

Judge IGNACIO-PINTO makes the following declaration:

[Translation]

I have been able to subscribe only in part to the Opinion of the International Court of Justice dated 16 October 1975 and only because in the final paragraph of its reasoning, paragraph 162, the Court's

“... conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory.”

I consequently reject all that part of the Court's statement which declares that at the time of colonization by Spain there were legal ties of allegiance between the Sultan of Morocco and certain tribes of the territory at the same time as other legal ties between the Mauritanian entity and the territory of Western Sahara.

My objection to the Advisory Opinion is due to the fact that I consider that, even if it appears that the Court is justified in declaring itself competent under the provisions of Article 96 of the Charter of the United Nations on the one hand, and of Article 65 of the Statute of the Court on the other, to receive from the United Nations General Assembly the request for an advisory opinion, it would have been proper by reason of certain circumstances in the case *ab initio* for the Court, availing itself of its discretionary power, and after having declared the request receivable as to the form, to reject it as to the substance, because the questions as put are, as it were, loaded questions, leading in any case to the answer awaited in this particular instance, namely the recognition of rights of sovereignty of Morocco on the one hand and of Mauritania on the other over some part or other of Western Sahara.

For the sake of brevity and to avoid useless repetition, I can support the observations of Judge Petrén concerning the interpretation of paragraph 162 of the Opinion and the grounds on which my colleague, like myself, rejects all of that paragraph other than where it deals with the question of any tie of territorial sovereignty between the territory and Morocco and the Mauritanian entity – a part of the paragraph which I can accept.

M. NAGENDRA SINGH, juge, fait la déclaration suivante:

[Traduction]

Bien que je souscrive à l'avis consultatif et que j'approuve son insistance sur la nécessité d'une expression authentique de la volonté des populations,