

The contribution of international courts and tribunals to the methodology of international law

OC - (ILA-14188) - RECENT CASE-LAW OF THE ICJ AND ITS SIGNIFICANCE FOR INTERNATIONAL LAW

Pareemala Devi Mauree (Mauritius)¹

1 - Queen Mary University

Pareemala Devi Mauree

Abstract

This abstract will focus on the recent ICJ advisory opinion in relation to the Chagos case and its significance for international law.

In Part 1, I will give a brief overview of the questions on which the ICJ had to pronounce itself, the procedural history giving rise to the Award

In Part 2, I will deal with the issues dealt with by the Opinion :

- (i) Whether the process of decolonisation of Mauritius was complete at the time that it was granted independence in 1968
- (ii) What are the legal consequences arising in international law of the UK 's continued administration of the Chagos Archipelago also in relation to the question of inability of Mauritius to implement a resettlement on the Chagos Archipelago of people of Chagossian origin.

The Court dealt with the issues of Jurisdiction of the Court, its discretion to exercise its jurisdiction as well whether there was res judicata or not since it was being called upon to examine an issue already settled by the arbitral tribunal under UNCLOS Annex VII in the Arbitration regarding the Chagos Marine Protected Area case. I will discuss how the interpretation of the ICJ has resonance in international law and how it skilfully dealt with the sovereignty issue over the Chagos Islands while deciding on the colonisation question. This is an issue which the Arbitral tribunal declined to give any finding on as it stated it had no jurisdiction. The ICJ opinion is of particularly importance in international law in that regard.

The decision contributes to the concept of decolonisation as well as the right of people to self determination. It not only states that the process of decolonisation of Mauritius was not complete in 1968 when Chagos Archipelago was wrongfully removed from it but it also states that the UK is in illegal administration of the Chagos Archipelago. It goes further to say that the the UK in carrying on the illegal administration of the Chagos Archipelago becomes amenable to international responsibility.

The advisory opinion is a landmark and bold judgment and of great importance to the development in international law. It states in no uncertain terms that the UK is under an obligation to bring an end to its administration of the Chagos Archipelago as soon as possible to allow Mauritius to complete its process of decolonisation.

Part 3: What are the consequences in international law flowing from that decision?

- What does the future hold for the Chagos Islanders after the recent advisory opinion of the ICJ?
- What will the General Assembly do in the future? How will other States react to it in their relations with the UK ?

- The end result is that UK is in illegal occupation of the Chagos Islands and what will the UK do post the Award considering the binding force of the advisory opinion as well.
- This MPA could affect the green economy of Mauritius, the SDG 14 of development goals the right to ocean devpt. It is preventing Mauritius from using its maritime resources and exploiting its marine economy. Should any action be taken by Mauritius to nullify the existing MPA now after the advisory opinion ?