

Mandates of the Working Group of Experts on People of African Descent and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

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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; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 45/24 and 43/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the cultural, social and economic barriers facing exiled Chagossian peoples (or Îlois) living in Mauritius, following the secession of Chagos Islands from the Mauritius by the United Kingdom Government in 1965. These barriers include the lack of formal recognition of the Chagossians in the Mauritian Constitution, the disproportionate poverty facing the Chagossian population, and continued racial discrimination facing the Chagossian population in Mauritius.**

The Chagos Islands or Chagos Archipelago, hereby referred to as the Islands, are a cluster of over 60 islands in the Indian Ocean. The Chagossians, or the Ilois 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 our research, the Chagossian peoples' African heritage and Indigenous status are both significantly connected to the barriers they continue to face today.

The Chagos 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 Government intended to use the Islands for defense purposes and gave Mauritius £3 million for the separation. The UK 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 United States of America 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.

Today, the Chagossian population is dispersed between the United Kingdom and the Republic of Mauritius. There are several allegations against the Government of Mauritius made by Chagossian advocacy groups regarding the social and cultural barriers faced in Mauritius, specifically based on information received by the UK Chagos Support Association and our own research. There are three main allegations received that will be reviewed in the following letter.

Firstly, the lack of formal recognition of the Chagossian population and their significant place in Mauritius society within the Constitution is a central allegation and, according to information received, one that has been the catalyst of other barriers facing the Chagossian population in the country. According to information received, the national policy of multiculturalism was officially adopted and legally legitimized in the Republic of Mauritius during its decolonization programme, following the cessation of Chagos Islands from Mauritius in 1965 and the achievement of Mauritian independence in 1968. The Constitution of Mauritius, adopted in 1968, defined the Mauritian population by categories, which were demarcated based on religious and ethnic identities. Section 31(3) of the First Schedule states:

[The] population of Mauritius shall be regarded as including a Hindu community, a Muslim community, a Sino-Mauritius community and every person who does not appear to belong to one or another of these 3 communities shall be regarded as belonging to the General Population which shall be itself regarded as a fourth community.

According to information received and our research, the “General Population” category technically contains both the descendants of French colonizers as well as the Chagossians, who are the descendants of African enslaved peoples. This means that the Chagossians, a distinct cultural and ethnic population with a particular history and heritage, do not have formal constitutional recognition in Mauritius. According to our research, it is within these parameters of ethnic classifications that all Mauritians have to identify themselves. In the 2018 Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD), constituted under the International Convention on the Elimination of Racial Discrimination (ICERD), of which Mauritius is a State Party, the Committee expressed concern “about the persistent constitutional classification of the State party’s population, which does not fully reflect the identities of the various groups present in the State party” (CERD/C/MUS/CO/20-23).

According to information received, the classification of ethnic and religious groups in Mauritius, lacking a distinct recognition of Chagossian identity, is legitimized and exacerbated by the “Best Loser System.” Such a system aims to protect the political voice of minority groups in the state by allowing for 8 seats in the Assembly distributed among the most successful candidates of any community, but must do so by declaring themselves as one of the classified ethnic categories as listed in the Constitution. In the case of *Narrain v. Mauritius*, heard by the Human Rights Committee, which is constituted under the International Covenant on Civil and Political Rights (ICCPR), the complainants did not make the mandated declaration of ethnic category, claiming that “they were, have always been, and still are, unable to categorize themselves in the

prescribed compartments” (CCPR/C/105/D/1744/2007, para 2.4). They further claim that the criterion of a “way of life” stipulated in the Constitution, forming “the basis of the four-fold classification of the State party’s population, is ... vague and undetermined,” and “by sanctioning persons who are unable or unwilling to categorize themselves on the basis of an arbitrary criterion, ... the law unjustifiably discriminates against them.” Although the claimants are not identified as being Chagossian themselves, this complaint indicates the nature of the “Best Loser System” and the strictness of ethnic categories in the Constitution that fail to account for everyone, particularly the exiled Chagossian population.

The second central allegation is the disproportionate experience of poverty and related social issues facing the Chagossian population in Mauritius. According to a written statement submitted to the Commission on Human Rights by the National Association of Criminal Defense Lawyers in 2005 (E/CN.4/2005/NGO/214), the population of Chagossian in Mauritius are “suffering extreme poverty, they are plagued by its associated ills” and “rates of crime, prostitution, substance abuse and mental illness are all higher in the exiled Chagossian population in Mauritius than the national average” (page 3).

The CERD, in its Concluding Recommendations referred to above, expressed concern about the Chagossians and their disproportionate vulnerability “to poverty and have limited access to employment, housing, healthcare, and education” (para 26). CERD recommended that the State party design and implement measures to “ensure that Creoles have effective access to employment, adequate housing, healthcare services, and quality inclusive education” (para 27). In the milieu of the Mauritian population, the Creole population of the country is often considered to include exiled Chagossians, being indistinguishable from other Afro-Creoles in Mauritius, but they are considered part of a subset of typically low-status and marginalized Creoles known as *ti-kreol* (small Creole).

The Working Group for minorities, in the report on their visit to Mauritius as mentioned above, observed that “most of the poorer households belong to the Creole population who are mostly descendants of the African brought to Mauritius as slaves” (para 10). According to this Working Group report, “it is estimated that many of the estimated 8,000 Chagossians/Ilois people live in poverty” (para 36). According to our research, the lack of integration efforts for exiled Chagossians upon arrival into Mauritius, lack of resources dedicated to the sustenance of the Chagossian population, and the increasingly restricted access to fishing and hunting, which was the main avenue by which indigenous Chagossians earned their livelihood, are some of the reasons for this continued state of disproportionate poverty and related issues.

Among the recommendations made to your Excellency’s Government during its most recent cycle of the Universal Periodic Review in 2018, it was recommended that the State “remedy the economic disadvantages and cultural, structural and informal disadvantages of Mauritian Creoles by implementing policies conducive to their economic development, with their full participation.” The Government of Mauritius supported this recommendation.

According to information received through the United Kingdom Chagos Support Association about a first-hand account of living conditions for exiled Chagossians in Mauritius:

There was no pollution on the islands. In Mauritius, because of the pollution to which our children are exposed, they are sick all the time. We are the poorest of Mauritius, so we live in the worst areas of the country and the most polluted ones too. In Chagos, it was different.

In Mauritius, where we live, there is no hygiene; we live in trash, so we cannot expect to live healthily. Our children are always playing in trash, with sick dogs around, in areas where there is no proper drainage and sewage system and where flies and mosquitoes breed. It is not surprising that most of our children are regularly infected.

Thirdly, the last central allegation is with respect to the racial discrimination faced by Chagossians in Mauritius. Although this is connected to the manifestations of systemic discrimination outlined above, information received indicates a specific experience of racial discrimination against the exiled Chagossian population. According to information received, there is a significant existence of negative stereotypes of people of African descent in Mauritius, stemming from the history of enslavement and the strictly institutionalized ethnic classifications of the country, which may have helped to create a sense of racial or ethnic hierarchy.

According to information received, racial stereotyping of Chagossians often targeted them as being uneducated and uncivilized. The CERD Concluding Observations, as referenced above, expressed concern about “the limited number of court cases dealing with racial discrimination despite information that such incidents persist in the State party” (para 18). The Committee also recognized instances of hate speech and racial profiling as particular examples of discrimination facing Creole communities in Mauritius, including the Chagossian population (para 20).

According to our research, the following is a first-hand account of the manner of racial discrimination faced by Chagossian peoples living in Mauritius:

It was difficult when we came here to look for work. Why? [Mauritians said:] ‘The *Ilois* [islanders] don’t know how to read. Don’t pay attention to them. They’re savages.’ That’s not easy. When we came to Mauritius we came to a foreign country. How to adapt? We’re humans too, so instead of treating us in that way, they could have welcomed us, but instead they were mostly bad ... They said ‘the *Ilois* have left their islands and come to take all the work here’. For getting work it was the same: when they knew that you are *Ilois* it was difficult, and they wouldn’t give you work except as a housemaid. So many people were mistreated. Dogs are treated better in Mauritius than we are.

Without making any judgement as to the accuracy of the information made available to us, the above allegations appear to be in contravention of articles 7 and 25 of the UN Declaration of Human Rights and article 2 of the International Convention on the Elimination of Racial Discrimination, of which your Excellency’s Government is a State Party.

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 officially recognize the Chagossian population as a distinct identity in the Constitution of Mauritius.
2. Please provide information regarding which strategies are being implemented to combat the disproportionate rates of poverty and related social issues, leading to a disparately low standard of living, faced by Chagossians in Mauritius.
3. Please provide information on what efforts are being taken to identify and offer effective recourse for the racial discrimination faced by Afro-descendent populations in Mauritius, particularly the Chagossian peoples.
4. Please provide information regarding the steps and measures that are being taken to meet the recommendations outlined in the 2018 Concluding Observations of the Committee on the Elimination of Racial Discrimination.

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.

Dominique Day
Chair-Rapporteur of the Working Group of Experts on People of African Descent

E. Tendayi Achiume
Special Rapporteur on contemporary forms of racism, racial discrimination,
xenophobia and related intolerance

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, the UN Declaration of Human Rights, the foundational body of international human rights instruments, stipulates that "all are equal before the law" and "all are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination" (article 7). It also states that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security" (article 25). The information received and allegations detailed above indicate that the exiled Chagossians residing in Mauritius are not being treated equally and, rather, are facing both systemic and individual discrimination. It indicates that the Chagossians are, as a minority within the larger population of Mauritius, are facing disproportionately lower standards of living.

Secondly, the ICERD defines racial discrimination as being "distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin, which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life" (article 1). According to the allegations received, the exiled Chagossians, who are of African descent and are indigenous to the Chagos Islands, are facing barriers on the basis of their identity that are withholding them from exercising their rights and freedoms.

We would also wish to call the attention of your Excellency's Government to article 2 of the ICERD, which stipulates that State Parties must "take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists."

We would also wish to call your attention to the Durban Declaration and Programme of Action (DDPA), resulting from the World Conference on Racism in 2001. The DDPA, although a non-legally binding instrument, represents an international recognition of the manners of racial discrimination continuing to face certain populations, including people of African descent such as the Chagossian population of Mauritius. The DDPA urges that States "facilitate the participation of people of African descent in all political, economic, social and cultural aspects of society and in the advancement and economic development of their countries, and to promote a greater knowledge of and respect for their heritage and culture."

We would also wish to bring the attention of your Excellency's Government to the Concluding Observations of the CERD, as referenced in relation to the allegations detailed above. These observations acknowledge and express concern for several of the above allegations, doing so with reference to the State Party's obligations under the ICERD.

We would also like to bring to your attention the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by General Assembly resolution 47/135 of 18 December 1992, and in particular to Article 1 which spells out the obligation of States to “protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories” and to “adopt appropriate legislative and other measures to achieve those ends”. Furthermore, we wish to bring to the attention of your Excellency, the International Covenant on Civil and Political Rights which your Excellency’s Government is a party to and in particular to Article 27 which specifies that “those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.