

## SEPARATE OPINION OF JUDGE ROBINSON

*Guyana's attainment of independence from the United Kingdom — Right to self-determination — Independence not a gift or grant from the United Kingdom — Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV)).*

1. I am in agreement with the findings of the Court in paragraph 108 of the Judgment. However, I utilize the medium of the separate opinion to comment on a particular issue relating to the Judgment.

2. In setting out the arguments of the Parties, the Court cites Guyana's argument that "the United Kingdom has no current legal interest in, or claim to, the territory in question, having relinquished all territorial claims in relation to this dispute when the United Kingdom granted independence to Guyana in 1966" (Judgment, para. 81). However, as a matter of law, the United Kingdom did not grant independence to Guyana. At the time of Guyana's independence in 1966, the right to self-determination had already become a rule of customary international law, on the adoption of General Assembly resolution 1514 (XV) of 14 December 1960 (hereinafter "resolution 1514"); consequently, the attainment by former colonies of independence was not a gift, grant or concession of colonial Powers. Rather, independence resulted from the discharge by the colonial Powers of an obligation imposed on them by paragraph 5 of resolution 1514, to transfer all powers to the peoples of colonized countries in accordance with their freely expressed will. The status of the right to self-determination, as a customary norm of international law, was confirmed by the Court in its 2019 Advisory Opinion on *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. In light of that transformational development, it is a misstatement of the law to assert that, after the adoption of resolution 1514, colonial Powers granted their former colonies independence, since independence was not theirs to grant.

3. The conclusion that colonized countries and peoples were not granted independence by their colonial Powers is arrived at notwithstanding the title of resolution 1514, "Declaration on the Granting of Independence to Colonial Countries and Peoples". While the title may be relevant for the purpose of interpreting resolution 1514, it cannot dictate an interpretation that finds no support in the text of the resolution. Nowhere in the text of resolution 1514

is the term “grant of independence” used. The law of resolution 1514 is that the right to self-determination is a human right that inheres in a people, and all that is required for its enjoyment is that it must reflect the freely expressed will of the people. Resolution 1514 wrested the attainment of independence from the grasp of the colonizers and placed it firmly in the hands of colonized peoples themselves.

*(Signed)* Patrick L. ROBINSON.

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