State Practice of Asian Countries in International Law

India

*V.G. Hegde**

ARBITRATION – CONSTITUTIONAL VALIDITY OF SECTION 87 OF THE ARBITRATION AND CONCILIATION ACT, 1996 – ITS CONSISTENCY WITH THE UNCITRAL MODEL LAW ON INTERNATIONAL COMMERCIAL ARBITRATION

Judicial Decisions

Hindustan Construction Company and Another v. Union of India and Others, Supreme Court of India, 27 November 2019

Facts

Petitioners challenged the constitutional validity of Section 87 of the Arbitration and Conciliation Act, 1996. This provision was inserted as an amendment through an enactment known as Arbitration and Conciliation (Amendment) Act, 2019 (hereinafter ‘2019 Amendment Act’). Petitioners also challenged the repeal of Section 26 of the Arbitration and Conciliation (Amendment) Act, 2015 (with effect from 23.10.2015) through the 2019 Act. They also challenged various provisions of the Insolvency and Bankruptcy Code, 2016. All these changes, as contended by the Petitioners, resulted allegedly in discriminatory treatment to them. These amended provisions related to the further adjudication of the enforcement of an award given in favor of the petitioners in the courts of law. Petitioners were an infrastructure construction company involved in the business of construction of public utilities and projects like roads, bridges, hydropower and nuclear plants, tunnels, and rail facilities; mostly for government bodies.

Arbitration awards that were in favor of the Petitioner company were invariably challenged under Sections 34 and 37 of the Arbitration and Conciliation Act, 1996, and on average, more than 6 years were spent in defending these

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challenges. The major problem in the way of the Petitioners was that the moment a challenge was made under Section 34, there was an 'automatic stay' of such awards under the Arbitration and Conciliation Act, 1996. Petitioners were then subjected to a double-whammy. Government bodies other than Government companies were exempt from the Insolvency Code because they were statutory authorities or government departments. Even if they could be said to be operational debtors – which was not the case – the moment a challenge was filed to an award under Section 34 and/or Section 37 of the Arbitration and Conciliation Act, 1996, such debt became a 'disputed debt' under the judgments of this Court, and proceedings initiated under the Insolvency Code at the behest of the Petitioner company, not being maintainable in any case, would be dismissed at the threshold. Huge sums of money were, therefore, due from all these companies/government/government bodies to the Petitioners. On the other hand, Petitioners continued to operate owing large sums to operational creditors for supplying men, machinery, and material for the projects. Petitioners, *inter alia*, argued that the Arbitration and Conciliation Act, 1996 was based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. These changes and amendments, according to them, should be brought in tune with the UNCITRAL Model Law.

Judgment

The Court considered several of these issues taking into account its own earlier jurisprudence on the matter. It also referred to the work of some of the Committees and Commissions of the Government of India. The Court also considered the various provisions of the Arbitration and Conciliation Act, 1996 relating to the enforcement of awards and its possibilities to bring it to tune with the UNCITRAL Model Law.

Decision

The Court decided not to consider the constitutional validity challenge to Section 87 of the Arbitration and Conciliation Act based on its earlier decisions. It concurred with the argument of one of the petitioners that under the UNCITRAL Model Law, Articles 34 and 35 provided for two bites at the cherry: (i) in cases in which an award was sought to be set aside; and (ii) thereafter when not set aside, sought to be recognized and enforced in the same country in which it had been made. The Court agreed that the Indian Arbitration and Conciliation Act, 1996 did not follow the two bites at the cherry doctrine, for

the reason that when an award made in India became final and binding, it should straightaway be enforced under the Civil Procedure Code and in the same manner as if it were a decree of the Court.

**HUMAN RIGHTS – IMPLEMENTATION OF UNITED NATIONS
CONVENTION AGAINST TORTURE AND OTHER CRUEL,
INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT –
SCOPE OF POWER OF THE SUPREME COURT TO ISSUE
DIRECTIONS TO THE PARLIAMENT UNDER THE INDIAN
CONSTITUTIONAL SCHEME**

*Dr. Ashwani Kumar v. Union of India and Another, Supreme Court of India,
05 September 2019*

Facts

In this case, the applicant sought a direction from the Court to the Parliament to enact standalone and comprehensive legislation against custodial torture based on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment adopted by the United Nations General Assembly and opened for signature, ratification, and accession on 10th December 1984. The applicant also referred to stands taken by various constitutional and legal authorities in this regard such as the Attorney General of India, Law Commission of India, and National Human Rights Commission along with a select Committee of the Parliament supporting the validity of the UN Convention under Article 21 of the Constitution. It was also noted that though India had signed this Convention on 14th October 1997, it had not ratified the same to date.

Judgment

The Court, after considering several of its earlier decisions on the issues concerning bringing in implementing legislation giving effect to an international convention clarified that the court would be deciding a very limited issue as to whether it should direct the Parliament to enact standalone and comprehensive legislation against custodial torture based on the UN Convention. It also further examined whether it could do that under the constitutional scheme and issue any such direction.

Decision

After considering its own jurisprudence on the matter, the Court noted that issuance of any such direction would virtually amount to a power which it did not 'possess' while exercising the power of judicial review. However, the court noted that in an appropriate matter and on the basis of pleadings and factual matrix before it, the court could issue appropriate guidelines/directions to elucidate, add and improve upon directions issued pursuant to earlier decisions concerning custodial torture. Since there was no prayer by the applicant to this effect, it could not issue any such directions. It, however, further clarified that notwithstanding the rejection of the prayer made by the applicant, its present decision would not in any way affect the jurisdiction of the courts to deal with individual cases of alleged custodial torture and pass appropriate orders and directions in accordance with the law.

**HUMAN RIGHTS – STATEMENT BY INDIA ON AGENDA
ITEM 83 – THE RULE OF LAW AT THE NATIONAL AND
INTERNATIONAL LEVELS AT THE SIXTH COMMITTEE
OF THE 74TH SESSION OF THE UNITED NATIONS GENERAL
ASSEMBLY ON 11 OCTOBER 2019**

Other Relevant State Practice

India, while thanking the UN Secretary-General for his Report A/74/139 on Strengthening and coordinating United Nations rule of law activities, noted that the report highlighted the promotion of and respect for the rule of law, justice, and good governance and accorded high priority in guiding the activities of the United Nations and its Member states. India appreciated the continued support of the UN and its agencies to the Member States in developing domestic capacities to strengthen the Rule of Law, provided specifically at the request of Member States in alignment with their needs and priorities and consistent with the United Nations policy to promote gender equality and human rights in order to achieve a peaceful and inclusive society. India noted the UN initiative to strengthen accountability in the correction sectors with regard to legislative reforms in the areas of combating corruption; reinforcing the independence of the prosecution service; drafting of procedures to coordinate and respond effectively to child abuse.

According to India multilateralism was based on laws that governed interaction between states for greater collective welfare. However, it further noted, the uneven impacts of globalization, both within and among nations, were leading to a situation where the spirit of multilateralism appeared to be in retreat today, although the list of interconnected global challenges requiring collective action continued to grow. Referring to the basic tenets of the United Nations to prevent conflict among competing powers and bring about a greater rule of law to govern the behavior of nation-states, India pointed out that the UN Charter served as its ultimate guide that even prescribed use of force under specific conditions. India also referred to the principles of sovereign equality: regardless of power, under international law, all states had equal status.

India believed that the advancement of the rule of law at the national level was essential for the protection of democracy, human rights, and fundamental freedoms, as well as for socio-economic growth. Similarly, India pointed out, the rule of law at the international level was a *sine qua non* for ensuring peace and justice among States. Recalling various multilateral efforts to ensure universal adherence to and implementation of the rule of law at the national and international levels, India referred to a wide range of areas like trade, investment and intellectual property; transport and communications; use of global commons such as seas and oceans, environment, climate change, outer space, etc. to define rules of cooperation to prevent chaos brought about by rapid globalization driven by technology.

India also noted that there were areas where the international community had not been able to develop an international rule of law such as the rise in terrorism is one such alarming concern that impacted and required effective international collaboration. However, India noted that law-making on this issue continued to falter in view of narrow geopolitical interests. Ironically, India pointed out, often states hid behind legal concepts, designed for different contexts, to stop progress on this vital issue, including here at the UN in the context of a draft Comprehensive Convention on International Terrorism.

India also referred to other more complex areas such as transboundary aspects of waterways, where it was much more difficult to achieve consensus on general principles in view of strong sovereignty and situation-specific strategic concerns. According to India another area of concern was the complexity of issues relating to extraterritorial jurisdiction to plug any gaps in accountability for crimes committed in third countries.

India strongly believed that cooperative and effective multilateralism was the only answer to the range of interconnected challenges that we faced in

our interdependent world and that it pointed to the strong need for rule of law at an international level. Referring to its own challenges, India pointed out that it had always engaged actively in international efforts to develop norms, standards, and laws governing global interactions across various sectors. India also referred to its efforts to bring its national laws in consonance with its international obligations. It also referred to its continued partnership with fellow developing countries in capacity-building efforts on aspects such as electoral practices, drafting of legislation, and other law enforcement issues. Further, it noted that with one-sixth of the global population and being the world's largest democracy based on rule of law, it had emerged as the fastest-growing major economy. It also pointed out that in India the independence of the judiciary, legislature, and executive along with a free and vibrant media and civil society with strong traditions of electoral democracy were cherished and were the basis for the rule of law.

India recognized the important role played by international courts and tribunals including arbitral institutions in upholding rule of law and combating impunity. It also placed on record its appreciation for the important contribution made by the ILC in promoting respect for international law by progressive development on topics like "crimes against humanity", "peremptory norms of general international law (*jus cogens*)", "protection of the environment in relation to armed conflicts and "immunity of State officials from foreign criminal jurisdiction".

Referring to its domestic legal system, India noted that in the last year it had enacted nearly 20 new acts, ranging from legislation on medical, health, education, arbitration and conciliation, consumer protection, banking, wages, Muslim women (protection of rights on marriage), etc. India further noted that unjust or discriminatory laws that did not balance competing interests in a fair manner, or those designed and implemented by powers that were not representative, only fuel long-term conflict. According to India, laws continued to evolve according to changing circumstances, often brought forth by changes in society and prevailing technologies, leaving many old laws and regulations redundant. In this spirit of adapting to change, the Indian constitution, India noted, adopted seven decades ago, had seen over 120 amendments.

India concluded by pointing out that the global institutions must be fully reflective of contemporary realities and the rule of law norms to enable them to address the global challenges effectively.

**JURISDICTION – STATEMENT BY INDIA ON AGENDA ITEM
84 – THE SCOPE AND APPLICATION OF THE PRINCIPLE OF
UNIVERSAL JURISDICTION AT THE SIXTH COMMITTEE OF THE
74TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY
ON 17 OCTOBER 2019**

While thanking the Secretary-General for his report A/74/144 on “The scope and application of the principle of universal jurisdiction” India noted that the principle of universal jurisdiction was a legal principle allowing a state to bring penal proceedings in respect of certain crimes irrespective of the place of the commission of a crime and the nationality of the perpetrator or the victim. It also noted that this principle was an exception to the general criminal law principle that required territorial or nationality link with the crime, the perpetrator, or the victim.

India further pointed out that under the concept of universal jurisdiction, a State claimed jurisdiction over an offense irrespective of the place of its commission or nationality of the offender or victim, and thus without any link whatsoever between that State and the offense/offender. This exception, India noted, was justified due to the grave nature of the crime which affected the international community as a whole, and thereby no safe havens were established for those who committed these grave crimes and escaped the criminal proceedings using the shortcomings in the procedural technicalities in the general criminal law.

India referred to crime of piracy as a classic example of universal jurisdiction and further noted that the principle of universal jurisdiction in relation to piracy had been codified in the UN Convention on the Law of the Sea, 1982, making piracy on the high seas the only one crime, over which claims of universal jurisdiction were undisputed under general international law. The international treaties, in respect of certain other serious crimes, India pointed out, had provided a legal basis for the exercise of universal jurisdiction, which was applicable as between the States parties to those treaties. As noted by India, they included, among others: ‘genocide’ as defined under the Convention on the Prevention and Punishment of the Crime of Genocide, 1948; ‘war crimes’ under the Four Geneva Conventions of 1949; and ‘apartheid’ as provided under the Convention on the Suppression and Punishment of the Crime of Apartheid, 1973.

India reiterated that universal jurisdiction was applicable in the case of a limited set of crimes, like piracy on high seas and other specific serious crimes under the relevant treaties/ conventions that had been adopted and agreed

to by the States. Therefore, according to India, there is a need to avoid any misuse of the principle of universal jurisdiction in both criminal and civil matters, the concept and definition of which are not yet clear and agreed upon by the States.

While appreciating the contents of the report on the laws and practice of certain States concerning the exercise of universal jurisdiction in their domestic legal systems and their understanding of the concept of universal jurisdiction as useful, India noted that it contained a synopsis of issues raised by governments for possible discussion.

**STATE RESPONSIBILITY – STATEMENT BY INDIA ON AGENDA
ITEM 79 – REPORT OF THE INTERNATIONAL LAW COMMISSION
ON THE WORK OF ITS SEVENTIETH SESSION AT THE SIXTH
COMMITTEE OF THE 74TH SESSION OF THE UNITED NATIONS
GENERAL ASSEMBLY ON 06 NOVEMBER 2019**

India commenting on the third Report introduced by the Special Rapporteur on “Succession of States in respect of State Responsibility” noted that the topic dealt with rules that belonged to two areas of international law i.e. the law of state responsibility and the law of succession of States. In its view, the adoption of any of the draft articles on this topic should align with the relevant international conventions such as the 1978 Vienna Convention on Succession of States in respect of Treaties, 1983 Vienna Convention on Succession of States in respect of State Property, Archives, and Debts, etc.

Taking note of the draft articles contained in the third report India sought to address certain basic issues which *inter alia* included: the form of state responsibility in respect of succession of States when the predecessor State continued to exist; seeking reparation from the responsible state in case of merger of States, and also seeking reparation from responsible State in case of dissolution.

Further, commenting on the substantive issues, India was of the view that the draft Articles 12 to 14 provided for a situation where the injured predecessor State might request for reparation for the internationally wrongful act of another state if the predecessor State continued to exist. Similarly, India further noted, the successor State might also request reparations for internationally wrongful acts of responsible State in case of merging of two or more States. In either case, India pointed out, as provided in draft Articles 12 and 13, the Special Rapporteur needed to identify whether the draft Articles were intended to establish the procedural possibilities of claiming rights or substantive rights and obligations.

Referring to Draft Article 14 which referred to a situation of seeking reparation from responsible State in case of dissolution of States India pointed out that such claims for reparations were expected to take into consideration the link between the consequences of acts and the nationals of successor States on the basis of equitable proportion. It also sought further clarification as to how to distinguish the rights of a successor State from the potential right of an individual to claim reparations. As regards Article 15 it suggested that the Special Rapporteur might consider elaborating it further taking into account the language used in draft Articles on Diplomatic Protection while dealing with the cases of multiple nationalities.

Welcoming the first report of the Special Rapporteur on “General Principles of Law”, India suggested for the study of other similar works undertaken by the Commission on various topics, such as the law of treaties, responsibilities of States for internationally wrongful acts, fragmentation of international law, and identification of customary international law, which might have a direct bearing on the study of the general principles of law.

Further, India was of the view that there was no hierarchy among the sources of international law under Article 38 of the Statute of the International Court of Justice. Accordingly, it opined that general principles of law should not be described as a subsidiary source or secondary source. Instead, it suggested considering the term “supplementary source” to qualify the sources of general principles of law.

India noted that the *travaux préparatoires* of Article 38 of the Statute of the Permanent Court of International Justice might suggest that the inclusion of general principles of law as a source of international law was driven by a concern to avoid findings of *non liquet*, and to limit judicial discretion in the determination of international law. However, according to India, too much focus on *travaux préparatoires* would narrow the importance of general principles of law and its contemporary relevance in practice. The draft conclusions should focus, India pointed out, on the evolution of general principles of law as a source over a period of time, rather than using *travaux préparatoires* for the evolution of general principles of law.

As regards the use of the term “civilized nations” under Article 38(1)(c), India agreed with the majority view that it was inappropriate and outdated. This term, India argued, should not be used in the context of the present draft conclusions. India also noted the suggestion to use the term “community of nations” as contained in Article 15(2) of the International Covenant on Civil and Political Rights.

**TERRORISM – STATEMENT BY INDIA ON AGENDA ITEM 106 –
MEASURES ELIMINATE INTERNATIONAL TERRORISM AT THE
SIXTH COMMITTEE OF THE 74TH SESSION OF THE UNITED
NATIONS GENERAL ASSEMBLY ON 09 OCTOBER 2019**

Thanking the Secretary-General for his report A/74/151 on “Measures to Eliminate International Terrorism” India noted that the report included useful information on measures taken at the national and international levels based on the inputs provided by the governments and international organizations for the prevention and suppression of international terrorism. India also noted that Terrorism was the one of biggest scourges of our times and that it had emerged not only as a major destabilizing force but one that threatened the existence of the States and undermined the very foundations of the democratic political and social order. India condemned terrorism in all its forms and manifestations and noted that no cause whatsoever or grievance could justify terrorism, including State-sponsored cross-border terrorism.

Noting its various manifestations including state-sponsored terrorism and affecting the security of the international community India pointed out that the effective way to tackle it was by way of genuine collaboration among the States. India stated that it strongly believed that terrorism could be countered by combined international efforts and that the UN was best suited for developing this transnational effort. It also noted that the Global Counter-Terrorism Strategy (GCTS) being discussed by the UN General Assembly over the last decade had resulted in little impact on the ground. The Sanctions Committees, India further noted, established by the UN Security Council had become selective tools due to opaque working methods and politicized decision making. While noting the role of the United Nations General Assembly, India referred to the work done by the ad hoc committee established by the UN General Assembly for formulating international instruments against terrorism. Since its establishment 20 years ago in 1996, India noted that this ad hoc committee had negotiated texts resulting in the adoption of three sectoral treaties: 1997 International Convention for the Suppression of Terrorist Bombings; the 1999 International Convention for the Suppression of Financing of Terrorism; and the 2005 International Convention for the Suppression of Acts of Nuclear Terrorism. India stated that it supported concerted international cooperation and efforts by way of extradition, prosecution, information exchange, and capacity building. It also pointed out that the major UN instruments relating to specific terrorist activities remained fundamental tools in the fight against terrorism and that India was a party to all of these instruments.

Further, India expressed its firm belief that a Comprehensive Convention against International Terrorism (CCIT) would provide a strong legal basis for the fight against terrorism and would be in the interest of all Member States to have a multilateral and collective dimension of counter-terrorism effort.

According to India the inability to agree on a Comprehensive Convention on International Terrorism remained one of the great gaps in the international legislative framework that would have strengthened efforts to destroy safe havens for terrorists, their financial flows, and their support networks. India emphasized the need to move forward in adopting the draft text of CCIT which was a balanced one and had emerged after long discussions.

India further stated that it stood committed in all efforts to counter terrorism by exchanging information, building capacities for effective border controls, preventing misuse of modern technologies, monitoring illicit financial flows, and cooperating in the investigation and judicial procedures. It also noted that the flow of resources meant to produce terror was required to be stopped by States for which collective inter-State efforts were required at regional and sub-regional levels. Financial Action Task Force (FATF), India noted, had a significant role in setting global standards for preventing and combating terrorist financing and the UN needed to increase cooperation with such bodies. India strongly condemned direct or indirect financial assistance given to terrorist groups or individual members thereof by States or their machineries, to pursue their activities, including in defending the criminal cases involving terrorist acts against them.

Concluding, India reiterated its strong support to the GA Resolution 73/125 of 20 December 2018 which, in para 24, recommended the Sixth Committee at the 74th Session to establish the "Working Group with a view to finalizing the process on the Draft Comprehensive Convention on International Terrorism".

**UNITED NATIONS – STATEMENT BY INDIA ON AGENDA
ITEM 76 – CRIMINAL ACCOUNTABILITY OF UN OFFICIALS
AND EXPERTS ON MISSION AT THE SIXTH COMMITTEE OF THE
74TH SESSION OF THE UNITED NATIONS GENERAL ASSEMBLY
ON OCTOBER 09, 2019**

India while reiterating its concern regarding all crimes committed by United Nations officials and experts on mission during their work for the UN, underlined its continued support for the United Nations' zero-tolerance policy. It also noted that the listing of policies and procedures across the UN system

in this context and information received from member states regarding the establishment of jurisdiction over their nationals was a useful exercise.

According to India the issue of accountability had remained elusive because of the complexities of legal aspects relating to sovereignty and jurisdiction of Member States. It also noted the effect of invoking the 'legal personality' of the United Nations that provided essential immunity or privileges that were necessary for UN operations in a country. Further, India noted that the functional capacity or the willingness of member states to investigate and prosecute the accused had further complicated this issue. India also noted that the UN itself could only take some disciplinary measures and did not exercise any criminal jurisdiction. India also pointed out that it was unclear whether investigations conducted by the UN might be accepted as evidence in criminal law proceedings in the courts of a Member State. The immunity enjoyed by the United Nations from prosecution in national courts as an organization, according to India, should not be confused with the UN officials and experts not having any responsibility for their criminal acts or omissions.

India recognized that the primary responsibility to bring perpetrators to justice rested with the Member States. India noted that it was only through concerted action and cooperation between States and the United Nations that states could ensure criminal accountability. For this purpose, India further noted that the State of nationality of an alleged offender was promptly informed and consulted by the UN and that the State of nationality acted in a timely manner, established and exercised jurisdiction, investigated and prosecuted, where appropriate.

India suggested that member states that did not assert extra-territorial jurisdiction over crimes committed abroad by their nationals should be encouraged to provide appropriate assistance to update their national laws and regulations to provide for such jurisdiction and to prosecute any such misconduct of their nationals serving as UN officials on mission abroad. Such law should also provide, India reiterated, for international assistance for the investigation and prosecution of crimes committed. It was also noted by India that even though many countries had updated their jurisdiction to include a possibility to prosecute their nationals serving as UN officials in the host State, the first approach would be to ensure that all member States had jurisdiction needed to prosecute their nationals. India further suggested that the UN could compile a list of those Member States that had implemented the principle of nationality, and the question regarding potential jurisdictional gaps could then be answered.

Referring to its own internal legal regime, India pointed out that the Indian Penal Code and the Code of Criminal Procedure of India had provisions to deal

with extra-territorial offenses committed by Indian nationals and for seeking and providing assistance in criminal matters. The Indian Extradition Act 1962, India further pointed out, dealt with the extradition of fugitive criminals and related issues. India also pointed out that the Act allowed for extradition in respect of extraditable offenses in terms of an extradition treaty with another State and in the absence of a bilateral treaty, the Act also allowed an international convention to be used as the legal basis for considering an extradition request. India, in conclusion, reiterated its commitment to implement a policy of zero-tolerance against any criminal acts committed by UN personnel and hoped that such crimes go unpunished.

**UNITED NATIONS – STATEMENT BY INDIA ON DRAFT
RESOLUTION ADVISORY OPINION OF THE INTERNATIONAL
COURT OF JUSTICE ON THE LEGAL CONSEQUENCES OF THE
SEPARATION OF THE CHAGOS ARCHIPELAGO FROM MAURITIUS
IN 1995 AT THE UNITED NATIONS GENERAL ASSEMBLY ON
22 MAY 2019**

India referring to the Declaration on Granting of Independence to Colonial Countries and Peoples adopted by the United Nations General Assembly (UNGA) on 14th December 1960 noted that this Resolution 1514 recognized the ardent desires of the world to end colonialism. The Declaration, India further noted, proclaimed the necessity of bringing colonialism to an end, speedily and unconditionally. As a result, India pointed out, more than 80 former colonies had taken their rightful place here in the UNGA.

According to India the support for the process of decolonization was, in historic terms, one of the most significant contributions that the United Nations had made towards the promotion of fundamental human rights, human dignity, and the cause of larger human freedom. However, India further noted, that nearly 59 years after the adoption of Resolution 1514, we were being advised by the International Court of Justice (ICJ), that having regard to international law, the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence in 1968, following the separation of the Chagos Archipelago. India also referred to the advice of the ICJ that all Member States were under an obligation to cooperate with the United Nations to complete the decolonization of Mauritius.

Referring to its status as one of the few non-sovereign colonial territories to be a founding member of the United Nations and since its independence in

1947, India pointed out that it had remained steadfast to the ideals of decolonization. India recalled its stance as one of the co-sponsors of the landmark 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples, which had proclaimed the need to unconditionally end colonialism in all its forms and manifestations. India also recalled its election as the first chair of the Decolonization Committee (Committee of 24), in 1962, which was established to monitor implementation of the 1960 Declaration and to make recommendations on its application.

While reiterating its position to see an early end to this issue, India noted one of the conclusions of the ICJ that it did not consider that giving the opinion requested would have the effect of circumventing the principle of consent by a State to the judicial settlement of its dispute with another State. India also shared with the international community security concerns relating to the Indian Ocean and the need for collective commitment towards ensuring the security and prosperity of this oceanic space. This issue, India noted, was a separate matter on which it sought the concerned government to reach a mutually agreeable understanding as soon as possible.

While noting that Mauritius as a fellow developing country from Africa with which it had age-old people-to-people bonds and having consistently supporting Mauritius in its quest for the restoration of sovereignty over the Chagos Archipelago, India extended its support to the draft resolution contained in document A/73/L.84.Rev.