

# Britain rejects International Court of Justice order to return Chagos Islands to Mauritius

By Jean Shaoul  
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The International Court of Justice (ICJ) has ordered Britain to hand back the Chagos Islands, including Diego Garcia, to Mauritius “as rapidly as possible.” This follows its landmark ruling that the UK’s occupation of the Chagos Islands was unlawful.

The court held that the process of decolonization of Mauritius “was not lawfully completed” in 1968 and that “all Member States” had an obligation to cooperate with the United Nations “to complete the decolonization of Mauritius.”

The decision by an overwhelming majority of 13 to 1, with only the US voting against, follows the UN General Assembly’s decision in 2017 to refer the legal status of the Chagos Islands to the ICJ, the UN’s highest court.

The Chagos Islands make up the British Indian Ocean Territory (BIOT), located halfway between Tanzania and Indonesia. Diego Garcia, the largest island, is the site of one of the largest US airbases with some 4,000 US troops as well as British troops stationed there. The implication of the ICJ’s ruling is that the UK’s leasing of Diego Garcia to the US is illegal.

The ICJ’s ruling will be discussed at the UN general assembly, which has already voiced its opposition to Britain’s position by referring the issue to the ICJ in 2017.

The ICJ’s ruling has no binding status. The British government, determined to hold onto its colonial possessions, has rejected both the ICJ’s order and its unanimous ruling that it has jurisdiction because it relates to a UN process of decolonization, not a dispute between two states.

Speaking in Parliament, Foreign Office Minister Alan Duncan accused the UN General Assembly of a “misuse of powers” and setting a “dangerous precedent” by referring the issue to the ICJ in 2017. He

made the absurd claim that “The defence facilities on the British Indian Ocean Territory help to protect people here in Britain and around the world from terrorist threats, organised crime and piracy.”

The exact opposite is the case, with Britain allowing the CIA to use Diego Garcia as a “dark site” where it detained and tortured people and to refuel extraordinary rendition flights.

In February 2016, Britain also rejected a UN human rights panel ruling that WikiLeaks founder Julian Assange, who sought asylum inside the Ecuadorean embassy in London due to his persecution by the Swedish and British authorities, has been subjected to “arbitrary detention” in violation of international law.

For more than five decades, Britain has carried out one crime after another against the Chagossians—lying, ignoring court decisions, and covering up its actions in pursuit of its imperialist interests.

Harold Wilson’s Labour government granted Mauritius independence in 1968, but not before separating the Chagos Archipelago from Mauritius, in breach of UN resolution 1514 passed in 1960 banning the breakup of colonies before independence. It then forcibly evicted the vast majority of Chagossians from the archipelago and prevented their return.

The UK denied Mauritius complete independence on all its territories and the 1,344 islanders’ right to return to their homeland to provide the US with a military base, free of local residents. It signed a sordid deal with Washington that was kept secret from both Parliament and the US Congress. This granted the US a 50-year lease on Diego Garcia in return for an \$11 million discount on the US-made Polaris nuclear weapons system, which Labour had, when in opposition, pledged to scrap.

Starting in 1965, the islanders were illegally deported

to Mauritius and the Seychelles, another former British colony, where they have lived in desperately impoverished conditions, with a few being allowed into Britain. Since then, they and their descendants, who now number 10,000, have campaigned for their rights against a conspiracy of silence, obfuscation, temporising and lies.

In 1982, the UK paid Mauritius the derisory sum of £4 million for the archipelago on an ex-gratia basis. The 1,344 islanders, as a condition of accepting the funds, were required to renounce their right to return to the BIOT. In the 1990s, the few who settled in Britain finally won the right to British citizenship.

In 2000, representatives of the Chagossians came from Mauritius and the Seychelles to pursue a case against the Labour government of Tony Blair, winning a historic ruling that confirmed that the eviction was illegal. British government officials—duplicious as ever—declared that the indigenous citizens were free to return, but to the “outer homeland islands only.” While the High Court again ruled that the Chagossians were entitled to return, the Foreign Office won on appeal in 2008.

Investigative journalist John Pilger brought the plight of the islanders to the world’s attention with his film *Stealing a Nation* in 2004.

In 2009, the British Foreign Office went a step further and issued an order turning the Chagos archipelago into a “marine reserve” aimed at making resettlement impossible. This was revealed for the fraud that it was in December 2010, when WikiLeaks published a batch of secret cables from the British government in 2009, reassuring the Americans that “the former inhabitants would find it difficult, if not impossible, to pursue their claim for resettlement on the islands if the entire Chagos were a marine reserve.”

After the WikiLeaks revelations, the Chagossians launched an appeal against the declaration of the reserve. In a perverse decision, UK high court judges, Lord Justice Richards and Mr. Justice Mitting, refused to accept the Foreign Office documents as evidence, even though they were now in the public domain, claiming that it would “breach diplomatic privilege.” In effect, they ruled that evidence obtained from leaks or whistle-blowers was inadmissible, setting a dangerous precedent. In June 2013, the judges found against the Chagossians, arguing that the reserve was

compatible with European Union law.

In 2015, Mauritius won a ruling at the permanent court of arbitration at The Hague that Britain had acted illegally in the way it had exercised control over the Chagos Islands. It criticised London for failing to consult over establishing a marine reserve around the archipelago, but this changed nothing.

In 2016, after years of delays, the Foreign Office finally announced that Chagos islanders would not be given the right of return to resettle, arguing that the cost and US objections made it impossible. This was confirmed last week, when in a largely unreported ruling the Divisional Court found against the Chagossians’ legal challenge to the 2016 decision.

Chagos Refugees Group leader Olivier Bancoult and fellow native-born Chagossian Solange Horeau had challenged the legality of the government’s failure to permit resettlement, the decision to offer a £40 million “Support Package” to the Chagossian community and the “implicit decision” not to remove the ban on Chagossians living in their homeland. The judges stated, “This is not a case where fundamental rights are affected. ... This is because this Court has to proceed on the basis that the legal rights which existed previously have been extinguished at least by the 2004 Orders.”

The 2004 Orders-in-Council issued a new legal ban on Chagossians living in their homeland, after their successful legal challenge to the original deportation. The Orders were brought in without any parliamentary vote or scrutiny, and effectively exiled Chagossians for a second time.

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