

**Deception and Dispossession:  
The British Government and the Chagossians**

**Mary Nazzari**

**April 2005**

## TABLE OF CONTENTS

Introduction .....	1
Overview of Chagossian History .....	2
The Creation of “British Indian Ocean Territory” .....	3
Dispossession.....	5
Struggle in the Early Years .....	7
The High Court Case of 2000 .....	10
Justice Overruled.....	12
Compensation Denied .....	14
Order in Council: Enter the Queen.....	16
Fragmented Fiction.....	18
The Struggle Continues: The European Court of Human Rights .....	22
Crime against Humanity?.....	24
Reflections.....	26
Bibliography .....	29
Annex.....	32

## Introduction

The legacies of colonialism have shaped the state of human existence today. Issues such as poverty, inequality, and oppression are deeply rooted in colonial history and reinforced by present day neo-colonial practices.<sup>1</sup> Though largely unknown, the experience of the Chagossian<sup>2</sup> islanders provides a parable within which historical trajectories of racism, imperialism, and dispossession intersect. Through its transformation from a Chagos island homeland into a military base, Diego Garcia, also became a microcosm of worldwide structures of power and domination. While the Chagossian dispossession resembles that of many subaltern peoples, it should arguably be viewed through tinted glasses as it occurred only 30 years ago at a time when public discourse was ostensibly positioned against such colonial practices. This backdrop necessitated the use of secret agreements and other deceitful tactics by the two concerned powers, namely the United Kingdom and the United States. The web of deceit that was ominously draped over the Chagos depopulation has meant that despite its significance, the issue has attracted little attention. Thus by drawing mainly on government records and first-hand research, this paper will contribute to existing literature by focusing primarily on the Chagossian legal struggle. A temporal sketch of Chagossian history will be followed by an examination of the islanders' legal narrative as juxtaposed by that of the British government. By overviewing the legal options currently available to the islanders, this essay will offer a speculative analysis on the future of the Chagossian legal case. Unravelling the threads of the Chagossian struggle helps reveal not only the complexities of the case, but also the frequent amalgamation of politics and

---

<sup>1</sup> Colonialism and neo-colonialism do not represent distinct eras but rather overlap each other considerably. The writer's broad definition of neo-colonialism draws from that of the Ghanaian leader Kwame Nkrumah who states, "The essence of neocolonialism is that the State which is subject to it is, in theory, independent and has all the outward trappings of international sovereignty. In reality its economic system, and thus political policy is directed from the outside." Cited in Robert J.C. Young, *Postcolonialism: An Historical Introduction*, Blackwell Publishers: Oxford, 2001. pg. 46.

For excellent analyses on colonialism, its legacies, and international law, see:

Antony Anghie, "Time Present and Time Past: Globalization, International Financial Institutions, and the Third World," 32(2), *New York University Journal of International Law and Politics* 243 (2000), and: Antony Anghie, "Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law," 40(1) *Harvard International Law Journal*, 1-81 (1999).

<sup>2</sup> The Chagossians are also known as Ilois, which is the Creole for 'islanders' and has been used since the 19<sup>th</sup> century to describe the Chagos islanders. This paper will feature the word 'Chagossian' simply due to the writer's familiarity with the term.

law. Such a dynamic ultimately leaves us in a state of uncertainty on whether international law can ever meet the aspirations of the periphery.

## Overview of Chagossian History

The Chagos are a group of remote islands situated in the Indian Ocean 1,200 miles northeast of Mauritius. All in all, they cover 54,400km<sup>2</sup> of ocean encompassing several atolls, islands and submerged banks. The land area comprises only 60km<sup>2</sup> of the total area, the largest island being Diego Garcia, a 14 by 4 horseshoe-shaped land mass.<sup>3</sup> Peros Banhos and Salomon, as well as other smaller islands, make up the outer islands which lie approximately 300km north of Diego Garcia. The Chagos Islands possess great natural beauty, rich biodiversity, and diverse marine and terrestrial habitats. Indeed, an Englishman who found himself shipwrecked on Diego Garcia in 1786, described the island as “one of the wonderful phenomena of the globe.”<sup>4</sup> Similarly, a journalist visiting in 1950 called the islands “a beauty spot of unrivalled tranquillity and beauty.”<sup>5</sup> Human settlement on the Chagos can be traced back to the 1780s when a French sugar and plantation owner from Mauritius, then known as Île de France, established a coconut plantation on the atoll. Dozens of workers were brought from Mozambique and Madagascar to work on the plantations and large quantities of copra, or coconut oil, were subsequently sent back to Mauritius. After the defeat of Napoleon, the Chagos Islands and Mauritius were conceded to the British by the French as part of the Treaty of Paris in 1814. A decade later, there were approximately 448 inhabitants on the Chagos Islands, the majority living in Diego Garcia. In the 1840s and 1850s, in addition to migrants from Africa, plantation owners imported indentured labourers from India who integrated themselves into Chagossian society.

By 1900, the Chagos were home to roughly 750 islanders who spoke a distinct variation of the Creole language unfamiliar to outsiders. The Chagossians developed a matriarchal society and Roman Catholicism was featured as the main religion. At this time, 500 Chagossians lived in Diego Garcia alongside three copra factories, a church, a hospital, and a coaling station for ships crossing the Indian Ocean. Living quarters were provided by the copra company but the Chagossians generally preferred to build their own thatched cottages with verandas. The homes were built and furnished with the small

---

<sup>3</sup> Diego Garcia got its name from a Portuguese navigator in the 16th century.

<sup>4</sup> John Madeley, “Diego Garcia: A Contrast to the Falklands,” *Minority Rights Group Report*. No. 54, pg. 4. (Hereinafter, MRG)

<sup>5</sup> MRG, pg. 5.

wages received by the men who harvested the coconuts. Most payments however, were conducted through barter whereby the islanders would receive various items such as rice, oil and milk. After work hours, the islanders fished on the coast and cultivated small vegetable gardens where they reared their poultry. The Chagossians lived in harmony with the islands and a British colonial film produced in the 1950s noted that the islanders “lived their lives in surroundings of wonderful natural beauty and in conditions most tranquil and benign.” It also described the Chagos as inhabited “mostly by men and women born and brought up on the islands.”<sup>6</sup> Official records and Chagossian narratives paint a clear picture of a vibrant and unique community of several thousand islanders rooted in the Chagos. This reality did not seem to deter British and American officials however, who began to plan the depopulation of the islands in the 1960s.

### **The Creation of “British Indian Ocean Territory”**

As soon as the Chagos Islands were identified as a potential military base, several meetings took place between the defence departments of the United Kingdom (UK) and the United States (US). In August 1964, a joint military visit was organised in order to allow the powers to survey the islands. The survey team was immediately impressed by both the depth of the lagoon at Diego Garcia, which was seen as ideal for aircraft carriers, and by the length and flatness of the island which offered 20 miles for a natural airstrip. While negotiations ensued between the UK and US governments, the British Colonial Secretary travelled brazenly to Mauritius with an offer for conditional independence. According to the deal, independence would be granted if Mauritius relinquished control of the Chagos Islands to Britain. As an incentive, the British government offered Mauritius £3 million in compensation for the loss of the islands. As the Mauritian government evaluated its options, the United Nations (UN) General Assembly passed Resolution 2066 which called on Britain to take no action that would dismember the territory of Mauritius and violate its territorial integrity. However, international efforts proved unsuccessful and by 1968 Mauritius had accepted Britain’s offer of independence and the Chagos Islands became British territory. In addition, the Mauritian government agreed to accept the soon-to-be displaced Chagossians for a small payment of £650,000.

---

<sup>6</sup> From documentary, *Stealing a Nation*, ITV October 2004. For information, see site: [//pilger.carlton.com](http://pilger.carlton.com)

The British Government swiftly proceeded to create a new colony aptly named the British Indian Ocean Territory (BIOT). In November 1965, the Queen passed an “Order in Council” severing the Chagos Islands from Mauritius and creating the BIOT. The position of Commissioner for BIOT was created and filled by a Whitehall civil servant unfamiliar with the new territory and accountable to the Foreign Office. He was granted the legislative powers to make laws for the “Peace, Order and Good Government of the Territory.” This concept is historically significant in commonwealth law and essentially presents him with a free hand as the legislature of the territory. These developments were represented quite peculiarly in the public sphere and were described both in the UN and in Parliament as normal “administrative measures” involving different administrative arrangements from those in Mauritius. No mention was made of the planned depopulation of the islanders or the military plans designed for islands.

Indeed, the explicit motive lurking behind this new territorial designation was the desire to transform the islands into military bases. In 1966, the British government signed a “defence deal” with the US leasing the BIOT to them for “defence purposes” for a period of 50 years with the option of extending a further 20 years. The hushed deal was not debated in Parliament and was signed by Lord Chalfont, on behalf of former British Foreign Secretary, George Brown. The price paid for the islands was first exposed in a *Sunday Times* article in 1975, which revealed that the US had given the UK a discount of \$11.5 million on Polaris submarines. The article exposed the deal for the first time and stated that it was “the islanders that the British sold.”<sup>7</sup> Indeed, the fate of the islanders was nonchalantly sacrificed to fulfil the strategic needs of the US whose government was keen to monitor Soviet Navy activity. The stated “defence” purpose of Diego Garcia notwithstanding, the UK and US governments proceeded to augment the original agreement. In 1972, a further agreement was signed allowing the establishment of a “communications facility” on Diego Garcia. Another agreement in 1974 which provided for a “support facility” and a detailed “exchange of notes” two years later, allowed for the extension of the already existing 8,000 foot runway. Over time, Diego Garcia, the once idyllic homeland of the Chagossian people, was transformed into the

---

<sup>7</sup> As quoted in the MRG, p. 7.

second largest military base outside the US.<sup>8</sup> In essence, it was geo-political “needs” of the US that ultimately shaped the destiny of the Chagossian people.<sup>9</sup> Diego Garcia had been chosen instead of the Indian Ocean island of Aldabra, which was also considered, but was eventually deemed to be “too disturbing to the giant tortoises.”<sup>10</sup>

## Dispossession

After concluding the secret deal with the US, the British government was faced with what turned out to be a “minor” stumbling block, namely the indigenous Chagossian people who under the terms of BIOT, also happened to be British citizens. The solution however was clear from the onset: since the Americans did not want a “population problem,” the islanders had to go and never return. Thus, between 1965 and 1973 the British government systematically deported all the Chagossian people. They devised a deceitful multi-faceted approach whereby any Chagossian leaving the Chagos for medical treatment or vacation were outrightly denied return passage to the homes. They were left stranded, dispossessed and unaware of the tragedy unfolding in front of their eyes. Many were tricked into leaving Diego Garcia by being offered a complementary trip to Mauritius. Another pressure tactic used by the British government was to buy out the sole employer of labour on the islands, the Chagos Agalega for approximately £1 million.<sup>11</sup> This occurred by means of a compulsory purchase order passed by the Commissioner in 1967. Yet it would take the Americans four more years to get the budget for the military base approved by Congress. Thus, in the meantime, British officials devised a management contract whereby the company continued to run the

---

<sup>8</sup> The US recognises Diego Garcia as a base, but the British Foreign Office generally continues to maintain that the island is not a base. There is no civilian population or activity on the island and travel to Diego Garcia requires a strict permit. The island was used extensively to bomb Afghanistan and Iraq in 1991 and 2003. It is also used for tracking satellites in space and Diego Garcia is one of the 3 airbases outside the US designed for the long-range B2 £1.7 billion stealth nuclear capable bombers. Approximately 3,300 US personnel are based on the island alongside 50 UK personnel responsible mostly for administrative purposes.

For more on UK presence on the island, see *Hansard* (the official report of British Parliamentary Proceedings, Hereinafter, *Hansard*). 14 March 2004, Column 89W. Available online: [www.parliament.the-stationery-office.co.uk/pa/cm200405/cmhansrd/cm050314/text/50314w22.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmhansrd/cm050314/text/50314w22.htm)  
For more information on the general military characteristics of Diego Garcia, please refer to: [www.globalsecurity.org/military/agency/navy/msc.htm](http://www.globalsecurity.org/military/agency/navy/msc.htm)

<sup>9</sup> Some writers argue that the US government bears primary responsibility for the expulsion. See David Vine, “War and Forced Migration in the Indian Ocean: The US Military Base at Diego Garcia,” *International Migration*, Vol. 4 (3), 2004, pg. 111-141.

<sup>10</sup> “The Chagos Islands: A Sordid Tale,” *BBC News*, 3 November 2000. Available online: [//news.bbc.co.uk/1/hi/uk\\_politics/1005064.stm](http://news.bbc.co.uk/1/hi/uk_politics/1005064.stm)

<sup>11</sup> MRG, pg. 5.

plantations with the workers, but the British received company profits. A further part of the contract stipulated that the BIOT Commissioner had to give the plantation supervisor permission for all foodstuffs imported to the island and for all boats docking in and departing from the island.<sup>12</sup> All food imports were consequently cut off, travel to and from the islands was restricted, and eventually the plantations were shut down completely. By 1971, American servicemen began to descend on Diego Garcia<sup>13</sup> at which point the Chagossians were bluntly told that they no longer had the “right to stay.” One of the islanders recalled,

We were assembled in front of the manager’s house and informed that we could no longer stay on the island because the Americans were coming for good. We didn’t want to go. We were born here. So were our fathers and forefathers who were buried in that land.<sup>14</sup>

The will of indigenous islanders however was not of the slightest concern to either government. Rumours claiming that the islanders would be shot if they stayed and that Americans were going to explode gas bombs on the island spread rapidly through Chagossian homes. Fears intensified when Sir Bruce Greatbatch, the governor of the Seychelles, responsible for “sanitising” the islands, ordered all the pet dogs on Diego Garcia to be killed. Approximately 1,000 pets were rounded up, gassed, and killed. This served as a cruel and clear warning to those Chagossians still on the islands.

Plans to deport the remaining islanders were soon finalised and in 1973, the Chagossians were crammed into the *Nordvaer* vessel bound for Mauritius.<sup>15</sup> They were piled onto boats alongside horses and forced to sleep on a cargo of bird fertiliser. During the long and agonising journey, many women miscarried and some inconsolable islanders committed suicide. Before docking in Mauritius, the islanders stopped in the Seychelles where they were housed in a local prison. The Chagossian refugees were finally unloaded in Mauritian ports without any resettlement options and given a negligible amount of compensation.<sup>16</sup> Dispossessed and exiled from their island homes,

---

<sup>12</sup> Richard Gifford, “The Chagos Islands-The Land Where Human Rights Hardly Happen,”2004 (1) *Law, Social Justice & Global Development Journal*, pg. 6. Available online for download: [//elj.warwick.ac.uk/global/issue/2004-1/gifford.html](http://elj.warwick.ac.uk/global/issue/2004-1/gifford.html)

<sup>13</sup> The United States Navy terms the island a “Footprint of Freedom.” The official US navy website for Diego Garcia, presents an “alternative” view of the island. See site: [www.dg.navy.mil](http://www.dg.navy.mil)

<sup>14</sup> MRG, as quoted on pg. 6.

<sup>15</sup> The *Nordvaer* made several trips back and forth over the 2,500 miles of ocean.

<sup>16</sup> When the vessel docked at Port Louis carrying its final group of Chagossian refugees, for the first time ever, the Chagossians staged a demonstration on the deck of the vessel, stating that they would not disembark unless they were given houses. As a result, some were given ‘council’ housing and others were given small amounts of money.



the Chagossians spiralled deeper into poverty in the slums of Port Louis for years to come.

### **Struggle in the Early Years**

In the years following their deportation, the Chagossians staged a series of desperate protests receiving limited support from various sources in Mauritius and overseas. In 1975, the Society for Diego Garcians in Exile was established in Britain to spread public awareness on the Chagossian cause. With the help of the Methodist Church, the Society raised funds for the desolate Chagossians and pressured the British Foreign Office to recognise that the islanders' plight was still an issue. Attention in the US also turned to the Chagos in 1975, when Congress examined why Diego Garcia was in the national interest. A *Washington Post* article published during Congressional proceedings revealed that over 1,000 Chagossians were forcibly removed to make way for the base and that the islanders were living in abject poverty in Mauritius. Some aspects of the deportation were thus raised in Congress, and a US Senator complained that no one had mentioned that "there had been inhabitants living on the islands, some for generations." He stated,

Simply put, these people were evicted from their homes only when and because the US wanted to build military base. We add nothing to our moral stature as a nation by trying to sidestep all responsibility for these people.<sup>17</sup>

Interest in the US soon faded away however, and exiled Chagossians took to the streets of Mauritius on several occasions demanding to be heard. For instance, in 1981, hundreds of Chagossian women demonstrated in front of the British High Commission and after being ignored by the High Commissioner, they staged an adamant sit-in within the government house. The ensuing clashes and arrests of several women led to an unlimited hunger strike staged in the garden facing the Commission, by eight women, one of 77 years of age. On the eighteenth day of the strike, the Prime Minister of Mauritius left for London for talks with former British Prime Minister Margaret Thatcher.

Meanwhile, on the legal side, Michel Vancatessen, a Chagossian in possession of proof that he, his father, and his grandfather had been born on the Chagos Islands, put forth a private case against the British government. With the help of Mauritian solicitors, he set out to sue the government for wrongful dismissal from the Chagos on

---

<sup>17</sup> As quoted in MRG, pg. 7. "Diego Garcia, 1975: The Debate Over the Base and the Island's Former Inhabitants.' Hearings before House of Representatives, 94<sup>th</sup> Congress, 5 June and 4 November 1975.

the grounds that he was “ordered, coerced, and compelled” to leave the islands. The case was strengthened further by the Sylva Report,<sup>18</sup> which found that an overwhelming 77percent of Chagossians wanted to return to the Chagos, only 11percent desired to stay in Mauritius, and the remainder were undecided or wanted to go to other islands. With the overall climate set against them, British officials were compelled to discuss the contested issue of monetary compensation with Mauritian negotiators. The initial round of talks ended in failure as the British government refused to consider Chagossian demands. Yet behind the scenes, the British had given the US “permission” to further expand facilities on Diego Garcia to accommodate aircraft carriers and barracks for 4,000 American marines. Over the course of the year, however, several developments including a probe by a US lawyer inquiring if Mauritius could legally claim rent from the US government, led British officials to reconsider their stance. Acting “with a speed that was uncharacteristic of the previous 17 years,” the government seemed keen on settling with the Chagossians, claiming, “We just don’t want it to drag on.” An agreement was thus reached entitling the exiled Chagossians to £4 million.<sup>19</sup> The compensation was said to be for,

All acts, matters and things done by or pursuant to the BIOT order 1965, including the closure of the plantations in the Chagos Archipelago, the departure or removal of those living or working there, the termination of their contracts, their transfer to and their resettlement in Mauritius and their preclusion from returning to the Chagos.<sup>20</sup>

Though long overdue, this agreement could be viewed as a success since it represented an unprecedented recognition by the British government that the Chagossians were in fact the indigenous islanders of the Chagos and that since their wish to return could not be fulfilled, they deserved compensation. The agreement highlights the concept of “conditional compensation,” in the sense that the Chagossians would only receive

---

<sup>18</sup> The report was commissioned by the Mauritian government and written by Herve Sylva, who worked as a teacher with the Chagossians for 10 years. It is one of the most thorough surveys on the Chagossians ever conducted. Included in the findings were dismal statistics on the quality of Chagossian life at the time; only 65 out of the 942 Chagossian householders were ‘owners of land and houses,’ and 439 households had applied for housing. Overall, living conditions were appalling and housing was the most immediate problem facing the islanders. Additionally, over 40percent of adult males were unemployed, and those that did have jobs were employed on a temporary basis. Please see, MRG, pg. 9.

<sup>19</sup> The money was put into a “trust fund” and distributed to 1,344 islanders who each received a little over £2,000. Some were able to secure basic housing or a small plot of land, but most simply paid off their debts and continued to live in abject poverty.

<sup>20</sup> As quoted in MRG, pg. 11. *Agreement Between the Government of the United Kingdom and the Government of Mauritius*. April 1982.

compensation on the condition that they renounce their right to return. This was one of the many reoccurring tactics used by the British government in their attempt to erase the Chagossian experience from history. At the time, the agreement was provisionally accepted by the Chagossians who were in dire need for any support that would enable them to sustain themselves in the slums of Mauritius. However, it soon became clear that the desperate islanders were entirely unaware that they were giving up their rights to return to Chagos or to seek further compensation. The detailed legal forms drawn up in English were not explained or translated and in order to receive the small sums of money, the Chagossians were required to simply place their thumb print on a piece of paper, which they thought to be a receipt. Rita Bancoult, a Chagossian refugee said, "If they had told me I was signing to give up my island, I would never have taken that money, I would have continued with my difficult life."<sup>21</sup> Since that day, the islanders have strongly denied knowing that they were renouncing their rights. Therefore, while the agreement may have provided temporary relief, unfortunately for the British government, the Chagossian struggle for justice was not silenced for long and rather has continued until the present day.

The legal case submitted by Michel Vancatessen was soon dismissed. However, the details of the case were not discovered until 1997 when it was unearthed by Richard Gifford, a British solicitor who ended up playing a key part in the Chagossian legal struggle in the British court system. Over the course of his research, the solicitor found himself unable to unravel the Vancatessen case since there were no documents on file. Vancatessen's solicitor then informed him that "the Government had pleaded Public Interest Immunity and had refused to produce most of the sensitive documents." Plus, the documents that were produced were incomplete and certain paragraphs were cut out "where there had been, presumably, a sensitive passage." To complicate matters, when the case had finally been withdrawn, the government insisted that all relevant documents to be destroyed. Upon discovering these discrepancies, Gifford stated, "this was unfinished business and here was a challenge."<sup>22</sup> The miscarriages of justice that characterised the Chagossian struggle were subsequently brought to the forefront once again.

---

<sup>21</sup> Quote from UK Chagos Support Association. See website: [www.chagossupport.org.uk](http://www.chagossupport.org.uk)

<sup>22</sup> Gifford, pg. 7/8

## The High Court Case of 2000

Years of investigation concerning the complex legal status of the BIOT<sup>23</sup> and the Chagossians themselves finally culminated in a hearing at the High Court in London in July 2000.<sup>24</sup> During the course of the trial, hundreds of previously secret Foreign Office papers emerged illustrating that the UK and US governments had deceived and dispossessed the Chagossians with a colonial disdain more appropriate to the 19<sup>th</sup> century than the latter part of the 20<sup>th</sup>. For instance, a memo surfaced that referred to the islanders as “a few Tarzans or Men Fridays.” It was also revealed that both governments had consistently lied about the deportation in Parliament and in Congress. In referring to such official behaviour in the ruling, Judge Mr. Justice Gibbs stated that it was clear from “some of the disclosed documents that, in some quarters, official zeal in implementing those policies went beyond any proper limits.”<sup>25</sup> After much debate, the issue that dominated the proceedings was the specific law of the BIOT, the “Immigration Ordinance of 1971.” This law prohibited anyone from being on the islands regardless of their birth in the Territory and allowed only military personnel or those in possession of a permit to enter or remain on the islands. At the time, the Ordinance was supposed to make laws for “the peace, order and good government of the territory (POGG).” Rather than keeping “the peace” however, such powers essentially sanctioned the depopulation of the islands. These considerations ultimately led to a ruling in favour of the Chagossians and in outlining the reasoning of the court, Judge Lord Justice Laws stated, “Section 4 of the Ordinance effectively exiles the Ilois from the territory where they are belongers and forbids their return.” He continued to explain that through POGG the population “was to be governed, not removed.” In conclusion, the Lord stated,

I cannot see how the wholesale removal of a people from the land where they belong can be said to conduce to the territory’s peace, order and good government. ... In short, there is no principled basis upon which section 4 of the

---

<sup>23</sup> For details on how the case was developed, including the significance of the *Magna Carta*, see Gifford pg. 8-13.

<sup>24</sup> Few at first thought the court would permit the case to proceed. David Pannick the QC representing the Foreign Office put forth several arguments claiming that the case could only be heard by “the Supreme Court of BIOT.” This Court is comprised by a semi-retired judge who lives and holds court in Gloucestershire

<sup>25</sup> As quoted in, “Evicted Islanders to Go Home,” *The Guardian*, 4 November 2000. Currently available online: [www.guardian.co.uk/Archive/Article/0,4273,4086173,00.html](http://www.guardian.co.uk/Archive/Article/0,4273,4086173,00.html)

Ordinance can be justified as having been empowered by section 11 of the BIOT Order. And it has no other conceivable source of lawful authority.<sup>26</sup>

To the surprise of many, the Lords ruled that “the wholesale removal” of the islanders had been an “abject legal failure,” and in November 2000, a judgement was handed down overturning the 1971 Immigration Ordinance. According to Gifford who was largely responsible for the legal research conducted for the case, “the judgment shows the legal complexities into which this group of simple folk had been enmeshed and what a task it was to prove a simple injustice.”<sup>27</sup> Outside the court, Olivier Bancoult, who led the campaign on behalf of the islanders, said enthusiastically, “We want to return to our motherland as quickly as possible.”<sup>28</sup> There seemed to be further cause for celebration as British officials soon announced that they accepted the Court’s decision and would not appeal. Representing a seemingly defeated government, former Foreign Secretary Robin Cook stated, “We are not seeking to defend what happened in the 1960s and 1970s.”<sup>29</sup> It was thus claimed that the Chagossians were now free to return to their “outer” homeland islands, but not to Diego Garcia due to a “treaty” with Washington.

A “feasibility study” was then ordered by the Foreign Office to determine whether the islands could “sustain” a population. As the process of studying island resettlement dragged on, many began to question the government’s intentions. Lizette Tallatte, an elderly Chagossian said,

When I won the victory I felt at ease. I thought I would return to my motherland and I would return to the cemetery where my ancestors are. I thought I would again see my lovely beaches and the beautiful sea where we were born.<sup>30</sup>

Indeed, it soon became clear that Chagossian celebrations were bitterly premature; Whitehall was intent on defying the ruling.

---

<sup>26</sup> *The Queen (ex parte Bancoult) v. Foreign and Commonwealth Office*, [2001] Q.B. 1067, 2000. (High Court of England and Wales, Queen’s Bench Division, Administrative-Divisional Court, London, Nov. 3, 2000; Judges: Lord Justice John Grant McKenzie Laws, Mr. Justice Richard John Hedley Gibbs; not appealed). Full text available on *Westlaw*.

<sup>27</sup> Gifford, pg. 12.

<sup>28</sup> “Evicted Islanders to Go Home,” *The Guardian*, 4 November 2000. Currently available online: [www.guardian.co.uk/Archive/Article/0,4273,4086173,00.html](http://www.guardian.co.uk/Archive/Article/0,4273,4086173,00.html)

<sup>29</sup> *Ibid.*

<sup>30</sup> From documentary, *Stealing a Nation*, ITV October 2004. See website: [//pilger.carlton.com](http://pilger.carlton.com)

## Justice Overruled

In June 2002, the government announced that the results of an “independent” study indicated that resettlement was indisputably “infeasible.” The report claimed that any “human interference” with the Chagos Islands “is likely to exacerbate stress on the marine and terrestrial environment and will accelerate the effects of global warming.” With respect to climate change it stated,

The main issue facing a resettled population on the low-lying islands will be flooding events, which are likely to increase in periodicity and intensity and will not only threaten infrastructure, but also the freshwater aquifers and agricultural production. Severe events may even threaten life.<sup>31</sup>

One could conclude from the above excerpts that the British government was acting purely out of concern for the future well-being of the Chagossians. However, this was not the case as the study quickly attracted critique from all angles. Jonathan Jenness, a resettlement expert, argued that such conclusions were “erroneous in every assertion.” He pointed out that not only did the study lack data and objectivity, but it also failed to involve a single Chagossian. Professor David Stoddart, a distinguished authority on the Chagos Islands, described the government’s study as “worthless” and “an elaborate charade.”<sup>32</sup> In contrast, a review of this study conducted on behalf of the Chagossians, found that resettlement is undoubtedly feasible and that there would in fact be adequate water, fish, and other supplies, and little investment would be required. The study stated, “it is fatuous to suggest that the islands cannot be resettled.”<sup>33</sup>

The prospects of “sinking” islands would surely be of deep concern to the Americans who appear to be expanding their base facilities on a regular basis. Yet in contrast to the gloomy picture painted by the Foreign Office, the US Navy Commanding Officer offers an unqualified description of Diego Garcia as a “perfect place” with “outstanding living conditions.”<sup>34</sup> The preposterous nature of infeasibility claims was

---

<sup>31</sup> As quoted by Bill Rammell, The Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs. *Hansard*. 7 July 2004. Available online:

[//www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/vo040707/halltext/40707h03.htm#40707h03\\_head0](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/vo040707/halltext/40707h03.htm#40707h03_head0)

<sup>32</sup> John Pilger, “Diego Garcia Paradise Cleansed,” *The Guardian*, 4 October 2004.

<sup>33</sup> Jonathan Jenness, “Chagos Islands Resettlement: A Review,” 11 September 2002, pg. 67.

<sup>34</sup> See “Welcome Letter” on official US Navy website for Diego Garcia. The island is referred to as “Camp Justice” and has shopping malls, bars, and vast sports facilities including a golf course. See: [www.dg.navy.mil/2005/html/welcome\\_ aboard.htm](http://www.dg.navy.mil/2005/html/welcome_ aboard.htm)

highlighted during a recent visit to Mauritius by Bill Rammell, the Under-Secretary of State for Foreign and Commonwealth Affairs. During what was described by attendees as an insulting meeting between Rammell and the Chagossian refugees, a Chagossian man asked the official if the tsunami had affected Diego Garcia. After appearing not to understand the man's English and being puzzled by the matter overall, Rammell answered, "not according to my information." His muffled response prompted the same Chagossian man to ask if since Diego Garcia had not been damaged by the tsunami whether Chagossians could live there.<sup>35</sup> As expected, Rammell remained silent, but his silence and flustered mannerism was perhaps due to the fabricated platform he is currently responsible for maintaining.

While the government has not departed from its official line of "infeasibility," a subsequent Foreign Office memo to a parliamentary enquiry elaborated that resettlement of the outlying islands would also be "impractical and inconsistent with the existing defence facilities." Echoing the familiar justification, the memo added, "our position on the future of the territory will be determined by our strategic and other interests and our treaty commitments to the USA."<sup>36</sup> Private correspondence between the two governments soon emerged confirming widespread speculation: the US was continuing to play a key role behind the scenes. It appears that upon hearing the High Court judgment granting the islanders the right of return, US officials immediately expressed their opposition to resettlement. In a secret letter to the Foreign Office, the US government expressed "serious concern over the inevitable compromise to the current and future strategic value of Diego Garcia that would result from any move to settle a permanent resident population on any of the islands of the Chagos archipelago." The State Department official continued to explain how "if a resident population were established on the Chagos archipelago," Diego Garcia's "present advantage as a base" would be seriously jeopardised. Moreover, any sort of resettlement would threaten security since "terrorists could use the islands as a base to launch attacks" and would raise "the alarming prospect" of "surveillance, monitoring and electronic jamming devices

---

<sup>35</sup> Report on Bill Rammell's visit to Mauritius on 14 January 2005. Available for download: [www.chagossupport.org.uk](http://www.chagossupport.org.uk)

A Foreign Office press release regarding the visit is also available online: [www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391638&a=KArticle&aid=1101400385720](http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029391638&a=KArticle&aid=1101400385720)

<sup>36</sup> Foreign Office Memorandum on British Indian Ocean Territory, 31 July 2000, in House of Commons Foreign Affairs Committee, First Special Report, Session 2000/2001, Appendix 10. Available online: [www.publications.parliament.uk/pa/cm200001/cmselect/cmffaff/78/7826.htm](http://www.publications.parliament.uk/pa/cm200001/cmselect/cmffaff/78/7826.htm)

that have the potential to disrupt, compromise or place at risk vital military operations.”<sup>37</sup> In light of US pressure and in blatant disregard of the court ruling, the British government declared once again that access to the islands would continue to be “controlled strictly and by permit only.” History repeated itself as American security concerns took precedence over the livelihoods of the Chagossians, British citizens, but evidently only in name.

## Compensation Denied

Shortly after the promising judgment was issued by the High Court, Chagossians initiated further court proceedings specifically for damages against both the US and the UK.<sup>38</sup> The class action filed in the US District Court<sup>39</sup> was brought against various current and former officials of the Department of State and the Department of Defence, including Donald H. Rumsfeld and Robert S. McNamara.<sup>40</sup> Over 1,000 islanders raised claims related to “forced relocation, torture, racial discrimination, cruel, inhuman, and degrading treatment, genocide, intentional infliction of emotional distress, negligence, and trespass.”<sup>41</sup> The claims for compensation totalled six billion dollars.<sup>42</sup> The Chagossians raised similar claims in the UK aiming to receive compensation and restitution of property and declarations relating to the entitlement to return to the islands. In addition, British citizenship was requested for the 7,818 islanders and direct descendants living in Mauritius.<sup>43</sup> With regard to compensation, the Foreign Office maintained that it had paid Mauritius £650,000 in 1973 for the benefit of the islanders and had put £4 million in a

---

<sup>37</sup> Quotes from official letter from Eric Newsom (US Assistant Secretary of State for Political-Military Affairs) to the UK Foreign Office on 21 June 2000.

Full text available online: [/homepage.nflworld.com/jksonc/docs/bancoult-d23a.html#a6p6](http://homepage.nflworld.com/jksonc/docs/bancoult-d23a.html#a6p6)

Also see, Ewen MacAskill & Rob Evans, “US Blocks Return Home for Exiled Islanders,” *The Guardian*, 1 September 2000. Available online: [www.guardian.co.uk/Archive/Article/0,4273,4057649,00.html](http://www.guardian.co.uk/Archive/Article/0,4273,4057649,00.html)

<sup>38</sup> According to select personal interviews conducted between the writer and activists involved in the Chagossian issue, the follow up compensation cases were untimely mistakes which ultimately served to undermine the Chagossian struggle. In retrospect, it has been argued that the islanders should have taken the first court order and immediately worked towards returning the Chagossians, rather than focusing on claiming compensation.

<sup>39</sup> Neely Tucker, “Islanders Sue U.S. Over Relocation,” *Washington Post*, 21 December 2001.

<sup>40</sup> Another defendant was Eric Newsome, former official at the State Department during the Clinton administration. He authored the letter mentioned earlier and was accused of actively discouraging the British government from pursuing “resettlement.” Halliburton Company, an oil equipment firm headed by Vice President Dick Cheney from 1995-2000, was also listed since its subsidiary, Brown & Root, was responsible for most of the construction on Diego Garcia.

<sup>41</sup> See *Bancoult v. McNamara* (D.D.C. 1:01cv02629). Memorandum opinion available for download: [www.dcd.uscourts.gov/01-2629.pdf](http://www.dcd.uscourts.gov/01-2629.pdf)

<sup>42</sup> Richard Norton-Taylor, “Diego Garcia Exiles say Britain owes Passports,” *The Guardian*, 6 April 2001.

<sup>43</sup> Jackie Storer, “Displaced Islanders Seek Compensation,” *The Independent*, 10 January 2001.



Chagossian trust fund in 1982. In the eyes of the British government, this was accepted as a “full and final settlement” and no further discussion was warranted. On the issue of citizenship, the government eventually conceded and announced that the islanders were entitled to British citizenship. However, to the disappointment of many, the islanders were eventually denied further compensation in both cases. In the UK ruling adjudicated in October 2003, Judge Mr Justice Ouseley asserted that the islanders had no grounds for bringing such a claim and that it had no realistic prospect of succeeding. Such an argument is rather peculiar in view of the previous court ruling that held that there was no legal justification for their original eviction. Nevertheless, he proceeded to criticise the “lack of reliability of the evidence of individual Chagossians.” One wonders what kind of testimony the judge expected from a group of “totally destitute” refugees, a description used in the hearing by Counsel Robin Allen QC. Gifford summed up the atmosphere following the ruling, explaining, “They are now in a state of shock that there has been no adjudication in their favour.”<sup>44</sup> Later reports indicated that the entire trial was indeed shocking and remarkably distressing for the Chagossians. As John Pilger notes, “the government counsel was allowed by the judge to attack and humiliate them in the witness box.” A reading of the case text<sup>45</sup> does seem to confirm such a description and it was peculiar that Judge Ouseley consistently referred to “we” as if the court and the Foreign Office were indistinguishable from one another.<sup>46</sup>

A few months following the High Court ruling, the US District Court also dismissed the case denying all Chagossian requests.<sup>47</sup> At the onset of the trial, the court found all individuals to be “immune” from prosecution, and as a result, “the United States” was substituted as the sole defendant. The main argument held by the court was that Chagossian claims raised “nonjusticiable political questions” and thus precluded review by the district court. The ruling drew attention to the separation of powers in the US government and stated, “the Constitution delegates issues of foreign policy to the political departments of the government.” The argument followed that it was a political decision to secure a base on Diego Garcia and the court could not substitute decisions made by political branches as this would express “a lack of respect” for such branches. It

---

<sup>44</sup> “Evicted Islanders Vow to Fight on,” *BBC News*, 9 October 2003. Available online: [//news.bbc.co.uk/2/hi/uk\\_news/3177260.stm](http://news.bbc.co.uk/2/hi/uk_news/3177260.stm)

<sup>45</sup> *R. (on the application of Bancoult) v Secretary of State for the Foreign and Commonwealth Office* [2001] Q.B. 1067 Full text available on *Westlaw*.

<sup>46</sup> Pilger, *The Guardian*, 4 October 2004.

<sup>47</sup> According to information obtained by the writer from lawyers involved in the case, an appeal is being prepared following this dismissal in the Washington District Court.

was impossible for the court to “determine the national defence needs of the US military in the Indian Ocean.” Rather the court was bound to adhere to previous political decisions and avoid “the potential for embarrassment from multifarious pronouncements by various departments on one question.” The court further argued that the US did not have clear jurisdiction since “the removal of the Chagossian population from Chagos was effected under British law and pursuant to the BIOT Agreement.”<sup>48</sup> According to the court, these reasons, among others, counselled against judicial intervention and all Chagossian claims were dismissed.

The dichotomy between politics and law constructed by the US District Court is questionable at best in general terms and specifically in the Chagos case where the two areas overlap considerably. For example, while the decision to depopulate the islands is portrayed as a political decision, it was in effect a bilateral treaty that sanctioned the act. Law, in its familiar role, came to the rescue in 2000 with the High Court ruling in favour of the islanders. Yet law did not remain a saviour for long as illustrated by the more recent cases, one of which was arguably compelled to sideline a previous legal ruling due to a strained political climate. The next chapter in the Chagossian legal struggle, namely the “Order in Council,” reveals another familiar rendezvous between politics and law.

### **Order in Council: Enter the Queen**

On 10 June 2004, two “Orders in Council” were secretly signed amidst the flurry of European Election Day activity. Such “Orders” are essentially legislative matters that circumvent Parliament and proceed to the Queen for authorisation. As a power it is rarely used,<sup>49</sup> but for the Chagos case its purpose was clear: to prevent any Chagossian from ever setting foot on the Chagos Islands. Speaking on behalf of the Foreign Office, Rammell asserted, “these two orders restore the legal position to what it has been understood to be before the High Court decision.” In other words, “no person has the right of abode in the territory or has unrestricted access to any part of it.”<sup>50</sup> In justifying

<sup>48</sup> For text of dismissal see: [/homepage.ntlworld.com/jksonc/docs/bancoult-2004-12-21.html](http://homepage.ntlworld.com/jksonc/docs/bancoult-2004-12-21.html) & [www.dcd.uscourts.gov/01-2629.pdf](http://www.dcd.uscourts.gov/01-2629.pdf)

<sup>49</sup> Prime Minister Tony Blair used such Orders to authorise the attack on Iraq. British officials claim that an Order in Council is the normal procedure for amending the constitution of an overseas territory. For some territories, Orders in Council are made under statutory powers, for others, such as the BIOT, they are under royal prerogative.

See comments made in House of Lords, by Baroness Symons of Vernham Dean: Available online: [www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds04/text/41213-02.htm](http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds04/text/41213-02.htm)

<sup>50</sup> *Hansard*, 15 June 2004. Columns 34-5 / Column 33. Available online: [www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040615/wmstext/40615m03.htm](http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040615/wmstext/40615m03.htm)

the Orders, the government referred to the infeasibility of resettlement explaining that it would be “highly precarious,” expensive, and a threat to “security.” Official explanations aside, the “Orders in Council” acted to overrule the right of return granted in the ruling of 2000 and amounted to a new act of exile. When Member of Parliament (MP) Jeremy Corbyn heard about the Order, he initially thought it to be a statutory instrument that would become subject to some sort of democratic debate. However, he then consulted Gifford who clarified the matter. In Corbyn’s words,

He calmly explained to me that I had misunderstood, and that an Order in Council signed by her Majesty was law. It overrides everything in which we believe about the democratic accountability of the Government.<sup>51</sup>

Indeed an “archaic royal prerogative” to use Pilger’s words, had crushed the judgment of 2000 and cast a thick shadow on any glimmer of hope previously held by the Chagossians. During parliamentary proceedings a few days later Corbyn expressed the outrage felt in the community. In addressing Rammell, he raised several pertinent questions and deserves to be quoted in full:

Does the Minister not accept that the Orders in Council signed on 10 June, which prevent the Chagossian people from exercising the right to return to the islands that they won in the High Court in this country in 2000, is an absolute disgrace? Does he not also accept that this issue should be debated on a substantive motion before the House and not be hidden behind Orders in Council? The reality is that pressure from the US on the British Government overturned the legitimate court order made in this country regarding the legitimate right of return of the Chagossian people.<sup>52</sup>

History cruelly repeated itself as the same totalitarian power that was used in 1970s to dispossess the Chagossians was being used for the same purpose in 2004. The “Order in Council” represented a huge setback for the islanders and while no substantial legal developments have occurred since then, the Chagossian case is still developing from several angles. All in all, the use of such a legislative power cannot be extrapolated from the political. In collaboration with the US, the British government has manipulated law to create fictional political circumstances from the very beginning. The “Order in Council” was the most recent desperate attempt by the British government to use a strikingly politicised form of law to achieve political ends, in this case the preservation of the status quo. Similar tactics were used from the very beginning when new legal categories were

---

<sup>51</sup> *Hansard*, 7 July 2004. Column 273. Available online: [www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040713/debtext/40713-05.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040713/debtext/40713-05.htm)

<sup>52</sup> *Ibid.*

constructed to facilitate the violation of other legal obligations. Along these lines, the following will demonstrate how the British government branded the Chagossians as “migrant workers” in order to justify the dispossession and to dissolve their responsibilities under Article 73 of the UN Charter.

## Fragmented Fiction

The islanders were doomed as soon as the US became fixated with the idea of exploiting the Chagos for strategic ends. Formerly undisclosed documents confirm that the US wanted Diego Garcia to be cleared “to reduce to a minimum the possibilities of trouble between their forces and any natives.”<sup>53</sup> This desire was tantamount to a condition upon which the agreement of 1965 was built. Thus, while negotiations between the two powers progressed, a simultaneous plan was being drawn up by the UK government to distort the indigenous nature of the Chagossians. Until 2003, the Foreign Office website described the BIOT as having “no indigenous inhabitants.”<sup>54</sup> Indeed, the approach of the British government to the Chagos islands seemed to be greatly influenced by the doctrine of *terra nullius*.<sup>55</sup> In other words, the islands were portrayed as virgin land, free from inhabitants. It was soon realised however, that this image would be difficult to uphold as records, photographs, films, and other forms of evidence clearly pointed to a large island population. Whitehall therefore developed a political scheme to classify and present the Chagossians as “contract or migrant labourers.” Recently declassified government documents from the 1960s onwards illustrate the official objective: “to maintain the pretence there were no permanent inhabitants on the islands.” In a secret note in 1969 to former British Prime Minister Harold Wilson, former Foreign Secretary Michael Stewart presented a strategy to mislead the UN. He wrote, “we could

---

<sup>53</sup> Richard Norton-Taylor, “Dumped Islanders Seek to Return Home,” *The Guardian*, 18 July 2000. Available online: [www.guardian.co.uk/uk\\_news/story/0,,344433,00.html](http://www.guardian.co.uk/uk_news/story/0,,344433,00.html)

<sup>54</sup> In 2004, the wording changed and the website now states that “following the detachment of the Chagos Islands from Mauritius and the Seychelles, the settled inhabitants, some 1200 persons, were subsequently relocated to these two countries.”

See country profile of British Indian Ocean Territory on Foreign Office website: [www.fco.gov.uk](http://www.fco.gov.uk)

<sup>55</sup> *Terra nullius* is a 17<sup>th</sup> century legal doctrine that is translated from Latin to mean “empty land.”

During the 18th century, the doctrine was used to give legal force to the settlement of lands occupied by “backward” people, where no system of laws or ownership of property was held to exist.

The UK used the principle to claim possession of the Australian continent. *Terra nullius* was still relevant to international law in the 1970s, as evidenced by the *Western Sahara* case heard at the International Court of Justice. While it may be viewed as relatively insignificant today as a legal doctrine, its sentiment is echoed in the statements of various Israeli officials. Former Israeli Prime Minister, Golda Meir, for example, said “There is no such thing as a Palestinian people...It is not as if we came and threw them out and took their country. They didn't exist.” From the *Sunday Times*, 15 June 1969.

continue to refer to the inhabitants generally as essentially migrant contract labourers and their families.” He continued, “it would be helpful if we can present any move as a change of employment for contract workers...rather than as a population resettlement.”<sup>56</sup> A few days later, Wilson gave his approval thus establishing the framework within which the islands were to be depopulated. All successive British governments have, in their words, “maintained the fiction”<sup>57</sup> and been “economical with the truth.”<sup>58</sup>

The apparent “success” of this policy is rather astounding considering records from as early as the 1900s refer to the majority of the population as native.<sup>59</sup> Moreover, the British government itself produced a film in the 1950s depicting the Chagossians as “born and bred in the Chagos.” This colonial footage stands in stark contrast to the government’s portrayal of the islanders as contract labourers 20 years later. Further proof ironically came in 1975 from US Servicemen who had taken photographs of graves in a cemetery in Diego Garcia which clearly showed the names of generations of Chagossians. However, the secrecy and deceit surrounding the Chagossian dispossession was only recently revealed through the efforts of those sympathetic to the islanders who disentangled archives of declassified government policy files. Only a few years ago, was the duplicity recognised in the legal sphere as illustrated by the outcome of the High Court ruling of 2000. In fact, prior to the hearing, having reviewed some official documents, one of the judges remarked, “someone’s trying to pretend the population does not exist.”<sup>60</sup> Certainly, this was the sole intention of a British government

---

<sup>56</sup> Michael Stewart to Harold Wilson, 21 April 1969. *Sheridan Solicitors*, Chagos Island Group Litigation, Claimants chronology, pg. 21 (Hereinafter, Litigation Chronology). As quoted in Mark Curtis, “Stealing a Nation: A special report by John Pilger,” *ITV* report, Alpine Press, 2004, pg. 6/7. (Hereinafter, Curtis)

<sup>57</sup> One Whitehall document was entitled, “Maintaining the Fiction.” A Foreign Office legal advisor wrote in January 1970 that it was important, “to *maintain the fiction* that the inhabitants of Chagos are not a permanent or semi-permanent population.”

As quoted by MP Tam Dalyell, *Hansard*, 9 January 2001, Column 182. Available online:

[//www.parliament.the-stationery-office.co.uk/pa/cm200001/cmhansrd/vo010109/halltext/10109h03.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmhansrd/vo010109/halltext/10109h03.htm)

<sup>58</sup> Substantial effort was put towards ensuring that all officials maintained the governments spin on the issue. A Foreign Office memo of 1979 stated:

“We would not wish it to become general knowledge that some of the inhabitants have lived on Diego Garcia *for at least two generations* and could, therefore, be regarded as ‘belongers.’ We shall therefore advise ministers in handling supplementary questions about whether Diego Garcia is inhabited to say there is only a small number of *contract labourers* from the Seychelles and Mauritius engaged in work on the copra plantations on the island. That is being *economical with the truth*...Should a member (of the House of Commons) ask about what should happen to these contract labourers in the event of a base being set up on the island, we hope that, for the present, *this can be brushed aside as a hypothetical question*, at least until any decision to go ahead with the Diego Garcia facility becomes public.” (Writer’s italics).

Quoted by MP Dalyell, *Ibid*.

<sup>59</sup> For example, extensive records were compiled by Francoise Botte, a teacher and social worker among the Chagossians. As discussed in MRG report.

<sup>60</sup> Gifford, pg. 14.

aiming firstly to appease the US and secondly to avoid its obligations under the UN Charter.

In the eyes of the British government, the Chagossians had to be re-classified as migrants in order to avoid the obligations delineated in Article 73, which casts a “sacred trust” on sovereign powers to promote the welfare and advancement of the people. If the islanders had been proper inhabitants, they would have been recognised as people “whose democratic rights have to be safeguarded.”<sup>61</sup> As far back as 1965, Colonial Secretary Anthony Greenwood had warned that it was “important to present the United Nations with a fait accompli.”<sup>62</sup> Therefore, to avoid being put in a precarious position, the phrase “permanent inhabitants” was carefully erased from political discourse and the Chagossians were deemed “belongers” of Mauritius and Seychelles.<sup>63</sup> In the words of one British official, “This device, though rather transparent, would at least give us a defensible position to take up at the UN.”<sup>64</sup> Over the course of a few official memos, the Chagossians had become “non-people.”<sup>65</sup> When the time came to present the developments in the Chagos to the UN, the British representative Mr. F.D.W. Brown was fully prepared by the Foreign Office: He (mis)described the islands as “uninhabited when my government first acquired them,” (mis)described the population as “labourers from Mauritius and Seychelles,” and (mis)led the UN into stating that the new administrative arrangements had been decided upon “by the labourers after due deliberation with the British government.”<sup>66</sup> It is clear that as opposed to promoting the “advancement” of the Chagossians, British officials were keen on giving them “as few rights with as little formality as possible.”<sup>67</sup> Perhaps the most explicit illustration of this policy was the British government’s concealment of the fact that Chagossians were “citizens of the UK and the colonies.”

---

<sup>61</sup> See UN Charter, Chapter 11, “Declaration Regarding Non Self-Governing Territories,” Article 73. Text available online: [www.un.org/aboutun/charter/chapt11.htm](http://www.un.org/aboutun/charter/chapt11.htm)

<sup>62</sup> Norton-Taylor, *The Guardian*, 18 July 2000.

<sup>63</sup> A telegram sent to the UK mission at the UN in November 1965 summed up the problem: “We recognise that we are in a difficult position as regards references to people at present on the detached islands... We know that a few were born in Diego Garcia and perhaps some of the other islands, and so were their parents before them... We cannot therefore assert that there are no permanent inhabitants, however much this would have been to our advantage. In these circumstances, we think it would be best to avoid all references to permanent inhabitants.”

As quoted in, “The Chagos Islands: A Sordid Tale,” *BBC News*, 3 November 2000. Available online: [//news.bbc.co.uk/1/hi/uk\\_politics/1005064.stm](http://news.bbc.co.uk/1/hi/uk_politics/1005064.stm)

<sup>64</sup> Tim Slessor, *Ministries of Deception: Cover-Ups in Whitehall*, Aurum: London 2002. Chapter 2, pg. 19.

<sup>65</sup> This is a term used generally by Mark Curtis. See *Web of Deceit*, Vintage: London, 2003.

<sup>66</sup> Selections quoted by MP Tam Dalyell. *Hansard*, 7 July 2004, Column 279WH. Available online: [www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040713/debtext/40713-05.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040713/debtext/40713-05.htm)

<sup>67</sup> From Foreign Office Memos and Colonial Office Memorandum, January 1966. Quoted in Curtis, pg. 6.

From the early 1960s until very recently, British officials have put forth a concerted effort to conceal the status of the Chagossians as British citizens. Due to their birth on the Chagos Islands, which has remained a British Dependent Territory, the islanders retained British citizenship as well as becoming Mauritius citizens under the Mauritius Constitution. In 1968, Foreign Secretary Stewart warned of the “possibility that some of them might one day claim a right to remain in the BIOT by virtue of their citizenship of the UK and the Colonies.” Indeed, as British citizens, the Chagossians would possess comprehensive rights including the right to stay in the land of their birth. Nevertheless, when the policy was authorised at the highest level, it was clear that all citizenship rights were going to be overridden. As expected, the US was complicit in this act of concealment and a Ministry of Defence note states that “it was of cardinal importance that no American official should inadvertently divulge” that the Chagossians have dual nationality.<sup>68</sup> Therefore, in order to divert attention, Britain presented Mauritius as being solely responsible for the exiled islanders. In 1971, the Foreign Office stated that it was “not at present HMG’s policy to advise ‘contract workers’ of their dual citizenship” nor to inform the Mauritian government. In the same year prior to a meeting with the Mauritian Prime Minister, Britain’s High Commission in Mauritius explained, “Naturally, I shall not suggest to him that some of these also have UK nationality..always possible that they may spot this point, in which presumably, we shall have to come clean (*sic*).”<sup>69</sup> Until then, Britain espoused a policy of concealment which was later recognised by the lawyers representing the Chagossians who argued;

Concealment is a theme which runs through the official documents, concealment of the existing permanent population, of BIOT itself, concealment of the status of the Chagossians, concealment of the full extent of the responsibility of the United Kingdom government...,concealment of the fact that many of the Chagossians were Citizens of the UK and the Colonies.<sup>70</sup>

Certainly, it cannot be denied that the entire Chagossian experience was suppressed and kept away from public scrutiny. The details of the case were buried deep beneath official documents and until recent days, the issue faced a media blackout. In fact, no journalists are allowed on Diego Garcia in the present day unless they are issued a permit, which needless to say is almost impossible to obtain. Even amidst increasing awareness of the Chagossian cause, the British government still relegates responsibility

---

<sup>68</sup> Ministry of Defense to UK Embassy, Washington DC. 13 June 1969. Litigation Chronology, pg. 23. As quoted in Curtis, pg. 7.

<sup>69</sup> High Commission, Mauritius to Foreign Office, 13 January 1971. Litigation Chronology, pg. 32. Ibid.

<sup>70</sup> Ibid.



to Mauritius. In 1990, MP Tam Dalyell questioned former Prime Minister Thatcher on whether she would visit Mauritius to ascertain whether the islanders would wish to return to Diego Garcia. Her response was clear,

No. Those concerned worked on the former copra plantations in the Chagos archipelago. After the plantations *closed* between 1971 and 1973, they and their families were *resettled* in Mauritius and given *considerable financial assistance*. Their future now lies in Mauritius.<sup>71</sup>

This statement exemplifies the official stance when it comes to the Chagossian past, present and future. Any semblance of British responsibility for the islanders' current predicament is forthrightly denied. Rather, in order for the British government to maintain their version of the Chagos issue, an array of subversive techniques had to be devised, such as re-classifying the islanders as migrants or transferring responsibility elsewhere. These are the types of seemingly insurmountable odds and huge power disparities that continue to shape the Chagossian position today. Severely shaken by the "Orders in Council" of June 2004, the islanders' struggle has had to branch out into diverse courses of action. While the islanders' demands have remained constant since their dispossession, the route towards "self-determination" has become increasingly hazy and undetermined. Having overviewed the Chagossian encounter with law in recent decades, the following section will speculate on the most feasible legal options currently available to the Chagossians.

### **The Struggle Continues: The European Court of Human Rights**

Every attempt has been made to consign the Chagossians to a footnote in British colonial history. At various points, the government has hoped to reach "a full and final settlement" by giving the islanders minimal amounts of compensation. However, several claims undoubtedly still exist and with the Chagossian population now numbering over 4000 mostly impoverished individuals, it is clear that the some sort of "just" settlement needs to be reached. Furthermore, such action should proceed swiftly since elderly Chagossians are passing away without having set foot again in the islands of their birth. Any settlement must address the Chagossian right to compensation and restitution, as well as their right of return. It is unlikely however, considering US commitment to their military base, that the Chagossians will be able to return Diego Garcia, at least in the

---

<sup>71</sup> *Hansard*, 9 July 1990, Column 36. (Writer's italics) Available online: [www.parliament.the-stationery-office.co.uk/pa/cm198990/cmhansrd/1990-07-09/Writtens-3.html](http://www.parliament.the-stationery-office.co.uk/pa/cm198990/cmhansrd/1990-07-09/Writtens-3.html)



near future. While the Chagossian position is built on what many consider “solid truth,” the British position is fragmented and weak. This can be illustrated by the government’s need to resort to the use of royal powers on more than one occasion to cover up past wrong doings. In fact, it is such powers, namely the “Orders in Council,” that have set the stage for the next step in the Chagossian legal case.

Upon hearing of the Orders in several months ago, Gifford informed Rammell that such a move was irrational and probably illegal and that “there would undoubtedly be a legal challenge to the validity of the Order in Council.”<sup>72</sup> Indeed, this is currently taking place on two levels. On a domestic level, the Order is being challenged by an application for Judicial Review in the High Court, which gave permission for such a review on 5 October 2004. Such an undertaking is proving exceedingly difficult however, since the British government is working fervently against such a review to ensure that existing status quo vis-à-vis the Chagossians is preserved. The government appears to be relying mainly on the 2003 ruling that not only dismissed claims for compensation, but also undermined the High Court ruling of 2000. This judgment of 2003 has helped focus the parameters of the Chagossian case when it comes to the European Court of Human Rights (ECHR) as it appears that the dismissal of the group litigation is the subject of an application to the ECHR. The case at the European Court will deal with compensation and the right of return and is being framed by the European Convention for the Protection of Human Rights and Fundamental Freedoms. The Convention raises several relevant articles including; Article 3 on “Inhuman and degrading treatment,” Article 6 on the “Right to a fair trial,” and Article 8 on the “Right to respect for private and family life.”<sup>73</sup> Overall, it is hoped that legal proceedings in Strasbourg “will cover the 30 years of treatment of Chagossians by the British Government from the original expulsions in the 1960s to the Orders in Council last year.”<sup>74</sup>

The involvement of the ECHR is significant due to the complex status of the right of return and of the Chagossians themselves in domestic law. First of all, the European Court provides another forum where the “Orders in Council” can be challenged. If such a challenge is successful, this would establish the right of return in domestic British law. The distinction between remedies in Strasbourg and those in

---

<sup>72</sup> As quoted in Curtis, pg. 11.

<sup>73</sup> See “European Convention for the Protection of Human Rights and Fundamental Freedoms,” full text available online: [www.echr.coe.int/Convention/webConvenENG.pdf](http://www.echr.coe.int/Convention/webConvenENG.pdf)

<sup>74</sup> From personal interview between the writer and Richard Gifford, a solicitor and expert on the Chagossian case. Conducted in March 2005. (Hereinafter, Gifford interview).

London, is that under Strasbourg law there are grounds for claiming that the “government has a positive duty to facilitate the return of the population.” Whereas in the High Court in London, Gifford explains, “we are limited to asserting that the Orders banning the population are illegal.”<sup>75</sup> The situation becomes increasingly complex however, when it comes to the question of the applicability of the European Convention to BIOT. Legal experts argue that such “territorial application” was satisfied when the UK extended the Convention to Mauritius, which included the Chagos Islands in 1953. This argument maintains that even though Mauritius gained independence in 1968, the Convention continued to apply to the BIOT. The British government, on the hand, claims that the BIOT has never been covered by the Convention and particularly by Article 56 that governs “territorial application.”<sup>76</sup> In other words, the fundamental difference is whether or not the Convention continues to apply in the BIOT following the establishment of a new colony in 1965. Yet the position of the British government becomes increasingly difficult to uphold in light of Article 1 of the Convention, which obliges states to secure fundamental rights and freedoms to every person within their “jurisdiction.” Experts on the Chagos case explain that such an obligation can relate to “extra-territorially” in certain circumstances, and that it can be applied to Chagossians due to their “nationality link and the power of the UK Government at all times over their national status, wherever they may be residing in the territorial sense.”<sup>77</sup> All in all, it appears that the ECHR will hear the Chagossian case, which is fortunate since it seems that Strasbourg currently provides the only forum where Chagossian claims can be heard in full.

### **Crime against Humanity?**

Recent discussion has also examined if the Chagossian dispossession could be viewed as a “crime against humanity.”<sup>78</sup> In order to determine this, the circumstances

---

<sup>75</sup> Ibid.

<sup>76</sup> See Article 56 of Convention online: [www.echr.coe.int/Convention/webConvenENG.pdf](http://www.echr.coe.int/Convention/webConvenENG.pdf)

<sup>77</sup> Gifford interview.

<sup>78</sup> While the concept of a “crime against humanity” has existed since World War I, the first main legal source on crimes against humanity is Article 6 (c) of the Charter of the Nuremberg International Military Tribunal of 1945. This concept was later defined and elaborated on by Article 5 of the Statute of the International Tribunal for the Former Yugoslavia of 1993, Article 3 of the Statute of the International Tribunal for Rwanda of 1994, as well as Article 7 of the Rome Statute of the International Criminal Court. The prohibition of crimes against humanity is now well established under international customary law, and this customary rule can be said to date from the Nuremberg Tribunal. The concept of crimes against humanity consists of a number of practices, including murder, extermination, enslavement, *deportation or*

surrounding the depopulation of the Chagos Islands must be examined in detail alongside the definition of such a crime. According to the Rome Statute of the International Criminal Court (ICC), a “crime against humanity” refers to several acts, including the “deportation or forcible transfer of population,” when committed as “part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”<sup>79</sup> Based on this definition, it may be straightforward to argue that the Chagossian dispossession was a crime against humanity: the act was widespread, since the entire population was deported, the Chagossians are clearly a civilian population, and official documents show that the deportation was systematically executed. However, it is arguably more difficult to establish whether the “transfer” was conducted by force or by means of an attack. The British government has maintained that since no force was used, the “resettlement” could not be considered a gross violation of rights or a crime against humanity. This position was substantiated by the hearing of the group litigation case in 2003 when the judge expressly decided that there was an “absence of force.” Nevertheless, it is worth mentioning that while the Rome Statute regards “attack” to be a necessary component of the definition, it is not entirely clear whether this particular definition would be considered customary international law, and therefore it is unclear whether “force” would be essential for an assessment of the Chagos case. Furthermore, the *Akayesu* judgement at the International Criminal Tribunal for Rwanda stated that an attack “may also be non violent in nature” for example, an attack could be the exertion of “pressure on the population to act in a particular manner.”<sup>80</sup> Perceived in this way, the definition of such a crime could quite accurately pertain to the Chagossians.

However, even if the issue is interpreted in favour of the Chagossians, which is unlikely, the other main problem is the need for an individual defendant in the ICC. Apart from one or two retired civil servants who played a subordinate role in the depopulation, all the main actors, such as former Prime Minister Wilson or Foreign Secretary Stewart, are all deceased. Former Cabinet minister and Chancellor Denis Healey is the only surviving official involved in the affair, but as Gifford explains, “he claims to suffer from

---

*forcible transfer of population*, imprisonment, torture, rape, persecution, and other inhuman acts directed against any civilian population when committed on a widespread or systematic basis.

See “Diego Garcia: A Crime Against Humanity,” *Minority Rights Group International*, 16 November 2004. Online version available: [www.minorityrights.org/features/features\\_diegogarcia.htm](http://www.minorityrights.org/features/features_diegogarcia.htm)

For general information see: [www.crimesofwar.org/thebook/crimes-against-humanity.html](http://www.crimesofwar.org/thebook/crimes-against-humanity.html)

<sup>79</sup> For text of Rome Statute, see: [www.un.org/law/icc/statute/rome.htm](http://www.un.org/law/icc/statute/rome.htm)

<sup>80</sup> See text of judgment, available online: [www.ictj.org/ENGLISH/cases/Akayesu/judgement/akay001.htm](http://www.ictj.org/ENGLISH/cases/Akayesu/judgement/akay001.htm)

amnesia on the subject.” In consideration of all these points, legal experts have thus relied “only obliquely on principles of forced relocation as a crime against humanity.”<sup>81</sup> Indeed, for several reasons including those mentioned above, it is doubtful that the ICC will play a central role in resolving the Chagossian issue. Similarly, the International Court of Justice<sup>82</sup> and the UN<sup>83</sup> are also likely to remain backstage. While proceedings are still in the pipeline, the ECHR is likely to take center stage as the most appropriate forum for unraveling the Chagossian case.

## Reflections

While the Chagossians may number a relatively small group, their legal case is significant for dispossessed and colonised peoples across the globe. The islanders’ experience rings true for those who have faced exile and discrimination at the hands of dominant powers. Furthermore, their experience provides some insight into whether law can ever meet the needs of the least-empowered. The domestic legal systems of the UK and the US have arguably failed to address Chagossian grievances to date and it is currently premature to determine whether a challenge in either court will be successful. Moreover as illustrated, the overriding force of the “Orders in Council” serves to expose a side of law that is intimately linked with the political and accordingly skewed by circumstances of the time. The Chagossians’ recourse to international law may also reveal similar distortions. Rarely do post-colonial states or peoples address their grievances in the legal arena against their previous colonial powers, hence such a development demands attention when it does occur. Yet, another question also

---

<sup>81</sup> Gifford interview.

<sup>82</sup> Substantial research has been conducted by the writer on the issue of whether the ICJ could play any role in the Chagos issue. Firstly, Mauritius claims that the Chagos is still under her sovereignty and accordingly attempted to secede from the Commonwealth in order to take the UK to the Court. In response, the UK quickly amended its submission to the jurisdiction of the ICJ to exclude *former* members of the Commonwealth as well as current members. Therefore, this route is unlikely to be followed since “consent” of both parties is needed. This is perhaps fortunate for the Chagossians since Mauritius seems to be exclusively concerned with issues of sovereignty, and not the plight of the Chagossians.

The other option relates to a General Assembly resolution that would refer the matter to the ICJ for an advisory opinion. Such a resolution would require considerable international pressure and is thus unlikely to transpire in light of global dynamics of power.

<sup>83</sup> On December 2001, the UN Human Rights Committee Report on the UK stated, “The State Party (i.e. the United Kingdom government) should, to the extent possible, seek to make exercise of the Ilois’ right to return to their territory practicable. It should consider compensation for the denial of this right over an extended period.” The UK responded by claiming that the International Covenant on Civil and Political Rights did not apply to BIOT (and by extension, the Chagossians) since they had not extended it there. Some groups are nonetheless continuing to raise the Chagossian issue at the UN, and the UN Human Rights Commission session on 11/12 April 2005, featured two “Oral Interventions” specifically on the plight of the Chagossians, one of which was prepared by this writer. See annex.

surfaces: why have other post-colonial states or peoples generally not turned to international law to “correct” past wrongs?<sup>84</sup> While several impediments may exist, such behaviour or lack thereof can be attributed to entrenched power structures that currently guide worldwide dynamics. In other words, while post-colonial states may possess the outward trappings of international sovereignty, in reality their sovereignty is subordinate to that of the powers that granted them “independence.” The economic systems and thus political policies of most all developing states are still directed from the outside, or from the core. By extension, it is unclear whether international law provides the adequate tools for developing states and whether international law in its current form, as a system founded by Western “civilised states” and crafted to justify colonial exploitation, can ever meet the needs of the periphery. The Chagossians are perhaps unique in the sense that they do not comprise a state, and therefore are not faced with the same constraints, such as international political standing or preferential trade status. Notwithstanding this fact however, it is likely that power politics will continue to taint the adjudication of the Chagossian case in international legal forums, such as the ECHR. Certainly, the British government is unlikely to remain on the sidelines when the Chagos issue is raised in Strasbourg.

Indeed, according to British Prime Minister Tony Blair, Diego Garcia is said to be “extremely important” for Britain and “an important part” of British “security.”<sup>85</sup> Yet not only has Diego Garcia been used as a launchpad for the so-called “war on terror,” but several reports indicate that prisoners are routinely tortured on the island.<sup>86</sup> The military complex implanted in the Chagos, exemplifies a wider pattern of US and UK foreign policy. In view of the huge build up of arsenal and personnel on the island, Diego Garcia cannot accurately be viewed as serving “defence” purposes, but rather as a platform for extending US power. The UK must also be held accountable. The Chagossian dispossession represents a snapshot of the British government’s questionable record abroad. Similarly, the widespread deception surrounding the depopulation is also not particularly unique since deceit debatably played a key role in forging a case for the

---

<sup>84</sup> A rather unique example concerns the tiny Pacific island of Nauru that claimed compensation from Australia for mining out the island’s phosphate and failing to rehabilitate the land. The *Case Concerning Certain Phosphate Lands in Nauru* heard in 1992, focused on Australia’s violation of its fiduciary obligations. It was eventually settled out of court with Australia giving Nauru \$107 million in compensation. Details available on ICJ website: [www.icj-cij.org/icjwww/icasess/inaus/inausframe.htm](http://www.icj-cij.org/icjwww/icasess/inaus/inausframe.htm)

<sup>85</sup> As quoted in *Hansard*, 14 July 2004, Column 1404g. Available online: [www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040714/debtext/40714-02.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040714/debtext/40714-02.htm)

<sup>86</sup> See Human Rights Watch, public letter to Blair. Online: [//hrw.org/press/2002/12/uk1230ltr.htm](http://hrw.org/press/2002/12/uk1230ltr.htm)

invasion of Iraq, for example. Indeed, the Chagossian tragedy exemplifies how “a whole system” works behind “a democratic façade.”<sup>87</sup> It cannot yet be determined whether international law will be able to dismantle the colonial apparatus that has strangled the Chagossians for decades. In the meantime, the imperial ambitions that ultimately destroyed a people cannot be denied any longer. In the words of Frantz Fanon,

Colonial domination is made possible by the negation of national reality, by new legal relations introduced by the occupying power, by the banishment of the natives and their customs to outlying districts by colonial society, and by expropriation...<sup>88</sup>

---

<sup>87</sup> Pilger, *The Guardian*, 4 October 2004.

<sup>88</sup> Frantz Fanon, *The Wretched of the Earth*. London: Macgibbon & Kee, 1965, pg. 123.

## Bibliography

- Akayesu Judgement, International Criminal Tribunal for Rwanda, 1998. Available online: [www.icttr.org/ENGLISH/cases/Akayesu/judgement/akay001.htm](http://www.icttr.org/ENGLISH/cases/Akayesu/judgement/akay001.htm)
- Anghie, A., 2000 "Time Present and Time Past: Globalization, International Financial Institutions, and the Third World," *New York University Journal of International Law and Politics* 32(2), 243.
- Anghie, A., 1999. "Finding the Peripheries: Sovereignty and Colonialism in Nineteenth-Century International Law," *Harvard International Law Journal*, 40(1), 1-8.
- Bancoult v. McNamara* (D.D.C. 1:01cv02629). Memorandum opinion available for download: [www.dcd.uscourts.gov/01-2629.pdf](http://www.dcd.uscourts.gov/01-2629.pdf)
- "Chagos Islands: A Sordid Tale," 3 November 2000. *BBC News*. Available online: [//news.bbc.co.uk/1/hi/uk\\_politics/1005064.stm](http://news.bbc.co.uk/1/hi/uk_politics/1005064.stm)
- Country profile, British Indian Ocean Territory. Available online: [www.fco.gov.uk](http://www.fco.gov.uk)
- Curtis, M., 2004. "Stealing a Nation: A special report by John Pilger," *ITV Report*. London: Alpine Press.
- "Diego Garcia: A Crime Against Humanity," 2004 *Minority Rights Group International*. 16 November. Online version available: [www.minorityrights.org/features/features\\_diegogarcia.htm](http://www.minorityrights.org/features/features_diegogarcia.htm)
- Dismissal of *Bancoult v. MacNamara* (D.D.C. 1:01cv02629) Case, 2004. December 21. Available online: [//homepage.ntlworld.com/jksonc/docs/bancoult-2004-12-21.html](http://homepage.ntlworld.com/jksonc/docs/bancoult-2004-12-21.html) & [www.dcd.uscourts.gov/01-2629.pdf](http://www.dcd.uscourts.gov/01-2629.pdf)
- European Convention for the Protection of Human Rights and Fundamental Freedoms, 2003. Registry of the European Court of Human Rights. Available online: [www.echr.coe.int/Convention/webConvenENG.pdf](http://www.echr.coe.int/Convention/webConvenENG.pdf)
- "Evicted Islanders to Go Home," 2000. *The Guardian*, 4 November. Available online: [www.guardian.co.uk/Archive/Article/0,4273,4086173,00.html](http://www.guardian.co.uk/Archive/Article/0,4273,4086173,00.html)
- "Evicted Islanders Vow to Fight on," *BBC News*, 9 October. Available online: [//news.bbc.co.uk/2/hi/uk\\_news/3177260.stm](http://news.bbc.co.uk/2/hi/uk_news/3177260.stm)
- Fanon, F., 1965. *The Wretched of the Earth*. London: Macgibbon & Kee.
- Foreign Office Memorandum on British Indian Ocean Territory, 31 July 2000, in House of Commons Foreign Affairs Committee, First Special Report, Session 2000/2001, Appendix 10. Available online: [www.publications.parliament.uk/pa/cm200001/cmselect/cmffaff/78/7826.htm](http://www.publications.parliament.uk/pa/cm200001/cmselect/cmffaff/78/7826.htm)

- Gifford, R., 2004. "The Chagos Islands-The Land Where Human Rights Hardly Happen," *Law, Social Justice & Global Development Journal*, (1). Available online: [//elj.warwick.ac.uk/global/issue/2004-1/gifford.html](http://elj.warwick.ac.uk/global/issue/2004-1/gifford.html)
- Hansard*, 9 July 1990. Column 36. Available online: [www.parliament.the-stationery-office.co.uk/pa/cm198990/cmhansrd/1990-07-09/Writtens-3.html](http://www.parliament.the-stationery-office.co.uk/pa/cm198990/cmhansrd/1990-07-09/Writtens-3.html)
- Hansard*, 9 January 2001. Column 182. Available online: [//www.parliament.the-stationery-office.co.uk/pa/cm200001/cmhansrd/vo010109/halltext/10109h03.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200001/cmhansrd/vo010109/halltext/10109h03.htm)
- Hansard*, 15 June 2004. Columns 34-5 / Column 33. Available online: [www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040615/wmstext/40615m03.htm](http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040615/wmstext/40615m03.htm)
- Hansard*, 7 July 2004. Column 273. Available online: [www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040713/debtext/40713-05.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040713/debtext/40713-05.htm)
- Hansard*, 14 July 2004. Column 1404g. Available online: [www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040714/debtext/40714-02.htm](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/cm040714/debtext/40714-02.htm)
- High Commission: Mauritius to Foreign Office, 13 January 1971. *Sheridan Solicitors*, Chagos Island Group Litigation, Claimants chronology.
- House of Lords, 2004. Comments made by Baroness Symons of Vernham Dean. December 13. Available online: [www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds04/text/41213-02.htm](http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds04/text/41213-02.htm)
- Jenness, J., 2002. "Chagos Islands Resettlement: A Review," 11 September.
- Letter from Michael Stewart to Harold Wilson, 21 April 1969. *Sheridan Solicitors*, Chagos Island Group Litigation, Claimants chronology.
- Madeley, J., 1982, "Diego Garcia: A Contrast to the Falklands," *Minority Rights Group Report*. London: Minority Rights Group Ltd., Report number 54.
- Norton-Taylor, R., 2000. "Dumped Islanders Seek to Return Home." *The Guardian*, 18 July. Available online: [www.guardian.co.uk/uk\\_news/story/0,,344433,00.html](http://www.guardian.co.uk/uk_news/story/0,,344433,00.html)
- Norton-Taylor, R., 2001. "Diego Garcia Exiles say Britain owes Passports." *The Guardian*, 6 April.
- Official letter from Eric Newsom (US Assistant Secretary of State for Political-Military Affairs) to the UK Foreign Office on 21 June 2000. Available online: [//homepage.ntlworld.com/jksonc/docs/bancoult-d23a.html#a6p6](http://homepage.ntlworld.com/jksonc/docs/bancoult-d23a.html#a6p6)
- Pilger, J., 2004. "Diego Garcia Paradise Cleansed." *The Guardian*, 4 October.
- Public Letter to Prime Minister Tony Blair, 2002. *Human Rights Watch*. Available online: [//hrw.org/press/2002/12/uk1230ltr.htm](http://hrw.org/press/2002/12/uk1230ltr.htm)



*The Queen (ex parte Bancoult) v. Foreign and Commonwealth Office*, [2001] Q.B. 1067, 2000. Full text available on *Westlaw*.

*R. (on the application of Bancoult) v Secretary of State for the Foreign and Commonwealth Office* [2001] Q.B. 1067 Full text available on *Westlaw*.

Rome Statute, 1998. International Criminal Court. Available online:  
[www.un.org/law/icc/statute/romefra.htm](http://www.un.org/law/icc/statute/romefra.htm)

Slessor, T., 2002. *Ministries of Deception: Cover-Ups in Whitehall*. London: Aurum.

Stealing a Nation, 2004. London: ITV. October. See website: [//pilger.carlton.com](http://pilger.carlton.com)

Storer, J., 2001. "Displaced Islanders Seek Compensation." *The Independent*, 10 January.

Tucker, N., 2001. "Islanders Sue U.S. Over Relocation." *Washington Post*, 21 December.

UK Chagos Support Association. See website: [www.chagossupport.org.uk](http://www.chagossupport.org.uk)

UN Charter, Chapter 11, "Declaration Regarding Non Self-Governing Territories," Article 73. Available online: [www.un.org/aboutun/charter/chapt11.htm](http://www.un.org/aboutun/charter/chapt11.htm)

Vine, D., 2004. "War and Forced Migration in the Indian Ocean: The US Military Base at Diego Garcia," *International Migration*, 4(3), 111-141.

Young, R.J.C., 2001. *Postcolonialism: An Historical Introduction*. Oxford: Blackwell Publishers.

"Welcome Letter" on official US Navy website for Diego Garcia. Available online:  
[www.dg.navy.mil/2005/html/welcome\\_ aboard.htm](http://www.dg.navy.mil/2005/html/welcome_ aboard.htm)

**\*All websites accessed between December 2004 – March 2005.**

## **Annex**

**Oral Intervention on the Chagossian Issue**, to be presented on Item 16 (Indigenous Issues) at the 61st Session of the UNCHR. Geneva. April 11<sup>th</sup> 2005

This intervention is done on behalf of European NGO, *Liberation*.

Human rights are not universal according to the British government. They deny that the ICCPR applies to the Chagossian islanders, a dispossessed people, deceitfully removed from their island homes, to make way for a huge American military base.

The depopulation of the Chagos islands occurred under the watchful eyes of the British government 30 years ago. Since then every effort has been made to cover up the ugly realities surrounding the dispossession.

Today, the British government claims that the Chagossians do not have human rights since the British Indian Ocean Territory (BIOT) is supposedly not covered in its ratification of the ICCPR.

Indeed, this is just one of the attempts by the British government to deny the Chagossians justice and self-determination. In a shocking abuse of power, two "Orders in Council" were issued in 2004. These Orders effectively undermined a High Court ruling in 2000, which granted the Chagossians the right to return to the islands they consider home.

This royal prerogative which ultimately denied the Chagossians their right to self-determination, was justified on the grounds of infeasibility. The British government claimed that not only would resettlement be overly expensive, but also that it was physically infeasible due to climate change, flooding, and other environmental considerations.

However, if the islands are in fact unsuitable for human settlement, we must ask ourselves; why is the United States constantly expanding its military facilities on the islands? How is it that the United States is utilising supposedly "sinking islands" as a launch pad for the so-called war on terror? Indeed, the Chagos island of Diego Garcia now stands as the second largest American military base outside of United States borders, and shocking recent reports also indicate that Diego Garcia is being illegally used for torture.

We implore the Commission to probe the British governments claims of infeasibility and to help ensure that Chagossians realise their right to self-determination.

The British government must be held accountable.

It should not be allowed act above the law.

We should recall that Britain violated UN General Assembly 2066 passed in 1965, which called on Britain to ensure the territorial integrity of Mauritius.

We should also recall the contempt shown by Britain of the HRC report on BIOT in 2001, which told the British government to return the Chagossian population and pay them compensation.

Today, the British government claims that the Chagossians actually possess no rights under human rights covenants.

We call for the Commission to ensure that the UK recognises the applicability of the ICCPR in all its territories, and particularly in the BIOT.

Today, thousands of Chagossians live a marginalised existence in Mauritius in conditions of abject poverty.

The dispossessed islanders have experienced too many miscarriages of justice. It is time for the international community to stop ignoring the plight of the Chagossian people and hold the British government accountable.

We therefore call on the Commission to instruct the 'Special Rapporteur on Indigenous Peoples' to examine the abovementioned issues.

Thank you.