of a territory during the process of decolonization perpetuates an internationally wrongful act that must be addressed immediately.

(B) Consequences of the Unlawful Excision of the Chagos Archipelago: The unlawful excision of the Chagos Archipelago and its continued administration as part of the British Indian Ocean Territory (BIOT) results in the continued violation of Mauritius' right to self-determination and territorial integrity. The UN General Assembly Resolution 1514 (XV) demands the cessation of colonial practices that involve dismembering territories. The international community has repeatedly called

for the restoration of the Chagos Archipelago to Mauritius, but the UK has failed to comply with these calls, continuing its unlawful administration of the Archipelago.

(C) Legal Obligations under International Law: The United Kingdom has a legal obligation to restore the Chagos Archipelago to Mauritius, as the excision violated the right of the Mauritian people to self-determination and the principle of territorial integrity. The ICJ's role in providing an advisory opinion on this matter is critical, as it will help clarify the legal obligations of the United Kingdom under international law and provide guidance on the necessary steps to remedy this long standing injustice.

5. The Obligation of Third States and International Organizations

(A) The Duty to Assist in the Completion of Decolonization: Under international law, states and international organisations have an obligation to assist in the decolonization process and in the promotion of the rights of peoples under colonial rule. This duty is reinforced in various UN resolutions, including UN General Assembly Resolution 1514 (XV), which calls upon the international community to ensure that colonial powers respect the rights of colonised peoples.

(B) Obligations of Third States: The international community, including third-party states and organisations, has an obligation to support Mauritius in its quest for the return of the Chagos Archipelago. This includes supporting Mauritius' legal claim over the Archipelago, advocating for the cessation of the UK's illegal administration of the territory, and assisting in the repatriation of the Chagossian people.

(C) UN's Role in Upholding the Principles of International Law: The UN Special Committee on Decolonization has consistently reaffirmed Mauritius' claim to the Chagos Archipelago. The UN is tasked with ensuring that colonial territories are returned to their rightful sovereign owners, in line with the principles of territorial integrity and self-determination. The UN General Assembly Resolution 71/292 (2017), which requested an advisory opinion from the ICJ, is a significant step in upholding these principles and ensuring the resolution of the dispute between Mauritius and the UK.

6. Jurisdiction

(A) Jurisdiction of the International Court of Justice

1. Article 36 of the Statute of the ICJ: The International Court of Justice (ICJ) derives its jurisdiction over legal disputes from Article 36(1) of its Statute, which grants the Court jurisdiction over any dispute between states that have consented to its jurisdiction. Under this provision, the Court is competent to adjudicate legal disputes between parties that have voluntarily accepted the Court's jurisdiction or have otherwise agreed to submit their case to the Court. In this case, Mauritius has invoked the jurisdiction of the ICJ under the advisory jurisdiction outlined in Article 65 of the ICJ Statute, following the request made by the UN General Assembly under Article 96(1) of the UN Charter.

2. Request for Advisory Opinion by the United Nations General Assembly: The UN General Assembly Resolution 71/292 (2017) formally requested an advisory opinion from the ICJ on the legal consequences of the detachment of the Chagos Archipelago from Mauritius. Under Article 65 of the ICJ Statute, the General Assembly, as a principal organ of the United Nations, is authorised to request the Court's advisory opinion on any legal question concerning matters within the scope of its responsibilities.

This request pertains to a legal question of significant international importance, namely whether the excision of the Chagos Archipelago from Mauritius and its continued administration by the United Kingdom is consistent with international law, including the principles of self-determination, territorial integrity, and decolonization.

3. Article 96(1) of the United Nations Charter: According to Article 96(1) of the UN Charter, the General Assembly or the Security Council may request the ICJ to render advisory opinions on any legal questions. In this case, the General Assembly, through its adoption of Resolution 71/292, has sought an advisory opinion from the Court on the legal consequences of the British detachment of the Chagos Archipelago from Mauritius. The question at hand concerns the compliance of this act with international legal norms, especially with respect to self-determination and territorial integrity.

4. The Role of the Court in Advisory Jurisdiction: The advisory jurisdiction of the ICJ is an important tool for the United Nations and its specialised agencies to seek guidance on legal questions that may affect the international community. The advisory opinion requested in this case addresses a legal issue of global significance, as it relates to the rights of colonised peoples to self-determination, the integrity of sovereign territories, and the obligations of colonial powers under international law.

In accordance with Article 65 of the ICJ Statute, the Court is empowered to provide legal advice that will assist the UN in making decisions related to decolonization and the completion of the decolonization process for former colonies. The legal consequences of the UK's actions, which have created an ongoing colonial situation, must be addressed in the advisory opinion to determine whether the UK has violated the rights of Mauritius, as well as the human rights of the Chagossian people.

5. The Advisory Opinion is Requested for the General Assembly's Purpose: The UN General Assembly Resolution 71/292 (2017) explicitly asks the ICJ for its advisory opinion on two linked questions: a. Whether the detachment of the Chagos Archipelago from Mauritius in 1965 and its subsequent administration as part of the British Indian Ocean Territory (BIOT) is in violation of international law, particularly in relation to the right to self-determination, territorial integrity, and decolonization. b. What are the legal consequences of the UK's continued administration of the Chagos Archipelago for Mauritius and the Chagossian people, under the principles of international law and the obligations of the international community? The requested advisory opinion will enable the General Assembly to better understand the legal standing of the UK's actions and guide the international community in addressing the longstanding issue of Mauritius' sovereignty over the Chagos Archipelago.

(B) Mauritius' Standing and Right to Request the Advisory Opinion

1. Mauritius as the Affected State: Mauritius, as the state directly affected by the unlawful excision of the Chagos Archipelago, has a legitimate interest in seeking clarification from the ICJ regarding

the legal consequences of the UK's actions. As a member of the United Nations and a state that is a victim of colonial practices, Mauritius has the right to request an advisory opinion on matters concerning its sovereignty and territorial integrity.

2. Legal Interest of Mauritius in the Advisory Opinion: The legal interests of Mauritius are directly implicated in the question referred to the ICJ, as the excision of the Chagos Archipelago remains a violation of Mauritius' territorial integrity. Mauritius continues to assert its sovereign claim over the Archipelago, and the continued unlawful administration of the Archipelago by the UK prevents Mauritius from fully exercising its territorial rights. Therefore, Mauritius has the legal standing to request an advisory opinion on the matter.

3. Mauritius' Diplomatic and Legal Efforts to Resolve the Dispute: Mauritius has consistently raised the issue of the Chagos Archipelago's sovereignty in various international forums, including the UN General Assembly and the International Court of Justice. Mauritius has sought to resolve this dispute peacefully through diplomatic means, emphasising the importance of the principle of self-determination and the right to full sovereignty over its territory. The request for an advisory opinion is a key step in furthering these efforts and ensuring the legal consequences of the UK's actions are addressed.

(C) Jurisdiction Based on Consent and Previous ICJ Rulings

1. Voluntary Consent to ICJ Jurisdiction: Both the United Kingdom and Mauritius are parties to the Statute of the ICJ and are bound by its provisions concerning the Court's jurisdiction. While the ICJ's contentious jurisdiction typically requires the consent of both parties, advisory opinions may be sought by the General Assembly or other UN bodies on legal questions without the need for direct consent from the parties involved. In this case, the UK, as the administering power of the Chagos Archipelago, is bound by the legal norms concerning the principles of decolonization and territorial integrity.

2. The ICJ's Jurisdiction in Similar Cases: In previous advisory opinions, such as the Western Sahara Advisory Opinion (1975) and the Namibia Advisory Opinion (1971), the ICJ has addressed

issues related to self-determination, territorial integrity, and the rights of colonised peoples, reinforcing the Court's role in providing legal guidance in such matters. These precedents further affirm the ICJ's jurisdiction to address the legal questions raised in this case concerning the detachment of the Chagos Archipelago from Mauritius.

3. The Importance of the Advisory Opinion for International Law: The Court's advisory opinion will provide much-needed legal clarity on the obligations of colonial powers in decolonization processes and the legal consequences of actions that disrupt the territorial integrity of sovereign states. As the legal and political consequences of the UK's actions affect not only Mauritius but also the international community's commitment to the principles of self-determination and territorial integrity, the ICJ's advisory opinion is crucial for upholding the rule of law in international relations.

D. The Legal Framework of the Advisory Opinion Request

1. Article 65 of the ICJ Statute: Under Article 65, the ICJ has the authority to provide advisory opinions at the request of any principal organ of the United Nations, such as the General Assembly. This provision is central to the Court's advisory jurisdiction, allowing it to address legal questions related to international peace, security, and human rights. The legal question raised by the General Assembly in Resolution 71/292 (2017) concerns the compliance of the UK's actions with international law, making the case suitable for an advisory opinion.

2. The Advisory Opinion's Role in Resolving the Dispute: The advisory opinion will assist the UN General Assembly in understanding the legal consequences of the UK's actions and will guide further diplomatic and legal efforts to resolve the dispute. While the advisory opinion will not have binding legal effects on the UK, it will carry significant moral and legal weight in shaping the international community's approach to the decolonization of Mauritius and the restoration of its sovereignty over the Chagos Archipelago.

3.4. Submission

The Republic of Mauritius respectfully submits the following to the International Court of Justice:

1. That the detachment of the Chagos Archipelago from Mauritius in 1965 and its subsequent administration by the United Kingdom as part of the British Indian Ocean Territory is unlawful under international law, particularly in violation of the principles of self-determination and territorial integrity, as enshrined in Article 1 of the UN Charter, Article 55 of the UN Charter, and General Assembly Resolution 1514 (XV), which prohibits the dismemberment of colonial territories without the consent of the affected peoples.
2. That the United Kingdom's continued administration of the Chagos Archipelago and its refusal to restore the territory to Mauritius constitutes a breach of Mauritius' sovereignty, violating the right to self-determination as recognized in Article 1(2) of the International Covenant on Civil and Political Rights (ICCPR) and Article 1(2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).
3. That the United Kingdom is obligated to end its unlawful administration of the Chagos Archipelago and restore the Archipelago to Mauritius immediately, in accordance with the principles of international law and UN General Assembly Resolution 2066 (XX), which calls for the immediate cessation of colonial practices in territories under unlawful occupation.
4. That the International Court of Justice issue an advisory opinion clarifying the legal consequences of the United Kingdom's actions, affirming Mauritius' sovereignty over the Chagos Archipelago, and providing guidance on the necessary legal steps to remedy this situation under international law.

4. Memorial of United Kingdom

4.1. Introduction

1. The United Kingdom asserts that its administration of the Chagos Archipelago, as part of the British Indian Ocean Territory (BIOT), was established in accordance with the legal framework of its decolonization process and international agreements in force at the time. The 1965 agreement with Mauritius was entered into by mutual consent, ensuring Mauritius's subsequent independence.

The UK emphasises that its strategic commitments and obligations, including the establishment of a military base on Diego Garcia, are consistent with its international responsibilities.

2. There is a long standing bilateral dispute between the United Kingdom and the Republic of Mauritius ('Mauritius') over the Chagos Archipelago, in particular as to sovereignty. This is the central issue behind the Request for an advisory opinion. Mauritius has long sought to establish the contentious jurisdiction of an international court or tribunal, including the International Court of Justice, with respect to its sovereignty dispute with the United Kingdom. Most recently, Mauritius has sought to have precisely the same disputed issues that are now brought to the fore in the Questions asked in the current Request considered in arbitral proceedings brought against the United Kingdom under the United Nations Convention on the Law of the Sea (hereafter, the Chagos Arbitration) . It is only after having failed in securing jurisdiction and/or obtaining the answers that it wished, that Mauritius has presented the dispute before the General Assembly as a matter of decolonization.

4.2. Statement of Facts

1. The Chagos Archipelago was detached from Mauritius in 1965 to form the BIOT. This occurred through an agreement between the UK and Mauritian leaders, who consented to this arrangement in exchange for financial compensation and assurances regarding fishing rights and future access to the islands.

a) In 1968, Mauritius achieved independence under terms negotiated in the pre-independence Lancaster House conference, which included the agreement on the BIOT.

b) The UK created the BIOT as a separate administrative entity, ensuring the territory's strategic use.

2. On 17 May 2016, Sir Anerood Jugnauth, the then Prime Minister of Mauritius, declared in the Mauritian Parliament that if the United Kingdom did not agree on a specific timeline for returning

the Chagos Archipelago to Mauritius's effective control by the end of June 2016, Mauritius would pursue appropriate action at the international level, including through the United Nations.

3. On 22 June 2017, Congo, on behalf of the African Group of States, introduced a draft resolution at the UN General Assembly. This resolution, drafted by Mauritius, requested an advisory opinion from the ICJ regarding the legal consequences of the separation of the Chagos Archipelago from Mauritius.

4. During the debate, Mauritius's intentions were explicitly stated. The spokesperson for the Non-Aligned Movement reiterated Mauritius's commitment to affirming its territorial integrity and sovereignty over the Chagos Archipelago. The draft resolution's purpose was described as enabling Mauritius to exercise full sovereignty over the disputed territory.

5. Between 1967 and 1973, the local Chagossian population was relocated to Mauritius and Seychelles. Compensation packages were provided to the displaced population, and resettlement programs were offered in subsequent years.

6. The 2019 International Court of Justice (ICJ) advisory opinion stated that the detachment of the Chagos Archipelago violated international law, as it undermined the right of self-determination for Mauritius. However, the opinion was non-binding. Despite UN resolutions urging the UK to end its administration of the BIOT, the UK maintains its position regarding the legality and strategic necessity of its actions.

4.3 Statement of Laws

1. The United Kingdom contends that the principle of self-determination was not clearly codified as binding customary international law in the mid-1960s.

2. The 1965 Agreement reflects the consent of Mauritian representatives, who explicitly agreed to the detachment of the Chagos Archipelago in exchange for the terms of independence. Mauritius reaffirmed this consent post-independence.

- a. The argument that the agreement was invalid due to duress was raised much later, specifically during the Chagos Arbitration proceedings. These retrospective claims lack legal merit because they rely on legal standards and principles that did not exist at the time of the agreement in the 1960s.
3. The United Kingdom emphasises that the legal claims of the vast majority of Chagossians in Mauritius for compensation or resettlement have been conclusively resolved under the 1982 Agreement between the UK and Mauritius.
 - a. The 1982 Agreement, accompanied by subsequent individual payments, provided full and final settlements, including renunciations of claims regarding resettlement. This position was reaffirmed by the European Court of Human Rights in its 2012 decision, which recognized that receipt of compensation constituted a resolution of such claims.
 - b. Despite these settlements, the UK has voluntarily continued to consider the welfare and concerns of the Chagossians, reflecting its commitment to addressing humanitarian aspects of the situation.
4. The military base on Diego Garcia serves vital global security interests. The UK's commitment to maintaining the BIOT aligns with its obligations to allies and the broader international community under defence agreements.
5. For the reasons outlined in this Written Statement, the United Kingdom contends that the Court should decline to respond to the Request for an advisory opinion. The matter at hand is fundamentally a bilateral dispute concerning sovereignty over the Chagos Archipelago, which arises “independently in bilateral relations” between the United Kingdom and Mauritius.
6. At its core, the dispute centres on whether Mauritius did or did not consent to the detachment of the Chagos Archipelago in the 1965 Agreement or at any point thereafter. This dispute requires detailed consideration of bilateral agreements, including the 1965 Agreement and subsequent exchanges, both before and after Mauritius gained independence in 1968. Such matters fall squarely within the bilateral framework established between the two States and cannot be properly

resolved within the parameters of an advisory opinion, which is designed for broader legal issues of general international concern.

7. In the years following Mauritius' independence, there was no immediate challenge to the United Kingdom's sovereignty over the Chagos Archipelago. As a sovereign State, Mauritius reaffirmed the terms of the 1965 Agreement through its representatives. It was not until the early 1980s that this dispute escalated, transitioning from a bilateral agreement to a contentious issue within broader international fora. Since then, Mauritius has sought, through various avenues, including contentious proceedings, to secure jurisdiction over the Archipelago—a matter now inappropriately reframed for the Court as a request for an advisory opinion.

8. The Request appears to have been deliberately crafted to avoid explicitly raising the sovereignty question. While it does not directly seek an opinion on which State has lawful sovereignty over the Chagos Archipelago, it implicitly requires the Court to determine this issue in order to address the broader legal implications of the United Kingdom's current administration of the territory. This circumvention undermines established principles of international law and procedural propriety.

9. Mauritius' approach directly contravenes the principle that a State's consent is required for contentious proceedings that determine territorial sovereignty. To grant the advisory opinion sought by Mauritius would, in essence, require the Court to adjudicate a bilateral dispute without the consent of one of the parties. As the ICJ has consistently upheld, such a deviation from the principle of state consent would be inconsistent with the proper exercise of judicial functions under international law.

10. Thus, unless the Court can address the Request without delving into the long-disputed sovereignty issues, responding to the Request would constitute an overreach of its advisory jurisdiction. It would also undermine the language of Article 65(1) of the Statute of the Court, which requires that advisory opinions address "legal questions" appropriate for judicial determination. Addressing the sovereignty dispute through this Request would contradict the judicial restraint expected under international legal norms.

11. The Lancaster House Agreement demonstrates that Mauritius voluntarily consented to the separation of the Chagos Archipelago.

- a) Under international law, agreements made by sovereign entities are binding.

Jurisdiction

The Court's Jurisdiction in Relation to Sovereignty Disputes

1. The United Kingdom submits that the Court's jurisdiction to issue an advisory opinion in this case is severely limited by the nature of the dispute. As outlined earlier, this matter involves a bilateral sovereignty dispute between the United Kingdom and Mauritius regarding the Chagos Archipelago, which has been a subject of contention for decades. Such disputes are inherently bilateral and require the mutual consent of the parties involved for the Court to exercise its jurisdiction in contentious proceedings.

2. Under the Statute of the International Court of Justice (ICJ), Article 34(1) specifies that only States can be parties to contentious cases. While advisory opinions may be requested by certain organs or specialised agencies of the United Nations, the matter at hand—territorial sovereignty—remains a bilateral dispute requiring consent. The United Kingdom contends that Mauritius, having failed to resolve this issue through previous diplomatic negotiations and legal proceedings, is now improperly attempting to frame it as an advisory opinion request. This circumvention of the established framework for resolving sovereignty disputes undermines the procedural integrity of the Court's advisory jurisdiction.

3. The longstanding nature of this bilateral dispute should be addressed within the context of international law as it applies to such disagreements between sovereign States. The UK asserts that the dispute has already been adjudicated in various forms, including during the Chagos Arbitration proceedings under the United Nations Convention on the Law of the Sea (UNCLOS), and further proceedings would require mutual consent, not an advisory opinion from the ICJ.

4. As stated earlier, the Request for an advisory opinion presented by Mauritius is not simply a question of legal interpretation, but rather an attempt to resolve a sovereignty dispute that has

profound political, legal, and historical implications. The ICJ's advisory jurisdiction should not extend to situations where the dispute cannot be adequately resolved through non-binding opinions. This issue, being at the heart of the bilateral relationship between Mauritius and the United Kingdom, requires direct negotiations between the parties involved and not a generalised opinion from the Court.

5. The United Kingdom submits that the appropriate forum for resolving this dispute remains one where both parties consent to the jurisdiction of the adjudicating body. The lack of mutual consent in this case means that the Court's jurisdiction is not properly engaged. Furthermore, the issue of sovereignty is a fundamental aspect of each State's territorial integrity, and should not be treated as a matter for advisory opinion, which is more suitable for legal questions of a broader and more universally applicable nature.

4.4 Submission

Based on the arguments outlined, the United Kingdom respectfully submits that the International Court of Justice should refrain from issuing an advisory opinion in this matter for the following reasons:

1. **The Nature of the Dispute:** The question of sovereignty over the Chagos Archipelago is a bilateral issue, requiring the consent of both Mauritius and the United Kingdom for any binding determination. The UK has consistently maintained its legal position on sovereignty, and Mauritius's request for an advisory opinion fails to respect the principles of state consent and bilateral dispute resolution.

2. **The 1965 Agreement:** The United Kingdom maintains that the 1965 Agreement between the UK and Mauritius was entered into voluntarily by both parties and was consistent with international law at the time. Mauritius's objections to the detachment of the Chagos Archipelago arose well after the agreement was made and should not be considered as valid grounds to reopen the issue decades later. The agreement reflects the valid consent

of Mauritian representatives, and Mauritius has not demonstrated that the agreement was made under duress or was otherwise invalid.

3. **Bilateral Negotiation and Legal Framework:** The UK has consistently advocated for resolution through diplomatic negotiation and has engaged in various legal proceedings, including the Chagos Arbitration. However, the question of sovereignty over the Archipelago must be addressed in a bilateral context, not through an advisory opinion designed for broader issues of international law.

4. **Humanitarian Concerns and Resettlement:** While the UK has continued to consider the welfare of the Chagossians, the issue of resettlement has been conclusively addressed in the 1982 Agreement between the UK and Mauritius, which was accepted by Mauritius. Any claims related to resettlement and compensation have been resolved through that agreement, and the subsequent judgments, including the European Court of Human Rights decision, reaffirmed the resolution of these issues.

5. **Strategic Necessity of Diego Garcia:** The UK's administration of the BIOT, including the lease of Diego Garcia for strategic military purposes, serves vital global security interests. These actions are consistent with international obligations and commitments, and the UK has always acted in good faith to maintain its responsibilities under international law, including humanitarian concerns regarding the Chagossian population.

In light of these considerations, the United Kingdom respectfully submits that the Court should decline to respond to the Request for an advisory opinion. The Court should avoid addressing sovereignty issues that have not been mutually consented to for adjudication, and instead, the parties should seek a resolution through direct negotiation, in accordance with international law principles governing bilateral sovereignty disputes.

The United Kingdom further submits that the principles of state sovereignty, consent, and bilateral dispute resolution should guide the Court's decision on this matter, ensuring that the ICJ

does not overreach its advisory jurisdiction and remains within the bounds of international legal propriety.

5. Request for Advisory Opinion

On 22nd June 2017, Request for Advisory Opinion was transmitted to the Court pursuant to General Assembly resolution 71/292 (A/71/L.73).

1. The Secretary General of the United Nations to the President of the International Court of Justice

I would like to inform you that on 22 June 2017, the United Nations General Assembly, under its agenda item 87, adopted resolution 71/292 (A/71/L.73) entitled “Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965”. Certified true copies of the resolution, in English and French, are attached.

In the resolution, the General Assembly decided, pursuant to Article 96 of the Charter of the United Nations, to request the International Court of Justice to render an advisory opinion in accordance with Article 65 of the Statute of the Court, on the following questions:

(a) “Was the process of decolonization of Mauritius lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law, including obligations reflected in General Assembly resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967?”;

(b) “What are the consequences under international law, including obligations reflected in the above-mentioned resolutions, arising from the continued administration by the United

Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago, including with respect to the inability of Mauritius to implement a programme for the resettlement on the Chagos Archipelago of its nationals, in particular those of Chagossian origin?"

In this regard, I would like to further inform you that, pursuant to Article 65, paragraph 2, of the Statute of the Court, the Secretariat will start to prepare a dossier containing a collection of all relevant documents that are likely to throw light upon the aforementioned questions. The dossier will be transmitted to the Court in due course.

2. Resolution 71/292 Adopted by the General Assembly on 22nd June 2017

[Without Reference to a Main Committee (A/71/L.73 and Add.1)]

Request for an Advisory Opinion of the International Court of Justice on the Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965

The General Assembly,

Reaffirming that all peoples have an inalienable right to the exercise of their sovereignty and the integrity of their national territory,

Recalling the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in its resolution 1514 (XV) of 14 December 1960, and in particular paragraph 6 thereof, which states that any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations,

Recalling also its resolution 2066 (XX) of 16 December 1965, in which it invited the Government of the United Kingdom of Great Britain and Northern Ireland to take effective measures with a view to the immediate and full implementation of resolution 1514 (XV) and

to take no action which would dismember the Territory of Mauritius and violate its territorial integrity, and its resolutions 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967,

Bearing in mind its resolution 65/118 of 10 December 2010 on the fiftieth anniversary of the Declaration on the Granting of Independence to Colonial Countries and Peoples, reiterating its view that it is incumbent on the United Nations to continue to play an active role in the process of decolonization, and noting that the process of decolonization is not yet complete,

Recalling its resolution 65/119 of 10 December 2010, in which it declared the period 2011-2020 the Third International Decade for the Eradication of Colonialism, and its resolution 71/122 of 6 December 2016, in which it called for the immediate and full implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Noting the resolutions on the Chagos Archipelago adopted by the Organization of African Unity and the African Union since 1980, most recently at the twenty-eighth ordinary session of the Assembly of the Union, held in Addis Ababa on 30 and 31 January 2017, and the resolutions on the Chagos Archipelago adopted by the Movement of Non-Aligned Countries since 1983, most recently at the Seventeenth Conference of Heads of State or Government of Non-Aligned Countries, held on Margarita Island, Bolivarian Republic of Venezuela, from 13 to 18 September 2016, and in particular the deep concern expressed therein at the forcible removal by the United Kingdom of Great Britain and Northern Ireland of all the inhabitants of the Chagos Archipelago.

Noting also its decision of 16 September 2016 to include in the agenda of its seventy-first session the item entitled "Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965", on the understanding that there would be no consideration of this item before June 2017,

Decides, in accordance with Article 96 of the Charter of the United Nations, to request the International Court of Justice, pursuant to Article 65 of the Statute of the Court, to render an advisory opinion on the following questions:

(a) “Was the process of decolonization of Mauritius lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law, including obligations reflected in General Assembly resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 2232 (XXI) of 20 December 1966 and 2357 (XXII) of 19 December 1967?”;

(b) “What are the consequences under international law, including obligations reflected in the above-mentioned resolutions, arising from the continued administration by the United Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago, including with respect to the inability of Mauritius to implement a programme for the resettlement on the Chagos Archipelago of its nationals, in particular those of Chagossian origin?”

6. Written proceedings

6.1. Written Statement of the USA

1. The United States voted against the General Assembly’s referral resolution because it concerns a bilateral territorial dispute between Mauritius and the United Kingdom concerning sovereignty over the Chagos Archipelago. 1 The United States believes that this case raises serious questions about the propriety of utilising the Court’s advisory jurisdiction in light of the fundamental principle that a State is not obliged to allow its disputes to be submitted for judicial settlement without its consent. It is clear that the United Kingdom, one of the parties to this bilateral dispute, has not given that consent.

- a) Applying the Court's jurisprudence to the facts of this request, it is difficult to see how responding to the questions that have been posed would be compatible with the judicial character of the Court
- b) The request does not merely touch on or relate indirectly to the merits of the bilateral territorial dispute between Mauritius and the United Kingdom—it addresses itself to the central elements of that very dispute. It becomes clear that the questions referred reflect an attempt on the part of Mauritius to repackage its claim to sovereignty advanced in other fora. As such, the questions put to the Court are “directly related to the main point of a dispute actually pending” between Mauritius and the United Kingdom, and “answering the question[s] would be substantially equivalent to deciding the dispute between the parties.

2. The United States voted against adoption of this resolution because of concerns that it is not an appropriate subject for an advisory opinion. As the United States explained in the General Assembly debate: By pursuing the draft resolution, Mauritius seeks to invoke the Court's advisory opinion jurisdiction not for its intended purpose but rather to circumvent the Court's lack of contentious jurisdiction over this purely bilateral matter While Mauritius is attempting to frame this as an issue of decolonization relevant to the international community, at its heart it is a bilateral territorial dispute, and the United Kingdom has not consented to the jurisdiction of the International Court of Justice The advisory function of the International Court of Justice was not intended to settle disputes between States.

a) The Court was not provided advisory jurisdiction under its Statute to adjudicate disputes between States.

- The Court's advisory jurisdiction is limited to “any legal question” asked by an authorised U.N. organ or agency. 30 This language reflects a deliberate decision by the drafters of the Statute of the Court

to adopt a narrower formulation of the provision granting advisory jurisdiction as compared to that of the Permanent Court.

- Article 14 of the Covenant of the League of Nations empowered the Permanent Court to give an advisory opinion on “any dispute or question referred to it by the Council or by the Assembly.”³¹ As one leading commentator has noted, this formulation envisaged two distinct types of opinion, one on “disputes” and another on “questions.”³² 3.8 The drafters of the provisions that set forth the advisory jurisdiction of this Court, however, quickly dispensed with the phrase “any dispute or question” in favour of the narrower formulation “any legal question

3. In 1966, the United States entered into a bilateral agreement with the United Kingdom regarding the establishment of a joint U.S.-U.K. military facility in the BIOT. ⁴ The 1966 Agreement remains in force today, as amended. Over the years, the United States and United Kingdom have also concluded supplemental agreements.⁵ The 1966 Agreement and supplemental agreements have been registered with the United Nations Treaty Office pursuant to Article 102 of the U.N. Charter, and published in the U.N. Treaty Series

4. Given the joint military facility in the BIOT, Mauritius has raised its territorial claim with the United States on a number of occasions. The United States has been clear in these discussions that the United Kingdom is sovereign over the BIOT. That said, the United States greatly values its warm relations with both Mauritius and the United Kingdom, and has encouraged the two parties to the dispute to resolve the matter on a bilateral basis.

5. Mauritius has pursued its sovereignty claim bilaterally since 1980,⁵⁶ twelve years after its independence, and has since raised its claim to the Chagos Archipelago before various U.N. bodies.⁵⁷ As far as the United States is aware, however, no U.N. organ has considered Mauritius or its claim to the Chagos Archipelago as falling within the United Nations’

decolonization agenda since Mauritius gained its independence in 1968, until the request for an advisory opinion was added to the General Assembly's agenda on September 16, 2016.

6.2. Statement of Maldives

1. The Maldives has at all times pursued friendly relations with the Republic of Mauritius and sought to resolve matters of bilateral concern through negotiations conducted in good faith. As the Special Chamber's Judgment of 28 January 2021 on Preliminary Objections ('Judgment on Preliminary Objections') noted, "it is beyond doubt that there had been a long-standing sovereignty dispute between Mauritius and the United Kingdom over the Chagos Archipelago" and, therefore, that "the Maldives may have been justified in having reservations with respect to the existence of a dispute between it and Mauritius" in respect of maritime delimitation.
2. The Government of Maldives had informed the Government of Mauritius its decision to vote yes, should the General Assembly resolution entitled "Advisory Opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965" be considered again. This decision was reached following the pronouncement by the International Tribunal on the Law of the Sea (ITLOS) that the ICJ advisory opinion that Mauritius has sovereign rights over Chagos will be fully accepted in the ongoing case.
3. The Maldives previously voted "No" on the United Nations General Assembly resolution entitled "Advisory Opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965". In the explanation of vote given following the consideration of the resolution in 2019, the Maldives noted that this vote was not against the resolution, and not reflective of Maldives' long standing position on supporting decolonization efforts. The Maldives also noted that the decision was without prejudice to the legal position taken by

Maldives at ITLOS and the Submission made by the Maldives to the Commission on the Limits of the Continental Shelf in 2010.

6.3. Statement of Marshall Islands

<https://www.icj-cij.org/sites/default/files/case-related/169/169-20180301-WRI-13-00-EN.pdf>

6.4. Statement of Republic of Seychelles

<https://www.icj-cij.org/sites/default/files/case-related/169/169-20180228-WRI-01-00-EN.pdf>

7. Summaries of Judgments and Orders

1. The International Court of Justice (ICJ) concluded that the United Kingdom's separation of the Chagos Archipelago from Mauritius before granting Mauritius independence in 1968 was unlawful. The Court determined that the decolonization of Mauritius was not completed lawfully due to the separation. The ICJ advised that the UK should end its administration of the Chagos Archipelago promptly to allow Mauritius to complete its decolonization process. This decision emphasised the right of peoples to self-determination as a key principle of international law.

2. Key Legal Findings:

- a. The Court found that the detachment of the Chagos Archipelago violated international obligations under the UN Charter and General Assembly Resolution 1514 (XV) concerning decolonization.
- b. It affirmed that the principle of self-determination had become a recognized rule of customary international law by the time of Mauritius' independence in 1968.
- c. The Court also highlighted that the UK must cooperate with the UN to complete Mauritius' decolonization process.

3. Voting and Opinion of Judges: The Court's advisory opinion was adopted with a majority of 13-1, reflecting strong international consensus. Dissenting and concurring opinions by judges provided additional insights into the legal interpretations of decolonization and self-determination principles.

- a) The ICJ clarified that its advisory opinion did not directly determine sovereignty over the Chagos Archipelago. Instead, it assessed the legality of the separation under decolonization principles. The sovereignty question remains unresolved, but the opinion indirectly strengthens Mauritius's claim to sovereignty.

4. While the 2019 ICJ Advisory Opinion is not legally binding, it holds significant moral and political weight. The Court's advisory role provided clarity on the illegality of the separation and emphasised international support for Mauritius's claim. This has influenced the UN General Assembly's subsequent resolutions and bolstered Mauritius's diplomatic and legal position globally.

5. The ICJ reaffirmed its jurisdiction to provide advisory opinions under Article 96 of the UN Charter and Article 65 of its Statute. The case sets a precedent for the Court's ability to address decolonization-related issues presented by the UN General Assembly.

6. Compensation and Resettlement of Chagossians: In its opinion, the ICJ noted the humanitarian consequences for the Chagossian population, forcibly displaced between 1967 and 1973. The Court did not explicitly rule on reparations but acknowledged the historical injustices. This aspect has encouraged further discussions at international forums regarding compensation and the resettlement of displaced populations, aligning with broader human rights obligations.

8. Research and Preparation Questions

1. Should Mauritius be granted full sovereignty over the Chagos Archipelago, and if so, under what conditions?
2. What role should the United Nations play in facilitating sovereignty transitions or supporting displaced populations?
3. How can the international legal framework ensure compliance with advisory opinions of the ICJ?
4. What is the role of international law in addressing historical injustices caused by colonial practices?
5. What role does the ICJ play in resolving disputes related to decolonization?
6. Should Chagossians have the right to return to their homeland, and how should this be facilitated?
7. How should the military base on Diego Garcia be managed if sovereignty is transferred to Mauritius?

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