

Mandates of the Working Group of Experts on People of African Descent; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

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Excellency,

We have the honour to address you in our capacities as Working Group of Experts on People of African Descent; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 45/24, 43/36 and 45/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the Government's **failure to comply with the Advisory Opinion of the International Court of Justice of 25 February 2019, in which it was declared that the United Kingdom must bring an end to its administration of the Chagos Islands in order to lawfully complete the process of its decolonization, and unwillingness to recognize and reconcile with the history of the United Kingdom Government's forcible eviction of Chagossians.**

The Chagos Islands or Chagos Archipelago, hereby referred to as the Islands, are a cluster of over 60 islands in the Indian Ocean, the largest of which is Diego Garcia. The Islands were formerly governed as part of Mauritius, which was a former colony of Britain. In 1965, the Chagos Islands were detached from the Republic of Mauritius by the British Government, making it a separate colony called the British Indian Ocean Territory (BIOT). The British Government intended to use the Islands for defense purposes and gave Mauritius £3 million for the separation. The British Government agreed to return the Islands to Mauritius when these purposes were no longer necessary.

In 1966, the United Kingdom Government entered into an agreement with the United States of America, which constituted that the island of Diego Garcia be leased to the USA to build a military base in exchange for a subsidy on the sale of a submarine nuclear deterrent. As a result, the indigenous inhabitants of the Islands, the Chagossians or Îlois, were thereby forcibly evicted from the Islands by the United Kingdom Government. The expulsions occurred between 1968 and 1973, resulting in approximately 1,500 Chagossians being moved to Mauritius.

In 1971, the Commissioner of the Territory for the British Government enacted an Immigration Ordinance that outlawed the return of any person to the BIOT bar a permit, consequently legitimizing the Chagossians' eviction to Mauritius and rendering their return to their homeland an impossibility. In 2004, the official removal of Chagossians from their indigenous territory was once again legitimized by an additional Ordinance banning Chagossians from returning to the Islands.

The Chagossians, or the Îlois peoples, are the descendants of enslaved peoples from Madagascar, Mozambique and Senegal, who were brought to the Islands by

French colonists to develop coconut plantations in the 1770s. According to information received and relevant research, the Chagossian peoples' African heritage and Indigenous status are both significantly connected to the generational impact faced by their community as a result of their expulsion and their continued displacement. There are several allegations against the United Kingdom Government made by Chagossian advocacy groups, specifically the information submitted by the United Kingdom Chagos Support Association and ongoing legal claims made by Mauritius-based Chagos Refugee Group.

Firstly, the most significant and timely of these allegations received is the United Kingdom Government's failure to meet the ICJ Advisory Opinion's stipulated deadline to complete the decolonization of the Chagos Islands and renounce governance of the region to Mauritius. The Opinion, rendered by the ICJ pursuant to [General Assembly resolution 71/292](#), opined on two central questions: "whether the process of decolonization of Mauritius was lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law" and, secondly, what the consequences of the United Kingdom's continued administration of the Chagos Islands would be under international law. Written statements delivered by the African Union, Djibouti, South Africa, Namibia, among others, expressed support of the Mauritius Government's position that decolonization was not lawfully completed and principals of international law, which had been established at the time, had been violated by the United Kingdom Government in its extraction of the Chagos Islands from Mauritius prior to the latter's independence.

According to the text of the Opinion, the Court concluded that "as a result of the Chagos Archipelago's unlawful detachment and its incorporation into a new colony, known as the BIOT, the process of decolonization of Mauritius was not lawfully completed when Mauritius acceded to independence in 1968" (para 150). Finding that this continued administration was not consistent with "the right of peoples to self-determination" and therefore constituting "a wrongful act entailing the international responsibility of that State" (para 177), the Court stated that the United Kingdom Government is under an obligation to "bring an end to its administration of the Chagos Archipelago as rapidly as possible" (para 178). The General Assembly, in [resolution 73/295](#), reaffirmed the responsibility of the United Nations to assist in the process of the complete decolonization of Mauritius, in accordance with [resolution 1514 \(XV\)](#), the Declaration on the granting of independence to colonial countries and peoples. Resolution 73/295 also affirmed the ICJ Advisory Opinion and demanded that the United Kingdom Government "withdraw colonial administration from the Chagos Archipelago unconditionally within a period of no more than six months" (para 3). The General Assembly resolution urged the United Kingdom to "cooperate with Mauritius in facilitating the resettlement of Mauritian nations, including those of Chagossian origin, in the Chagos Archipelago" (para 4).

This deadline of six months as laid out by the General Assembly was not respected by the United Kingdom Government, as of November 2019, and the UK continues its colonial administration of the Chagos Islands. Although neither ICJ Advisory Opinions nor General Assembly resolutions are legally binding on Member States, the Opinion and the allegations provided indicate that historical actions by the UK Government in its governance of the region, its treatment of the Chagossian people, and its continued administration of the Islands, is in violation of international human rights law and established international legal principles.

According to information received, the inconsistent granting of citizenship status provided to the children of Chagossians who were forcibly evicted from the Islands is an additional allegation. In 2002, the *British Overseas Territories Act* allowed Chagossians who were born between April 1969 and January 1983 to obtain British citizenship, if they were born to a woman who was a citizen of the United Kingdom by virtue of her birth in the BIOT. This legislation excluded citizenship rights for second and third generation Chagossians, dividing families between those able to reside freely in Britain and those who cannot. While a supplementary section to the law allowed for transmission of British citizenship to second generation descendants of Chagossians who met the requirements of the *Act*, it still does not extend to further generations of Chagossians. In 2009, when an amendment to the 2002 *Act* that would have allowed for status to be passed onto third generation Chagossians born in exile was withdrawn, then Immigration Minister Phil Woolas stated that this was to avoid the provocation of similar representations from other British citizens.

This lack of citizenship rights has caused the separation of many Chagossian families, who are often left “in limbo” between Mauritius and Britain. Since Britain is now home to approximately 3000 Chagossians, mainly in the town of Crawley, West Sussex, this is causing generational rifts

According to the information received:

A Chagossian woman, a British citizen who has lived in Crawley for many years, had brought her son over from Mauritius on a six month visa. As soon as he arrived, they applied for a two year visa. However, it was rejected. They challenged the rejection in court - a battle that cost them £6000 in legal fees. By the time the legal battle had ended, the six month visa expired. The Home Office then ruled that her son was to report to the Home Office in Croydon every 15 days before 8am and if he was late or had any papers missing, he would be detained. Shortly after, the Home Office changed the rules, so that he had to go every week before 8am. One day her son turned up with a document missing. He was then taken to HMP The Verne in Dorset. So far he has been detained there for several months with no news of when/if he will be released. His mother has been to see him just once as Dorset lies six hours away. The woman's sister described an almost identical set of circumstances regarding her daughter, who had spent six months detained in Yarl's Wood.

A third central dimension of the allegations against the United Kingdom Government involve the manner with which the Chagossian population were forcibly evicted from the Islands and, in the years following, the legitimization of their eviction in ways that rendered their possibility of resettlement impossible. Firstly, according to information received and research collected, many exiled Islanders recall being informed by UK authorities that they would receive assistance once moved to Mauritius and many reported feeling misinformed and intimidated. Research indicates that the British Government began significantly restricting the importation of food and medical supplies to the Islands, thereby forcing many Chagossians to leave or risk their survival.

According to a written statement provided by the National Association of Criminal Defense Lawyers to the Commission on Human Rights during its 61st

session:

Various means were employed by the United Kingdom administration and its agents to empty the islands of their indigenous people. These methods included refusing re-entry to Chagossians who were temporarily off the islands, on visits to Mauritius and elsewhere; enticing those that remained with trips to Mauritius and then not permitting them to return; closing the islands to supply ships, stopping the supply of education, healthcare and other essential services making the lives of those that remained unbearable. There were also reportedly threats of bombing and shooting made against the remaining Chagossians if they did not leave the islands.

During the expulsion process, there were many documented cases of threats, coercion and mistreatment of the Chagossians at the hands of BIOT administrators or their agents. Malnutrition and dehydration during the transportation of the Chagossians away from their islands were also reported. As a final act of depopulation, the United Kingdom administration and its agents gassed the pets of the exiled Chagossians and destroyed all their other remaining property. In the end, over two thousand Chagossians were removed from their homes and exiled to poverty and uncertainty.

Similar stories have been corroborated by firsthand accounts of Chagossian advocates and campaigners, specifically the UK Chagos Support Association.

We would like to express serious concern about the ongoing colonial administration of the Chagos Islands by the United Kingdom Government, in violation of the findings in the 2019 ICJ Advisory Opinion, which deemed the detachment of the Islands from Mauritius unlawful and the decolonization of Mauritius not lawfully completed.

Without making any judgement as to the accuracy of the information made available to us, the above allegations appear to be in contravention of [article 73\(a\) of the United Nations Charter](#) and the right to self-determination of all peoples as established in customary international law and now set out in article 1 of the International Covenant on Civil and Political Rights (ICCPR), of which the United Kingdom is a signatory.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide information regarding the steps and measures that are being taken by your Excellency's Government to ensure the decision of the 2019 ICJ Advisory Opinion is respected and, in turn, decolonization of Mauritius is lawfully completed following the secession of the Chagos Islands from Mauritius in 1965.

2. Please provide information regarding the process by which citizenship is granted to second and third-generation Chagossians and what steps are taken to minimize family separation and further dispersal of the populations.
3. Please provide information on what efforts are being taken to recognize the Chagossians' culture and heritage within the United Kingdom, which is now home to a majority of exiled Chagossians, and how the population is being supported in its continued struggle.
4. Please inform whether any form of reparation, including but not limited to compensation, was provided to Chagossians for their forced eviction and displacement, their loss of material, cultural, and spiritual property and land, their loss of livelihood, their loss of cultural identity and access to cultural heritage, and their lack of access to essential services including health and education.
5. Please inform whether any form of satisfaction has been afforded to Chagossians, including a public apology, a public declaration restoring their dignity and rights of victims, and an accurate account of the violations they endured.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

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Annex

Reference to international human rights law

In connection with above, and without prejudice to the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

Firstly, article 73(a) of the Charter stipulates that Member States who assume responsibilities of administration for territories whose peoples have not achieved the full extent of self-governance must work "to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses." The information received and allegations posed above indicate that the exiled Chagossian population have faced extensive mistreatment resulting from the treatment of the United Kingdom Government and continue to feel severed from their culture, which is inherently connected to their indigenous homeland.

In its 2011 Concluding Observations to the United Kingdom's, the Committee on the Elimination of Racial Discrimination reminded your Excellency's Government that it has an obligation to ensure that ICERD is applicable in all territories under its control and urged it to include information on the implementation of the Convention in the British Indian Ocean Territory in its next periodic report. The Committee also recommended that all discriminatory restrictions on Chagossians (Ilois) from entering Diego Garcia or other Islands on the BIOT be withdrawn (CERD/C/GBR/CO/18-20 para. 12). In its 2016 Concluding Observations to the United Kingdom, the Committee reiterated its position that the United Kingdom has an obligation to ensure that the Convention is applicable in all territories under its control, including the British Indian Ocean Territory, and urged the State to hold full and meaningful consultations with the Chagossians (Îlois) to facilitate their return to their islands and to provide them with an effective remedy, including compensation (CERD/C/GBR/CO/21-23 para. 41).

Secondly, with regard to the right to self-determination, the 2019 ICJ Advisory Opinion cites the principle of self-determination as an established customary law at the time of the removal of Chagossians' from the Islands, prior to the independence of Mauritius (para 150). This right was then recognized by [General Assembly resolution 1514 \(XV\)](#), the UN Declaration on the Granting of Independence to Colonial Countries and Peoples, in the context of Non-Self-Governing Territories or all other territories who have not yet gained independence. This right of self-determination is currently enshrined in article 1 of ICCPR, thereby making continued administration of the Islands a contravention of the Convention. In its Advisory Opinion, the ICJ considered the nature and scope of right to self-determination and recognized, with reference to the Declaration on Principles of International law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations as annexed to General Assembly resolution 2625 (XXV), that the right to self-determination as a law of customary status includes respect for "the national unity and territorial integrity of a State or country."

In this context, we would like to call the attention of your Excellency's Government to the statement of the Human Rights Committee, constituted under the ICCPR, in [Consideration of Reports Submitted by States Parties under Article 40 of](#)

[the Covenant](#) in December 2001, which stated that “the State party [the United Kingdom] should, to the extent still 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. It should include the territory in its next periodic report” (para 38).

We would also like to recall that aside from the principle of self-determination of all peoples, [General Assembly resolution 1514 \(XV\)](#), under article 6, also prohibits colonial administrations such as your Excellency’s government from “partial or total disruption of the national unity and the territorial integrity of a country” and deems any such disruption to be incompatible with the UN Charter. The continued colonial administration of the Chagos Islands, based on the information provided is a prolonged disruption of the territorial integrity of the Chagossian people, who are unable to return to their indigenous territory and are thereby stripped of the territorial connection to their Ilois culture and heritage.

We would further like to draw the attention of your Excellency’s Government to articles 10 and 11 of the United Nations Declaration on the Right of Indigenous People (UNDRIP). Article 10 sets forth the prohibition of the forcible removal of indigenous peoples from their lands and territories barring free, prior and informed consent of the indigenous peoples. It stipulates the condition of an agreement on just and fair compensation with the option of return to the respective peoples’ indigenous lands. According to the allegations outlined above, the actions of the UK Government have not been in accordance with Article 10, in the initial forcible eviction of the Chagossians, in the continued administration of the Islands, and in the lack of productive dialogue regarding the Chagossian people’s continued trials and the possibility for fair compensation for their continued loss.

Article 11 stipulates the right to maintain, protect and develop manifestations of their cultures, such as archaeological and historical sites. It also outlines that States provide redress, developed alongside indigenous populations, for the loss of “cultural, intellectual, religious and spiritual property.” The exiled Chagossian population is currently unable to establish or maintain any connection to their indigenous territory, therefore not being given collaborative opportunities to seek redress in the form of a tangible connection to their cultural roots on the Islands. Although the British Government granted an initial £650,000 to the Government of Mauritius for the purposes of the Chagossian population, to be followed by a £4 million “full and final settlement,” this occurred with a lack of free, prior and informed consent of the exiled Chagossians.

We would like to recall that pursuant to article 2.3(a) of the ICCPR victims of human rights violations are entitled to an effective remedy. In this regard, we would like to draw your Excellency’s Government attention to the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, of February 2005, which established that any human rights violation gives rise to a right to reparation on the part of the victim, or his or her beneficiaries. This implies a duty on the part of the State to make reparation and the possibility for the victim to seek redress from the perpetrator (principle 31). All victims shall have access to a readily available, prompt and effective remedy in the form of criminal, civil, administrative or disciplinary proceedings. Reparations may also be provided through programmes, based upon legislative or administrative measures addressed to individuals and to communities (principle 32). As stipulated in principle 34 of this instrument, the right to reparation should cover all injuries suffered by victims.

Reparations afforded to victims should include measures of restitution, compensation, rehabilitation, and satisfaction, as provided by international law. The Updated Set of Principles further establishes that victims and other sectors of civil society, including women and minority groups, should participate in public consultations and play a meaningful role in the design and implementation of reparation programmes (principle 33). With regards to measures of satisfaction, these should include measures aimed at acknowledging the violations suffered by victims and the responsibility of the perpetrators, and at restoring the dignity of victims, including through a public apology, a public declaration restoring the dignity and rights of victims, and an accurate account of the violations they endured as established in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (paragraph 22.c).