



**Statement on
behalf of South Africa
by
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Before the Sixth Committee of the
74th Session of the United Nations General
Assembly**

**Under Agenda Item 83
“The Rule of Law at the National and
International levels”**

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Mr Chairman

On behalf of my delegation I wish to begin by thanking you for this opportunity. At the onset, let me associate myself with the statement delivered by the representatives of the Islamic Republic of Iran speaking on behalf of the Non-Aligned Movement and Algeria speaking on behalf of the African Group.

Mr Chairman

South Africa would like to commend and congratulate the Secretary-General for his comprehensive report (A/74/139) which deals with strengthening and coordinating United Nations rule of law activities in relation to the rule of law at the national and international levels during the past 12 months. My delegation has studied the report with keen interest, which, *enter alia*, highlight the very significant activities undertaken by the United Nations. We are pleased to note the steady increase over the past few years of support by the United Nations to Member States in many areas relating to the rule of law. South Africa also welcomes the coordination and cohesion in United Nations rule of law assistance to address and prevent violent conflict, protect human rights and restore justice and security.

Mr Chairman

Part 2 (a) of the SG's report deals with the advisory opinion which was delivered by the International Court of Justice, on 25 February 2019, on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965. South Africa made both written and oral submissions in support of Mauritius to the Court. South Africa therefore welcomes the conclusion by the Court that the detachment of the Chagos Archipelago from Mauritius before Mauritius became independent in 1968, was unlawful in terms of the international law principles applicable at the time, and

the process of independence of Mauritius was therefore not lawfully completed. Secondly, that the UK is under an obligation to end its administration of the Chagos Archipelago as rapidly as possible. Thirdly, that the modalities for completion of the decolonization of Mauritius falls under the UN General Assembly, but the Court cannot prescribe to that body which steps to take in this regard. Fourthly, as respect for the right to self-determination is an obligation (in other words, all States are bound by the obligation), all UN Member States must cooperate with the United Nations to put those modalities into effect. And lastly that the General Assembly should also address the matter of the resettlement of the expelled nationals of Mauritius during the process of the decolonization of Mauritius.

Mr Chairman

The rule of law is a foundational constitutional concept of great importance and a cornerstone of any constitutional democracy. The rule of law requires legality, that is, that public power be exercised in compliance with the law and within the boundaries set by the law. Without effective, inclusive and functioning justice, criminal accountability, and access to justice, the rule of law might devolve to an empty phrase. Codification and development of international legal instruments, norms, standards and rules will make sense of the competing interpretations of the rule of law. The rule of law requires laws to be general, clear and prospective in their application and relatively constant.

Mr Chairman

Where the rule of law is undermined, the courts must fearlessly address this. However, the power of the courts will add up to nothing and be totally impotent if organs of state have the choice to disregard court orders. All organs of state and

public institutions or bodies have the responsibility to protect the rule of law. They have the obligation to speak in defence of the rule of law. It is therefore, the social cohesion that has the great potential to protect the rule of law, where the role of our courts is central. No person or organ of state may therefore interfere with the functioning of the courts.

Mr Chairman

The rule of law has played a substantial role in the development of South Africa's constitutional system. Our Constitution contains a unique founding provision, which entrenches the supremacy of the Constitution and the rule of law. These provisions are contained in Section 165 of the Constitution of the Republic of South Africa, 1996. The courts are independent and subject only to the Constitution and the rule of law, which they must apply impartially and without fear, favour or prejudice.

Mr Chairman

South Africa strongly maintains the view that the content of the international law with which countries must comply must itself be fair if it is to promote the rule of law.

I thank you for your attention.