

INTERNATIONAL COURT OF JUSTICE
GUYANA v. VENEZUELA
HEARING ON JURISDICTION

Introduction and Structure of Oral Argument

Sir Shridath Ramphal, S.C, as Co-Agent

30 June 2020

Mr. President, distinguished Members of the Court –

1. Good Day [from Barbados]!

Guyana commends, acclaims – and thanks – this honourable court on this ‘virtual’ Hearing which proclaims a message from the Court that COVID 19 notwithstanding, this fountain of global justice continues to spring forth. It is a special privilege to be first to address you as the Court breaks new procedural ground. I and my colleagues who appear before you on behalf of the State of Guyana shall remain conscious of this element of novelty throughout the Hearing, and shall be ready to adapt to it as the court deems fit.

1.1 No word of introduction from me can be adequate, Mr President and Eminent Judges, without impressing, at the outset, the singular importance of this Case to all the people of Guyana – whose collective patrimony is at the centre of this Hearing, and who are united in defence of their sovereignty and the territorial integrity of their Homeland. Guyana’s official and representative delegation has been notified to the Court. Especially joining from the Ministry of Foreign Affairs in Georgetown are our Agent, the Honourable Carl Greenidge, Co-Agent Ambassador Audrey Waddell, Opposition Representative Ms Gail Teixeira, Former Foreign Minister Rashleigh Jackson and Ambassadors Cedric Joseph and Elisabeth Harper. Many other Guyanese are with us ‘virtually’ today watching these proceedings, mindful of their significance for the future of our nation – among them, its ‘first people’ whose birth-right is inviolable.

2. I, myself, was born in what was the colony of British Guiana on the 3rd of October, 1928. Three decades earlier, on that exact date – on the 3rd of October 1899 – the land boundaries of my birthplace had been affirmed – definitively settled in Paris by the Award of an International Arbitral Tribunal of high distinction.

3. Upon Guyana's independence in 1966 I had the honour to serve as its first Attorney General and to draft a Constitution the first words of which say that Guyana shall be '*a sovereign democratic State*'. And that first Article of the Constitution of the newly independent Guyana, went on to state:

The territory of Guyana shall comprise all the areas that immediately before 26th May, 1966, were comprised in the former Colony of British Guiana....

4. As Guyana's Co-Agent in these proceedings, I consider myself to have a special responsibility. Let me try to convey succinctly, in these introductory words, how and why we are here today.
5. That day in Paris at the end of the 19th Century is now a long way away. 120 years have passed since international law spoke then. During that time, colonialism in British Guiana came to an end and Guyana has now enjoyed more than 50 years of independence. That might suggest an ordered past, given that the boundary was definitively settled a long time ago. But that would be wrong. In a word, we are here because contrary to international law, and the binding Award of 1899, the Bolivarian Republic of Venezuela, our neighbour to the west, has cultivated a nationalist passion to disavow that day in Paris and lay claim to almost three quarters of Guyana.
6. It was not always so. The Arbitral proceeding in Paris was after all, instigated at the behest of Venezuela; and Venezuela enjoyed - and continues to enjoy - the gains brought them by the Arbitral Award. Yet, the process that brings us here is rooted in Venezuela's repudiation of the Award, more than six decades after it was handed down - at a time that seemed propitious to it - the eve of Guyana's independence in the 1960's.
7. Paris 1899 was the fulfilment of Venezuela's early (and understandable) wish that the border between themselves and Britain's colony of British Guiana should not be left to negotiation with the imperial power, but should be definitively determined by international arbitration. In this, they were supported by the United States – supported to the extent of threats from Washington of war with Britain if the matter of the border was not settled by Arbitration. Britain eventually concurred. By the Treaty of Washington in 1897, brokered by the United States and concluded between Britain and Venezuela, Venezuela would have the arbitration that it demanded.
8. That Treaty of Washington left nothing to chance. The parties agreed specifically to consider the result of the Arbitration “**as a full, perfect and final settlement of**

all of the questions referred to the Arbitrators”. In short, imperial Britain would have to abide by the conclusion of Paris; and so, of course, would Venezuela.

9. And so it did. For six decades. Until 1962, when the Government of Venezuela formally denounced the Arbitral Award of 1899 for the first time, and reasserted its original pre-Award claim, which amounted to almost three-quarters of British Guiana’s, and now, of course, Guyana’s sovereign territory.
10. From the time that contention was first made, in 1962, the United Kingdom, British Guiana and then sovereign and independent Guyana vigorously rejected it, and affirmed, in the strongest possible terms, the validity of the Award and the international boundary that it established.
11. Between 1962 and 1965, the parties engaged one another in a series of talks in which each tried to persuade the other of the correctness of the position, with no progress toward a resolution. But these talks did set the stage for a final round of meetings in Geneva, in February 1966. On the eve of Independence, Guyana participated in that Conference. I did so personally as our country’s Attorney General, and Guyana became a full party to the Geneva Agreement on attaining Independence three months later – with its borders intact. As Guyana will show in this proceeding, Article IV, paragraph 2, of that agreement clearly provided that where other means of resolution of Venezuela’s contention of ‘nullity’ failed “*the Secretary General of the United Nations shall choose another of the means stipulated in Article 33 of the Charter of the United Nations.*” At the Geneva Conference, it was Venezuela that authored that procedure.
12. This is the background to the case that is now before the Court, and I hope that you Mr. President, and Honourable Members of the Court, will regard it all as helpful context for the matter you are called upon to decide at this stage of the proceedings.
13. That matter, this Hearing, is about the Court’s ‘Jurisdiction’, specifically, to consider the claims asserted in Guyana’s Application: most importantly, its submission that the Arbitral Award of 3 October 1899 continues to be valid and binding on the parties.
14. Guyana’s case, as you will have seen from its Memorial on Jurisdiction, and as you will hear from its Advocates today, is based on the plain text of the 1966 Geneva Agreement, by which the parties expressly consented –

1. to accept the decision of the United Nations Secretary General on the means of settlement of their dispute over the validity of the 1899 Arbitral Award - including judicial settlement by this Court, and
 2. that the dispute shall be settled by the International Court of Justice, if that be the means of settlement chosen by the Secretary General.
15. It is unfortunate that Venezuela has chosen not to participate in these Hearings. Undoubtedly, it would have been more helpful to the Court for both parties to appear, to fully present their arguments in the first round, and respond to each other in the second. But, at least, the Court has not been left to speculate as to what Venezuela might have said had it appeared in the Great Hall of Justice this week. By the date fixed by the Court (namely 18 April 2019) Venezuela failed to file its Counter-Memorial; but it promised “information in order to assist the Court”; and on 28 November 2019, it submitted a 56-page Memorandum to the Court, accompanied by a 155 page Annex, setting out the bases for its objections to the Court’s jurisdiction - and much more besides.
16. Guyana will respond today to all of Venezuela’s contentions regarding the Court’s jurisdiction in those written documents, and will demonstrate beyond any doubt that they are entirely without foundation, and that the Court unquestionably has jurisdiction to proceed to the merits phase of the case and adjudicate Guyana’s claims.
17. After almost 60 years of Venezuela trying and failing to despoil the sanctity of the Treaty of Washington and to nullify the Paris Award, the Secretary General of the United Nations indicated to the Presidents of Guyana and Venezuela: “I have fulfilled the responsibility that has fallen to me within the framework set by my predecessor and, significant progress not having been made toward arriving at a full agreement for the solution of the controversy, I have chosen the International Court of Justice as the means that is now to be used for its solution.” That is why we are here – attended by the faith of the people of Guyana in this International Court of Justice and in the rule of international law.
18. Mr President, Members of the Court,. It remains for me only to outline the scheme of Presentations that will follow for Guyana. They are as follows:
- Professor Payam Akhavan** will address the Court on the origin of the dispute and the circumstances leading to the conclusion of the 1966 Geneva Agreement.

Mr Paul Reichler will then follow with a careful textual analysis of the Geneva Agreement and its dispute resolution provisions, including its conferral on the Secretary General of the authority to make a final and binding decision on the means of dispute settlement that the parties are obligated to pursue, including, if he so decides, judicial settlement by this Court.

Professor Philippe Sands will follow him with a review of the implementation of the Geneva Agreement, including the parties' reaffirmations of it, and the Secretary General's acceptance of the authority conferred upon him, and the manner in which he exercised that authority. And finally,

Professor Alain Pellet will address the Secretary General's ultimate decision that the dispute over the validity of the 1899 Arbitral Award shall be settled by the International Court of Justice, and the consent of the parties, including Venezuela, to judicial settlement of the dispute by the ICJ.

19. I thank you, Mr President and Honourable Members of the Court, and I ask that you call Professor Akhavan to the podium.