

## Still dispossessed – the battle of the Chagos Islanders to return to their homeland

By Awaz Raooif

### Summary

The Chagos Islands are located in the middle of the Indian Ocean, and have been part of a United Kingdom (UK) colony since the nineteenth century. In the 1960s and 1970s, the islands' inhabitants – the Chagos Islanders – were compulsorily removed from their homeland so that Diego Garcia, the largest of the islands, could be turned into a United States (US) military base. Their claims to their right to return were upheld in 2000 in a landmark judgment of the UK courts, but the UK government overturned this decision by Orders-in-Council passed in 2004. After successfully challenging these Orders in 2006 and 2007, the Chagossians' claims were finally rejected by the House of Lords in 2008, which led to them bringing their case before

the European Court of Human Rights (ECtHR). Minority Rights Group International (MRG) has supported the islanders in their long struggle to return home, and was a joint intervener in the case before the ECtHR.

In a decision taken on 11 December 2012,<sup>1</sup> the ECtHR dismissed claims by the Chagos Islanders to return to their territory, citing reasons based on technical grounds. The decision was a disappointing setback for the Chagos Islanders and their supporters. By treating the case largely as a procedural issue, the Strasbourg judges also failed to seize the opportunity to develop the law of the European Convention on Human Rights (ECHR) in line with international human rights standards, which requires states to respect and protect indigenous rights, and remedy historic injustices such as those suffered here.



CHAGOS ISLANDERS PROTEST AGAINST LAW LORDS' VERDICT IN 2008, UK. CREDIT: MRG.

A year has passed since the ECtHR's decision, and the situation confronting the Chagos Islanders remains unresolved. This briefing is intended to summarize their case as it now stands and remind the world of their plight. It also discusses some of the potential ways forward for addressing this decades-long violation of human rights.

## Background

Until the 1960s, the Chagos Islands were inhabited by an indigenous people, the Ilois – also known as the 'Chagos Islanders' or the 'Chagossians' – numbering more than 1,500. Most Chagossians were Roman Catholic, and practised a way of life which was unique to the islands. They had their own culinary traditions, games and festivities, and habitually paid their respects at the graves of their ancestors – a practice they have not been able to perform since leaving the islands.

In 1964, the UK entered into negotiations with the US to create an American military base in the region. The talks culminated in the passing of the British Indian Ocean Territory Order<sup>2</sup> on 8 November 1965, establishing the 'British Indian Ocean Territory' (BIOT). This new colony included the Chagos Islands. In December 1966, the UK and the US agreed that the US would use the BIOT for defence purposes for an initial period of 50 years, with a 20-year extension period unless one party provides notice to terminate the agreement during the two-year period before the expiry of the initial term (namely, from December 2014).<sup>3</sup> The US subsequently commenced the construction of a military base on Diego Garcia, the largest of the three island groups which comprise the Chagos Islands.

As a result, the UK itself made the decision to remove the population not only from Diego Garcia but also the outlying islands, without any consultation or resettlement provision. Their tactics included compulsorily removing the Chagossians from the islands, allowing islanders who had visited Mauritius to become stranded there by refusing them re-entry to the islands, and closing down the plantations on the islands which provided their employment. US construction works on Diego Garcia also demolished homes and bulldozed graveyards. The entire population was in effect left on the docksides of Mauritius or the Seychelles without housing, employment or compensation. In 1971, the Commissioner of the BIOT passed Immigration Ordinance 1971, No. 1, which was thought to legitimize the removal of the population from the islands by making it a criminal offence for anyone to enter or remain there without a permit.<sup>4</sup>

Following the independence of Mauritius in 1968 and the Seychelles in 1976, the BIOT has been ruled directly from London. The last inhabitants were removed from the Chagos Islands in 1973. Most of the Chagossians are now based in Mauritius and the Seychelles, with a small number in the UK. In 1973, with many Chagossians living in poverty, the UK paid £650,000 to Mauritius to assist with

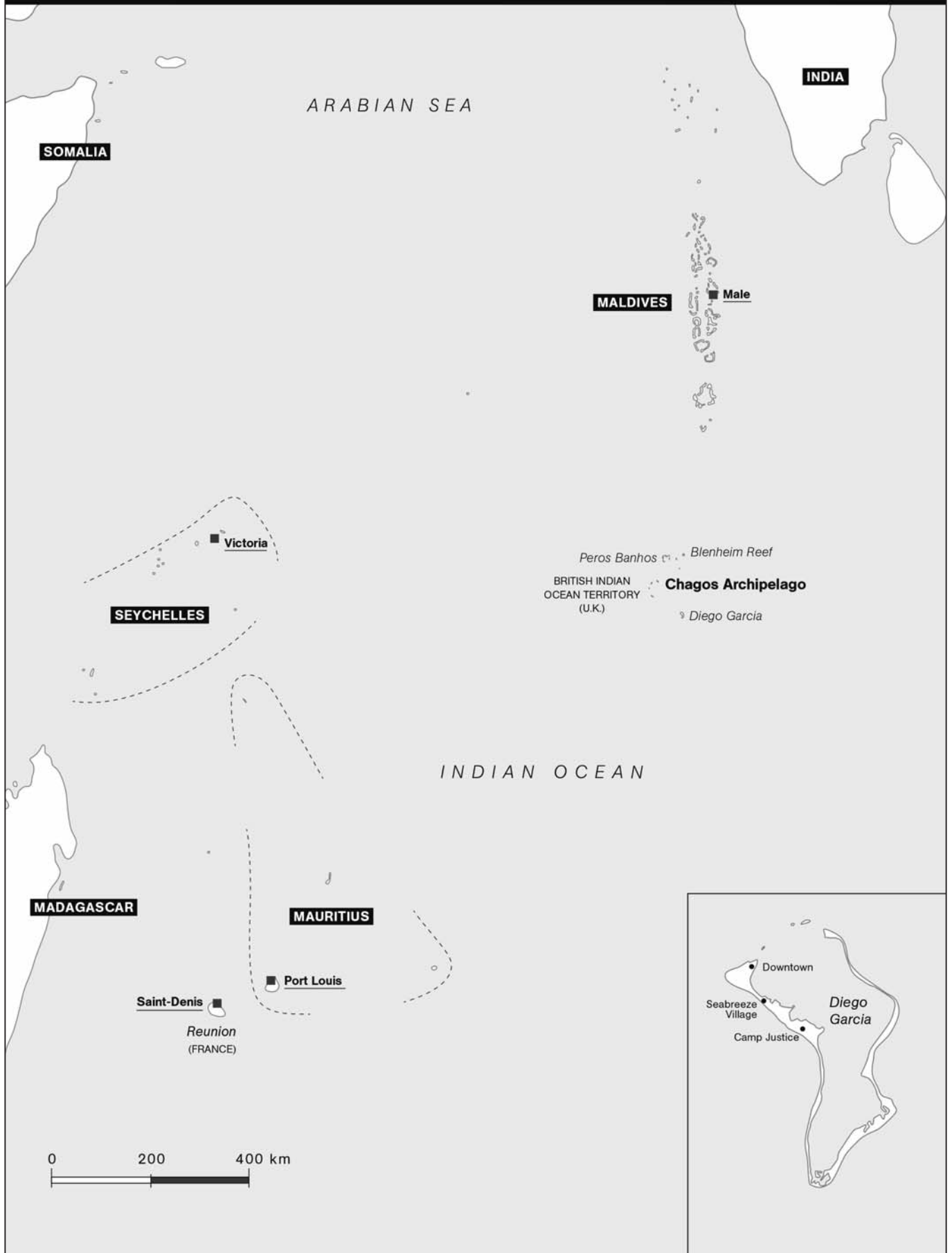
the costs of resettlement. However, it was not until 1977 that the Mauritian government distributed the money, the value of which had been weakened by inflation. Further, the money was granted to only 595 Chagossian families, after many years of absolute poverty.<sup>5</sup>

The Chagossians have brought a number of legal actions challenging their expulsion. In 1975, Michael Vencatessen, a Chagossian who had left Diego Garcia in 1971, brought a claim before the UK courts.<sup>6</sup> The case was settled in 1982 with the UK paying £4 million into a trust fund established by the Mauritian government. The population prior to removal has been subsequently estimated at a figure of at least 1,560.<sup>7</sup> Those who received compensation numbered 1,344 and excluded all those removed to the Seychelles.<sup>8</sup> In addition, only 471 of the 1,786 applicants in the subsequent case presented to the ECtHR received compensation and, even then, the amount received was minimal.<sup>9</sup> All recipients of compensation were required to sign forms to renounce their claims arising from their removal from the islands. However, these renunciation forms – which were thumb-printed rather than signed – were written in English, a language which many of the signatories could not read or understand. Neither an explanation as to the nature of the forms, nor a translation service, was provided to the Chagossians, who were accordingly left to believe that the legalistic forms were mere receipts for money.

A second case (*'Bancoult I'*)<sup>10</sup> was brought in the UK courts by Olivier Bancoult, a Chagossian, to challenge the validity of the 1971 law, which had made it a criminal offence for anyone to enter or remain on the islands without a permit.<sup>11</sup> In 2000, the High Court struck down the relevant part of that law on the grounds that the relevant power contained within the BIOT Order – the power to legislate for the 'peace, order and good government' of the territory – did not include a power to exile a people from their homelands.<sup>12</sup> The UK government did not appeal the decision and passed a new Ordinance<sup>13</sup> allowing British Dependent Territories Citizens (including the evicted Chagossians) to enter the outer islands of the archipelago, but not Diego Garcia.

In a third attempt to seek redress, 4,466 Chagossians brought a claim in the UK courts for compensation for their eviction from the islands, and sought a declaration of their right to return (the '*Chagos Islanders case*').<sup>14</sup> However, in 2003, the court dismissed the case, stating among other things that the claims had already been settled in 1982 and, in any event, had been made after the expiry of the statutory limitation period. With regards to the Chagossians who had resettled in the Seychelles, and therefore had not participated in the 1982 settlement, the court decided that they had known the same facts as their counterparts in Mauritius and could have taken similar steps to obtain redress at the time. They would therefore not be treated any differently to those who had benefited from the settlement.<sup>15</sup>

# Chagos Islands



The Chagossians' attempts to appeal the decision were also dismissed. According to the Appeal Court, the issue of the right to return was a political one and could not be resolved through the courts.<sup>16</sup> However, the court highlighted the inadequacy of the compensation the Chagossians had received: '[The Chagossians] have not gone without compensation, but what they have received has done little to repair the wrecking of families and communities, to restore their self-respect or to make amends for the underhand official conduct now publicly revealed by the documentary record.'<sup>17</sup>

The Chagossians were dealt a further blow when the 'right of abode' on the islands was specifically abolished and restrictions on entering or being present on the islands were reinstated by Orders-in-Council<sup>18</sup> in 2004, thus bypassing the UK parliament and in effect reversing the decision of the courts.<sup>19</sup> A few days later, the government announced that it would be abandoning further plans to investigate the possibility of resettlement on the islands. This decision followed the findings of a 2002 study commissioned by the Foreign and Commonwealth Office (FCO). The study formed the basis of the FCO's subsequent assertions that resettlement would be 'precarious' and involve significant expense.<sup>20</sup> However, the findings – which had strongly informed the FCO's subsequent argument against resettlement – have since been called into question.<sup>21</sup> The UK government has responded to this criticism by calling for a new feasibility study to be undertaken.<sup>22</sup>

Once again, the Chagossians resorted to the UK courts to challenge the abolition of their right to return (*'Bancoult 2'*).<sup>23</sup> The challenge was successful both in the High Court and the Court of Appeal, the latter holding that the 2004 Orders amounted to an abuse of power by the government because they denied the islanders' rights to return to their homeland. The government appealed to the House of Lords, where the majority ruled<sup>24</sup> that the exercise of power under the 2004 Orders was essentially a concern for the government and parliament and not properly a matter for the courts. In dissent, one of the Lords stated that the government's submission 'treats BIOT and the ... power to make ... laws relating to BIOT as if they related to nothing more than the bare land, and as if the people inhabiting BIOT were an insignificant inconvenience'.<sup>25</sup>

A further barrier to the return of the Chagossians to the islands was the designation by the UK government of the islands as part of the Chagos Marine Protected Area in 2010. The creation of this conservation area included, among other provisions, the prohibition of anything but recreational fishing – a ban that would effectively deprive the Chagossians of their main source of livelihood. The subsequent publication of a confidential 2009 cable by the organization WikiLeaks suggested that the UK government had been aware that it would make it 'difficult, if not impossible, [for the Chagossians] to pursue their claim for

resettlement on the islands if the entire Chagos Archipelago were a marine reserve.'<sup>26</sup>

## The case before the European Court of Human Rights

In April 2005, the Chagossians made an application to the ECtHR,<sup>27</sup> claiming several violations of their rights under the ECHR: Article 3 (prohibition of torture, and inhuman or degrading treatment or punishment), Article 8 (right to respect for private and family life), Article 6 (right to fair trial), Article 13 (right to an effective remedy), and Article 1 of Protocol 1 (right to protection of property). They noted, in particular, the demeaning decision-making process leading to their removal from the islands, the removal itself, the manner in which the removal had been carried out, the reception conditions on their arrival in Mauritius and the Seychelles, the prohibition on their return, the refusal of the UK government to facilitate their return once the prohibition had been declared unlawful in *Bancoult 1*, and the refusal to compensate them for the violations.<sup>28</sup> They also highlighted the interference with their ability to maintain links with their traditional ways of life on the island.<sup>29</sup>

In order for the case to succeed, the Chagossians had to address the complex issue of jurisdiction. Article 1 of the ECHR requires state parties to 'secure to everyone within their jurisdiction' the rights under the ECHR. In responding to this issue, the Chagossians raised three main overall arguments. First, they highlighted that the UK government had explicitly extended its ECHR obligations – by means of a declaration under Article 56 (*Territorial Application*) of the ECHR – to the British Colony of Mauritius, which at the time included the Chagos Islands. The UK had not denounced these obligations, as required under the ECHR, in respect of the BIOT or the Chagos Islands following the separation of the islands from Mauritius in 1965, nor following Mauritius' independence in 1968.<sup>30</sup> As such, they argued that the ECHR continued to apply to the BIOT. Second, they argued in the alternative that the actions and decisions complained of had in fact taken place within the UK's territorial jurisdiction, triggering the UK's obligations under the ECHR. In their view, the matter concerned the acts of UK officials acting under direct UK authority, evidenced by the UK's long-standing involvement in the area's governance.<sup>31</sup> Third, if territorial jurisdiction did not apply, the Chagossians claimed that the UK exercised effective control over the islands, bringing the islands within the UK's extra-territorial jurisdiction for the purposes of the ECHR.<sup>32</sup>

However, the UK government challenged these claims. Its first key objection was that the ECHR did not apply to the territory of the BIOT. It claimed never to have made a declaration to extend its obligations under the ECHR to the BIOT, and dismissed the Chagossians' claims that jurisdiction applied automatically to the new territory of

the BIOT following the separation of the Chagos Islands from Mauritius.<sup>33</sup> With regard to the issue of effective control, the government considered that the principle did not apply to the facts of the case and, in any event, could not supersede the declaratory system under Article 56.<sup>34</sup> It also argued that the removal of the Chagossians and their conditions in Mauritius or the Seychelles had not taken place in the territory of the UK.<sup>35</sup> In addition, the UK government maintained that the Chagossians could not be considered victims of human rights violations as they had already been compensated.<sup>36</sup> With regards to the Seychellois Chagossians, it considered that they had failed either to participate in the domestic settlement or to take any similar steps to obtain redress.<sup>37</sup>

MRG and Human Rights Watch intervened in the case, arguing that – in line with regional and international human rights standards – where there is a direct and immediate link between a state’s extra-territorial conduct and an alleged human rights violation, the individual should be treated as falling within the state’s control and, hence, jurisdiction. In their view, the drafters of the ECHR had not intended for state parties to avoid responsibility for their extra-territorial actions. Further, on the issue of indigenous rights, there was a body of international law which had been developed to secure the collective rights of indigenous peoples, including the United Nations (UN) Declaration on the Rights of Indigenous Peoples adopted in 2007. Such rights included the right not to be subjected to forced assimilation or destruction of culture, the right not to be forcibly removed from lands or territories, the right to redress for lands, territories and resources that have been taken, and the right to acquire property through traditional methods of land occupation rather than conventional domestic legal systems. In addition, forced evictions may lead to several violations of human rights, including the right to life, the right to protection of property, and the right to prohibition of torture or inhuman or degrading treatment, and could even constitute a crime against humanity.<sup>38</sup>

In December 2012, the ECtHR declared the application inadmissible. It considered that the individual right to bring claims before the ECtHR did not extend to the BIOT. The reason given was that the UK had ratified the right of individual petition on 14 January 1966, which extended to what was then the colony of Mauritius but not the Chagos Islands, which in 1965 had been established as a separate colony – the BIOT – and in respect of which the UK had not made a similar declaration.<sup>39</sup> Therefore, even if the ECtHR accepted the Chagossians’ argument that the ECHR automatically applied to the BIOT after the separation of the islands from Mauritius, jurisdiction could not arise on the basis of the right of individual petition extending to the BIOT because it would not apply retroactively. Further, in response to the Chagossians’

arguments that the ultimate decision to remove them had been made in the territory of the UK, the ECtHR stated that the location of the ultimate decision-making authority was not a sufficient basis on which to extend jurisdiction under the ECHR.<sup>40</sup>

Crucially, the ECtHR decided that the Chagossians could not be considered victims of human rights violations under the ECHR. The Chagossians had renounced their rights to bring a claim before the ECHR when they settled the *Venkatessen* case in 1982. Those applicants who were not party to those proceedings had failed to exhaust domestic remedies: they could have either participated in the settlement or brought similar claims in the domestic courts, as argued by the UK government. Recent events failed to sway the ECtHR. Despite referring to the ‘the callous and shameful treatment’ which the Chagossians had suffered between 1967 and 1973, the ECtHR did not consider that their prohibition of return violated their rights to respect for their home.<sup>41</sup>

## Impact of the decision

The decision of the ECtHR was disappointing, not only for the Chagossians and their supporters, but also for the development of the law relating to indigenous rights. The ECtHR found against the Chagossians despite their shameful treatment by the UK authorities, and dismissed their claims on technical grounds, avoiding an analysis of the substantive merits of their case. The major failings of the ECtHR include the denial of victim status, the failure to pay adequate attention to the rights of the Chagossians as an indigenous group, and the incomplete analysis of the law on jurisdiction.<sup>42</sup> In addition, the case served to reinforce the UK government’s selective appeal to self-determination, affirming the right in certain cases (such as the Falkland Islands) while refusing to recognize it with regard to the Chagossians.

Perhaps even more troubling is the UK government’s argument that human rights treaties do not apply to the BIOT because ‘the territory has no permanent inhabitants’.<sup>43</sup> The UK government appears to take the position that, because it has removed the inhabitants from the islands, it no longer has any responsibility under human rights law in respect of the territory. This position runs directly counter to the UK’s pledge to continue to support overseas territories to provide basic human rights protections for all. Moreover, the UK government’s line of reasoning, if adopted by other governments, could provide an excuse to avoid responsibility for other forms of forced displacement, including ethnic cleansing. The UN Human Rights Committee has made it clear that the UK may not cite absence of a population as grounds for not applying the International Covenant on Civil and Political Rights (ICCPR) to the BIOT.<sup>44</sup> MRG has taken a similar stance.<sup>45</sup>

## Conclusions and ways forward

While the ECtHR decision was disappointing, the Chagossians have gained important backing from UN treaty bodies. Both the UN Human Rights Committee and the UN Committee on the Elimination of Racial Discrimination have repeatedly urged the UK to address the human rights violations of Chagossians and remove all barriers to their return.<sup>46</sup> Importantly, the Chagossians' application to the ECtHR did not fail on the substantive merits of the case, but on technical grounds – and the ECtHR's decision has itself left several key issues unaddressed. Furthermore, its decision was not unanimous, although the minority judgments are unavailable for public scrutiny. The strong support that the Chagossians have received from highly respected UN bodies underscores the fact that very real human rights issues remain at stake.

There are, in fact, some promising directions that the situation could take in the near future. In particular, a case challenging the creation of the Chagos Marine Protected Area will be heard in the UK's Appeal Court on 31 March 2014. The case raises a number of issues, including that the area's current terms are intended to serve as a barrier to resettlement. There is also the hope that the new feasibility study, once it is conducted, will reopen the discussion on resettlement and remove the current objections to resolving the disenfranchisement of the Chagossians, particularly in light of the allegations that the original 2002 study was seriously flawed.

In addition, there are other developments that could potentially alter the broader context of the BIOT and its leasing to the US. This includes Mauritius' ongoing claim to the Chagos Islands as part of its sovereign territory. In January 2013, the Permanent Court of Arbitration agreed to hear the case before its tribunal.<sup>47</sup> If successful, this would transfer control of the territory to the Mauritian government, paving the way for the resettlement of the Chagossians on the islands.

As a separate issue, the current US/UK agreement reaches a potential break point in December 2016, after

which it will continue to run for an additional period of 20 years, unless a party issues a termination notice in the two years before the expiry of the initial term (if this happens, the agreement will terminate two years from the date of the notice).<sup>48</sup> This provides an ideal opportunity for both parties to consider the legacy of their arrangement so far and the further impacts it would have if the military facility there were to be continued.

While looking ahead towards these various opportunities, it is important to keep in mind that the Chagossians have the right to an effective remedy and reparation for the violations of their rights. No satisfactory explanation has ever been advanced for the unwarranted compulsory relocation of Chagossians from their homeland, and no US base anywhere else in the world has been deprived of its adjacent civilian population. Resettlement of these islands and the provision of an appropriate infrastructure is therefore a primary objective of any humane policy in this region. MRG therefore urges the UK government to address the situation facing the Chagossians without delay, by adopting the following measures:

- filing regular reports with the UN Secretary General on the UK's compliance with its obligations under Article 73 of the UN Charter, indicating how the economic and social development of the BIOT is being provided for in accordance with the aspirations of its inhabitants;
- conducting an independent and transparent public consultation on the possible means and arrangements for return to the islands, with the full participation of the Chagossians, civil society and other stakeholders;
- establishing a mechanism to ensure adequate compensation for the denial of the Chagos Islanders' right to return to their territory over an extended period, as well as for the multiple human rights violations which they have suffered; and
- issuing a formal apology for the injustice suffered by the Chagossian people over the past 50 years.

## Notes

- 1 ECtHR, *Chagos Islanders v. United Kingdom* (Dec. No. 35622/04).
- 2 SI 1965/1920.
- 3 Exchange of Notes constituting an agreement concerning the availability for defence purposes of the British Indian Ocean Territory (with annexes). London, 30 December 1966, UN Treaty Series, Vol. 603, Reg. No. I-8737.
- 4 BIOT Immigration Ordinance 1971 (No. 1 of 1971), ss 4, 9, 10, 11 and 12(1)(g).
- 5 ECtHR, *Chagos Islanders v. United Kingdom*, *op. cit.*, para. 11.
- 6 *Ibid.*, para. 12.
- 7 Gifford, R. and Dunne, R., 'A dispossessed people: the depopulation of the Chagos archipelago 1965–1973', *Population, Space and Place*, vol. 20, no. 1, 2014, pp. 37–49.
- 8 Grandison, C., Kadaba, S.N. and Woo, A., 'Stealing the Islands of Chagos: another forgotten story of colonial injustice', *Human Rights Brief* 20, No. 2, 2013, pp. 37–43, Washington College of Law, American University.
- 9 *Ibid.*
- 10 *R (Bancoult) v. Secretary of State for Foreign and Commonwealth Affairs (No. 1)* [2000] EWHC Admin 413.
- 11 BIOT Immigration Ordinance 1971, *op. cit.*, ss 4, 9, 10, 11 and 12(1)(g).
- 12 *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No. 1)*, *op. cit.*, paras 57–9.
- 13 BIOT Immigration Ordinance 2000, s 4(3).
- 14 *Chagos Islanders v. The Attorney General, Her Majesty's British Indian Ocean Territory Commissioner* [2003] EWHC 2222 (QB) ('Chagos Islanders case').
- 15 *Ibid.*
- 16 See the dicta of Sedley LJ from the judgment of the Court of Appeal dated 22 July 2004 in the Chagos Islanders case, *ibid.*, para. 54.
- 17 *Ibid.*, para. 54.
- 18 A prerogative Order-in-Council is an archaic power dating from the Middle Ages. Two British Overseas Territories (Gibraltar and BIOT) continue to be governed by this mechanism, circumventing any democratic control by Parliament.
- 19 BIOT (Immigration) Order 2004; BIOT (Constitution) Order 2004. The Foreign Secretary Jack Straw MP later admitted that in bypassing parliament, he had 'exchanged legitimacy for speed'; Lunn, J. 'Disputes over the British Indian Ocean Territory: a survey', House of Commons Library, Research Paper 13/31, 22 May 2013, p. 8.
- 20 Lunn, *op. cit.*, p. 8.
- 21 The findings of the 2002 feasibility study played a large part in the House of Lords, where the decision of the lower courts (which had considered that the practicalities of resettlement were irrelevant to the issue of the right of abode) was reversed. Requests for the production of the file on the conduct of the feasibility study had been denied throughout *R (Bancoult) v. Secretary of State for Foreign and Commonwealth Affairs (No. 2)* [2008] UKHL 61 (see further details of the case below), but in 2012, the file was found. It disclosed a series of scientific faults and systematic interference by officials, and the absence of qualified peer review. Gifford, R. and Dunne, R., 'Chagos Islands: analysis note on the resettlement studies', 3 October 2012. See also Philp, C. and Kennedy, D., 'Study into return of Chagos islanders was manipulated, consultant claims', *The Times*, 22 April 2010.
- 22 Foreign and Commonwealth Office, 'British Indian Ocean Territory policy review', 8 July 2013.
- 23 *R (Bancoult) v. Secretary of State for Foreign and Commonwealth Affairs (No. 2)* [2008] UKHL 61 ('Bancoult 2').
- 24 The House of Lords upheld the appeal by three votes to two.
- 25 See dicta of Lord Mance in *Bancoult 2*, para. 157.
- 26 BBC, 'Chagos Marine Park is lawful, High Court rules', 11 June 2013; *The Guardian*, 'US embassy cables: Foreign Office does not regret evicting Chagos islanders', 2 December 2010.
- 27 ECtHR, *Chagos Islanders v United Kingdom* (Dec. No. 35622/04), note 1.
- 28 *Ibid.*, note 1, para. 32.
- 29 *Ibid.*, para. 33.
- 30 *Ibid.*, paras 46–52.
- 31 *Ibid.*
- 32 *Ibid.*
- 33 *Ibid.*, note 1, paras 38–42.
- 34 *Ibid.*
- 35 *Ibid.*
- 36 *Ibid.*, note 1, para. 43.
- 37 *Ibid.*
- 38 *Ibid.*, note 1, paras 55–7.
- 39 *Ibid.*, note 1, paras 61–2.
- 40 *Ibid.*, note 1, para 65.
- 41 *Ibid.*, note 1, paras 77–83.
- 42 The main authority of the ECtHR on the issue of jurisdiction remains the case of *Al-Skeini and Others v. UK* in 2011, where it found the UK in violation of the right to life for failing to hold a fully independent and effective investigation into the deaths of five Iraqi nationals during the occupation of southern Iraq by the British Armed Forces. However, while the ECtHR drew extensively on the conclusions from *Al-Skeini* in its decision on the Chagos Islanders, it stopped short of deciding whether the UK could be held responsible for its acts and omissions in the absence of a declaration under Article 56 in respect of the BIOT. The ECtHR missed an ideal and important opportunity to clarify the law on this fundamental point.
- 43 Committee on the Elimination of Racial Discrimination, 'Eighteenth to twentieth periodic reports of State parties due in April 2006: United Kingdom', CERD/C/GBR/18–20, Annex XI, 13 August 2010.
- 44 United Nations Human Rights Committee, Concluding Observations of the Human Rights Committee: United Kingdom of Great Britain and Northern Ireland', 93rd session, Geneva, 7–25 July 2008.
- 45 Claridge, L., 'Views of Minority Rights Group on the Recommendations of the Working Group of the UPR Twenty-First Session (20 September 2012)', MRG, 1 October 2013.
- 46 In 2001, the Human Rights Committee called on the UK 'to the extent still possible' to 'seek to make exercise of the Ilois' right to return to their territory practicable' and 'consider compensation for the denial of this right over an extended period'. It echoed these calls in 2008 when it recommended that the UK 'ensure that the Chagos islanders can exercise their right to return to their territory and should indicate what measures have been taken in this regard'. It also called on the UK to 'consider compensation for the denial of this right over an extended period'. Similarly, in 2003, the Committee on the Elimination of Racial Discrimination stated that it would look forward to receiving information from the UK on the measures taken by it 'to ensure the adequate development and protection of the Ilois for the purpose of guaranteeing their full and equal enjoyment of human rights and fundamental freedoms' in accordance with its obligations under the International Convention on the Elimination of all Forms of Racial Discrimination. In 2011, it recommended 'that all discriminatory restrictions on Chagossians (Ilois) from entering Diego Garcia or other Islands on the BIOT are withdrawn'.
- 47 Bowcott, O. and Vidal, J., 'Britain faces UN tribunal over Chagos Islands marine reserve', *The Guardian*, 28 January 2013.
- 48 Exchange of Notes constituting an agreement concerning the availability for defence purposes of the British Indian Ocean Territory (with annexes), *op. cit.*

# working to secure the rights of minorities and indigenous peoples

minority  
rights  
group  
international

## **Still dispossessed – the battle of the Chagos Islanders to return to their homeland** © Minority Rights Group International, March 2014

**Author:** Awaz Raof. **Commissioning Editor:** Peter Grant. **Copyeditor:** Sophie Richmond.  
**Production Coordinator:** Jasmin Qureshi. **Typesetter:** Kavita Graphics.

**Awaz Raof** is a lawyer and researcher in international human rights. She has worked with MRG's legal cases programme on a series of litigation and advocacy projects relating to minority rights in Europe, Africa, South America and the Middle East. The author wishes to gratefully acknowledge the valuable contribution of Richard Gifford to this briefing paper.



**Minority Rights Group International (MRG)** is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities worldwide, and to promote cooperation and understanding between communities. MRG has consultative status with the UN Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights. MRG is registered as a charity, no. 282305, and a company limited by guarantee in the UK, no. 1544957.

**ISBN** 978-1-907919-45-9. This briefing is published as a contribution to public understanding.

The text does not necessarily represent in every detail the collective view of MRG or its partners. Copies of this study are available online at [www.minorityrights.org](http://www.minorityrights.org)



**Acknowledgements** This report has been produced with the financial assistance of the Norwegian Ministry of Foreign Affairs. The contents of this report are the sole responsibility of Minority Rights Group International and can under no circumstances be regarded as reflecting the position of the Norwegian Ministry of Foreign Affairs.

**Minority Rights Group International** 54 Commercial Street, London E1 6LT, United Kingdom  
**Tel** +44 (0)20 7422 4200 **Fax** +44 (0)20 7422 4201 **Email** [minority.rights@mrgmail.org](mailto:minority.rights@mrgmail.org)  
**Website** [www.minorityrights.org](http://www.minorityrights.org)  [www.twitter.com/minorityrights](https://www.twitter.com/minorityrights)  [www.facebook.com/minorityrights](https://www.facebook.com/minorityrights)

**Visit the Minority Voices online newsroom [www.minorityvoices.org](http://www.minorityvoices.org) for stories and multimedia content from minorities and indigenous peoples around the world.**