Britain took over Mauritius from France in 1810. In 1968, Mauritius became free from the United Kingdom. However, the UK carved the Chagos Islands out from Mauritius three years before Mauritius’s independence. It subsequently evacuated Mauritian residents from the Chagos Islands. Then, the United States of America leased Diego Garcia in Chagos Islands from the UK to set up its Indian Ocean military base. The UK renewed the lease for another 20 years in 2016.

Did the UK violate international law in 1968? The issue of Mauritian dismemberment and Chagossian expulsion has been subject of at least two litigations, international and domestic. In March 2015, an arbitral tribunal constituted under the United Nations Convention on the Law of the Sea found a commitment in international law to return Chagos to Mauritius. However, in 2016, the UK Supreme Court dismissed the case Chagossians had brought over their expulsion from Diego Garcia.

Mauritius has now made its third move. Upon Mauritian initiation, in June 2017, the UN general assembly requested the International Court of Justice to give an opinion. Congo, Argentina, Bolivia, Cuba, Ecuador, Nicaragua and Venezuela have co-sponsored the resolution.

The UNGA has put forward three questions to the ICJ. First, "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" under international law? Second, what are the legal consequences of the UK's "continued administration" of the Chagos Archipelago? Third, what remedy, if any, does international law provide "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 January, the ICJ decided that the African Union might be able to furnish information to help it offer a legal opinion. The ICJ has set March 1, 2018 as the date within which states and international organizations might submit written statements to it. With Latin American states supporting Mauritius and the African Union furnishing information, incomplete decolonization has become a global question.
In 2017, India voted in favour of the UN resolution which was passed with 94 in favour, 65 abstentions and only 15 negative votes. In the case of Goa, after an ICJ ruling in 1960, India had faced the issue of incomplete decolonization that Mauritius today faces. Naturally, India had then co-sponsored the landmark 1960 "Declaration on the Granting of Independence to Colonial Countries and Peoples" that talked about the need to "unconditionally end colonialism in all its forms and manifestations". India has consistently supported Mauritius in its "quest for the restoration of [its] sovereignty over the Chagos Archipelago".

That was in the general assembly. India now needs to take a decision about its participation at the ICJ proceedings. It has been conspicuously unresponsive to the ICJ's call since 1996 when it had participated in the Nuclear Weapons Advisory Opinion. Meanwhile, China has become active. In 2009, China had responded to the ICJ's call to participate in the Kosovo affair. China had then offered a legal definition of colonialism. It had noted that only the blue-water colonialism spawned by Europe qualified as the kind of colonialism that the ICJ should adjudicate upon. For China, self-determination in international law could not remedy settler colonialism like in Tibet. Then, Indian silence might have been tactical. After all, China's statement had strengthened India's legal position in Kashmir.

Today, the Mauritian question about incomplete decolonization is politically and legally pregnant. The early 20th-century American, Russian and Japanese semi-colonialism had somewhat reversed the European colonial model. This new imperialism, as semi-colonialism was called, was based more on puppeteering client states using economics rather than the direct European territorial capture. China, too, adopts the new imperial model, even as India inherits the British colonial obligations. This difference between new Asian imperialism and European colonialism augmented the Doklam crisis. Also, while colonialism was focused on land capture, capturing the sea is a feature of the new imperialism.

With China already having rejected bluewater colonialism in 2009, India must not abstain from an unequivocal rejection of new imperialism before the ICJ. India must put its point across on the legal aspects of incomplete decolonization with a reasoned missive to the ICJ. International law remedies only territorial colonialism leaving imperialism incurable. India's written statement might correct that myopia of international law.

More from Opinion
Trending Stories

- Indian women who made history
- Bengal police enter Calcutta air traffic control room again to ensure
- Rajarhat, the new motown of Calcutta
- Chancellor picks VCs for new varsities

Opinion

- Game of powers
  KANWAL SIBAL

- Worn out at the edge
  Brijesh D. Jayal

- Road to advantage
  Writing On The Wall
  Ashok V. Desai

- Subaltern rage
  Manini Chatterjee

- After Gorakhpur
  Mukul Kesavan

TRENDING VIDEOS