Forum: Fourth Committee of the General Assembly

Issue: The Question of the Chagos Archipelago

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Position: Chair

Introduction

The Chagos Archipelago is a group of Islands located in the Indian Ocean, which is currently under the administration of the United Kingdom. Throughout the past years, the Islands have been the centre of political tensions between Mauritius, the United Kingdom and the United States of America with regards to the island’s sovereignty. After the Archipelago had been separated from Mauritius during their decolonisation in 1968, the United Kingdom had maintained their control over the islands in order to lend it to the United States who then used the islands to build a military base. However, Mauritius believes that the islands were rightfully theirs. This legal dispute has involved several United Nations bodies with the very recent Advisory Opinion by the International Court of Justice providing new ground for the claims that the United Kingdom is unlawfully administering the islands.

So far, the United Kingdom and the United States have shown little to no willingness to comply with the Advisory Opinion by the International Court of Justice, stating that the United Kingdom has to end their administration of the islands as soon as possible. One of the roles of the Fourth Committee of the General Assembly will be to set out how exactly the decisions in the Advisory Opinion can be enforced and how the process of decolonising the Chagos Archipelago will unfold.

The history of the islands has also raised questions regarding Human Rights violations, specifically the rights of the Chagossians who were expelled during the 1960s, so that a United States military base could be set up on the Archipelagos largest island, Diego Garcia.

Therefore, the overall issue can be divided into two main disputes, firstly the expulsions of the Chagossians and if they should be able to return or receive compensation and secondly whether the Chagos Archipelago is to be under British or Mauritian sovereignty.

Definition of Key Terms

Chagos Archipelago/Chagos Islands
The terms “Chagos Archipelago” and “Chagos Islands” are used synonymously used in this report and refer to the group of islands which is further described below and that is subject of the issue at hand.

**Chagossians**

The Chagossians are the ethnic group that is native to the Chagos Islands.

**Black site**

The term "black site" refers to a certain kind of prison that is usually outside of a state’s national borders and that is mostly used for interrogation, also by means torture. The term is mostly used in reference to United States’ facilities connected to the United States’ Central Intelligence Agency (CIA).

**British Indian Ocean Territory**

The British Indian Ocean Territory is a British Overseas Territory that consists of the Chagos Archipelago, including 58 islands with the largest one being Diego Garcia.

**Right to self-determination**

The right to self-determination is embodied in Article I of the Charter of the United Nations and stands for the right of all peoples to freely determine their political status and overall destiny.

**The Royal Prerogative**

A rather common definition of the Royal Prerogative in the United Kingdom describes it as “the special rights, powers, and immunities to which the Crown alone is entitled under common law” This refers to a variety of legal regulations with special regard to the British King or Queen.

**Background Information**

**Location of the Chagos Archipelago**

The Chagos Archipelago is located at around 1,000 miles/1,600 kilometres south of the Indian subcontinent. It is currently part of the British Indian Overseas Territory.

It consists of several smaller Islands. The biggest one with 17 square miles/44 square kilometres is Diego Garcia, which is a coral atoll at the southern edge of the Chagos Archipelago.
First population of the islands

The first inhabitants of the islands were brought there in 1793 as slaves to work on coconut plantations by the French and later British colonists. Most of them came from East Africa or Madagascar and came to the islands via Mauritius.

Chagos Archipelago becomes part of the United Kingdom

In 1814, France ceded the Chagos Archipelago as well as Mauritius and the Seychelles to Great Britain after the end of the Napoleonic wars in the Treaty of Paris. Throughout the following years, the islands became more populated with outer islands of the Archipelago being settled.

When the United Kingdom gave independence to Mauritius in 1966, they established the British Indian Ocean Territory and separated the Chagos Archipelago from Mauritius before granting it independence, thus the islands remained British.

Live of Chagossians before their expulsion
Chagossians often describe their live as quiet and peaceful before they were evicted by the British government. Most of them had built their livelihood upon agriculture and fishing. They had developed unique ways of life and adopted their own culture and Creole language.

**Eviction of the native Chagossian population**

In 1966, the United Kingdom and the United States of America agreed upon a deal which would lease the Chagos Archipelago to the United States for a 50-year time frame with automatic 20-year renewal. Condition for said deal was that the respective island needed to be without any civil residents. As a consequence, the United Kingdom expelled around 2,000 Chagossians from the Chagos islands in the following years. Several Chagossians who were expelled claim that they were threatened with violence. There are also reports that their pet dogs were burned before their eyes in order to make them leave their islands. Chagossians were brought to Mauritius and the Seychelles, though the larger portion of them to Mauritius.

**The United States' military base on Diego Garcia**

After the eviction of the Chagossian population, the United States set up a military base on the island Diego Garcia. The number of military members stationed on the island has varied over the past decades but has mostly varied between 2,000 and 5,000 people. The military base is of high strategical importance for the United States, as it is able to have outreach over the African East Coast and the West Coast of Pakistan and India through aircrafts. It has also been used to launch airplanes bombing Afghanistan and Iraq during the respective conflicts with the United States. It was also previously used as a black site by the United States. It currently plays a role in the wars in Syria and Somalia and would also likely have an impact if there was to be any violent escalation between Iran and the United States.

**Live of the Chagossians today**

After the British Overseas Territories Act granted Chagossians British citizenship if they were born between 1969 and 1982, many of them migrated to the United Kingdom in the hope of a better future, since many of them were living in poverty in Mauritius. Nowadays, the population of several generations of expelled Chagossians in the United Kingdom is around 3,000 people. However, they are still facing many of the problems they initially left Mauritius for, such as having to work poor-paying jobs or having to live in very small apartments that are not suitable for their families. The rather narrow window of age requirements in order to be granted British citizenship has also led to some families being divided as some of them were able to become British citizens while others weren’t. As British law only allows citizenship to be passed on abroad to the children of British citizens, the grandchildren of expelled
Chagossians are not able to become British citizens if they were not born in the United Kingdom. The Chagossians who were not able to become British citizens are often burdened by the high costs for their visa fees on top of their often already pressing financial situations. Some Chagossians have stated that they would prioritize being taken care of by the British government over returning to their homeland, as they believe that their lives on the Chagos Archipelago could not be same again after the set-up of the military base.

The Chagossians that are still living in Mauritius are still dealing with severe poverty, with some of them even being homeless.

**Legal disputes between the Chagossians and the United Kingdom**

After the expulsion of the Chagossians was brought to the court in 1999, the High Court of the United Kingdom ruled that the Chagossians had the right to return to their homeland and that their expulsion had been unlawful. This decision was, however, overturned by the British government in 2004 through an order under the principle of the Royal Prerogative. In 2006, the overturn of 2004 was declared illegal by the High Court, thus returning the right to return back to the Chagossians. This ruling was yet again appealed against by the British government and was first brought to the Court of Appeal, which dismissed the appeal. Following this decision, the British Secretary of State then appealed yet again before the British House of Lords which granted the appeal with a three to two vote.

As a consequence of that, the Chagossians went on to bring the matter to the European Court of Human Rights, which, in 2012, ruled in favour of the United Kingdom, even though it referred to the treatment of the Chagossians as “callous and shameful”. One of the reasons for their ruling was that the Chagossians had effectively given up all their claims regarding the right to return or further compensation in exchange for a compensation payment of 2,976 GBP to 1,344 Chagossians each. The Chagossians argue that they were not made aware of the conditions for that payment due to some of them not being able to properly understand the legal English in which the agreements were written (some of them lacked basic understanding of the language as they were not native speakers) and because nobody properly explained the conditions to them.

In 2015, the matter was brought to the United Kingdom’s Supreme Court which also ruled in favour of the United Kingdom with a three to two majority in 2016.

**Advisory Opinion given by the International Court of Justice**
In resolution 71/292, the General Assembly of the United Nations had on the 22\textsuperscript{nd} of June 2017 requested an advisory opinion by the International Court which it is allowed to do under Article 95 of the UN Charter on the two questions:

a. "Was the process of decolonization of Mauritius lawfully completed when Mauritius was granted independence in 1968, following the separation of the Chagos Archipelago from Mauritius and having regard to international law, including obligations reflected in General Assembly resolutions 1514 (XV) of 14 December 1960, 2066 (XX) of 16 December 1965, 20 December 1966 and 2357 (XXII) of 19 December 1967?"

b. "What are the consequences under international law, including obligations reflected in the above-mentioned resolutions, arising from the continued administration by the United Kingdom of Great Britain and Northern Ireland of the Chagos Archipelago, including with respect to the inability of Mauritius to implement a programme for the resettlement on the Chagos Archipelago of its nationals, in particular those of Chagossian origin?"

The Advisory Opinion in and of itself is not legally binding, however, it has significant implications as to what is considered compliant with international law. The report concluded two main things:

**Article 174.** "The Court concludes that, as a result of the Chagos Archipelago’s unlawful detachment and its incorporation into a new colony, known as the BIOT [British Indian Ocean Territory], the process of decolonization of Mauritius was not lawfully completed when Mauritius acceded to independence in 1968."

**Article 178.** "Accordingly, the United Kingdom is under an obligation to bring an end to its administration of the Chagos Archipelago as rapidly as possible, thereby enabling Mauritius to complete the decolonization of its territory in a manner consistent with the right of peoples to self-determination."

In short, this means that the United Kingdom has to discontinue its administration over the Chagos Archipelago under international law and that it has to do so as soon as possible.

It is also mentioned in the Advisory Opinion that it is the role of the General Assembly to set out the modalities of how said process is going to unfold.

**UN resolution 73/295, adopted on the 22\textsuperscript{nd} of May 2019**
On the 22\textsuperscript{nd} of May 2019, the United Nations General Assembly adopted a resolution which was in response to the Advisory Opinion by the International Court of Justice. It mentioned that the United Kingdom was supposed to withdraw its administration over the islands within a six-month’s time frame, and to facilitate the resettlement of the Mauritians of Chagossian origin in working together with Mauritius. The resolution was adopted with 116 votes in favour, 6 against and 56 abstentions. The United Kingdom has not met the deadline and still maintains its claim over the islands.

Major Countries and Organizations Involved

Mauritius

The Mauritian government regards the British administration of the Chagos Archipelago as colonial and thus requests that the Islands shall return to being under Mauritian sovereignty. It states that it was forced to give up the Chagos Archipelago in 1965 as a means to gain independence. It references to the advisory opinion by the International Court of Justice in which the court states that Mauritius had not been completely decolonised in 1968 and that the United Kingdom’s administration of the islands therefore is unlawful. Mauritius also emphasizes the demand made in General Assembly resolution 73/295 on the 22\textsuperscript{nd} of May that the United Kingdom shall withdraw their administration over the islands until the 22\textsuperscript{nd} of November 2019. It regrets that the United Kingdom does not intend to comply with that ruling and calls for it to respect the decision and comply with it.

United Kingdom

The United Kingdom has extended lease of Diego Garcia to the United States to 2036 and remains in the position that their administration of the Islands should be continued. It has stated that the location of the Chagos Archipelago is of high strategic significance to combat threats and that it is therefore important for maintaining security. The United Kingdom also stated that they would be setting up a $50-dollar financial package to improve livelihoods on the Chagos Archipelago. Their arguments with regards to specific elements of the conflict have been elaborated on in the section “Background Information”.

United States

The United States support the United Kingdom’s claim over the Chagos Archipelago and deems the seeking of an Advisory Opinion inappropriate, as it considers the matter to be a bilateral issue. They therefore believe that the power of the General Assembly to request an Advisory Opinion by the International Court of Justice was misused. They also emphasize the security argument made by the United Kingdom and said that the Advisory Opinion did not specifically state that Mauritius was sovereign over the Chagos Archipelago.
African Union

The African Union has expressed their unanimous and full support for Mauritius in regards to the sovereignty dispute over the Chagos Islands. In 2017, the African Union Heads of State stated that they were determined to implement the decolonisation of Mauritius. The African Union agrees with the ruling of the International Court of Justice and urges all member states to comply with it in respect to international law and the court itself. It also sees the decolonisation of Mauritius as a step towards overcoming the colonial past of the African continent.

Non-Aligned movement

Just as the African Union, the Non-Aligned movement has also expressed their support for Mauritius over the sovereignty question. It has urged the United Kingdom to end their administration over the Chagos Archipelago. It considers its removal from Mauritius during the process of it gaining independence as illegal, as it believes that the Chagos Archipelago is an integral part of Mauritius.

Timeline of Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Description of event</th>
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<tbody>
<tr>
<td>1793</td>
<td>The first colony on the Chagos Island is founded by French Colonists on Diego Garcia.</td>
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<tr>
<td>1814</td>
<td>Under the Treaty of Paris, France cedes the Chagos Islands to the United Kingdom.</td>
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<tr>
<td>1835</td>
<td>Slavery is abolished, Chagossians become “freedmen”</td>
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<td>1965</td>
<td>The Mauritius Council of Ministers agrees with the United Kingdom to detach the Chagos Archipelago from the Mauritian colony. During that time, Mauritius is still under British sovereignty.</td>
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<td>1966</td>
<td>The United Kingdom grants the United States access to Diego Garcia for 50 years and automatic 20-year renewal.</td>
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<td>1968 - 1973</td>
<td>Around 2000 inhabitants of the Chagos Archipelago are expelled by the United Kingdom, followed by the set-up of a military base by the United States of America on the largest island, Diego Garcia.</td>
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<tr>
<td>2000</td>
<td>The United Kingdom’s High Court deems the expulsion of Chagossians unlawful and gives them the right to return.</td>
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2002

2004
The ruling of 2000 is overturned under the principle of the Royal Prerogative

2006
The overturn of 2004 is deemed illegal by the High Court, giving Chagossians right to return back.

After the House of Lords grants an appeal by the British government regarding the ruling of 2006, the Chagossians bring their case to the European Council of Human Rights.

2008

2012
The European Council of Human Rights rules in favour of the British government.

2016
The United Kingdom’s Supreme Court rules in favour of the United Kingdom after the Chagossians brought the matter to the court in 2015.

February 2019
In an Advisory Opinion previously asked for by the General Assembly, the International Court of Justice declares the administration of the Chagos Archipelago as an unlawful act and that the decolonisation over said area had not been completed (more details in the section (“Background Information”)

Relevant UN Treaties and Events

- Request for an advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965, 22nd of June 2017 (71/292)
- Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965, 25th of February 2019
- Advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965, 22nd of May 2019 (73/295)

Previous Attempts to solve the Issue

The previous attempts to solve the sovereignty dispute are manifested in the two main resolutions by the General Assembly and the Advisory Opinion connected to them. Though their conclusion was clear and there was abroad agreement on the United Kingdom having to end their administration over the Chagos Archipelago, those efforts have not yet seen any remarkable results. This is due to the
United Kingdom’s unwillingness to comply with the ruling by the International Court of Justice as well as the resolutions agreed upon by the international community.

The efforts that were made towards achieving compensation for the Chagossians and their right to return have also mainly been carried out in court but have also not seen outstanding long-term success, as previous rulings in favour of the Chagossians were always overturned by higher legal entities.

At this point, bilateral as well as international dialogue relies upon whether the United Kingdom can be brought to complying with international law and the ruling by the International Court of Justice.

Possible Solutions

When thinking about possible solutions, delegates should always keep in mind the previous decisions made by the General Assembly as well as the Advisory Opinion. The agreement regarding the sovereignty over the Chagos Archipelago is so broad that the question of the resolution will likely be about how to achieve a decolonisation of the islands via an end of the United Kingdom’s administration and a return under Mauritian sovereignty.

A possible measure that could be taken in a resolution is also the recommendation of sanctions against the United Kingdom if they do not comply with the ruling of the International Court of Justice, however, this is a very harsh measure that should be considered carefully and not used light-heartedly. These sanctions could be of economic or diplomatic kind, or though means of sport (for example by excluding states that are not meeting their requirements form international sports events).

Besides the sovereignty question, delegates should also focus on what could be done to improve the present-day situation of the expelled Chagossians. Possible compensation measures such as financial aid could be discussed, even though the role of the countries in which the Chagossians currently reside in should not be forgotten, as they have a certain degree of responsibility towards them as well.

Bibliography


VI. “Did the UK Steal the Chagos Islands? | The Stream (Segment by Al Jazeera's 'The Stream' on the History and Current Events Regarding the Chagos Islands).” YouTube, YouTube, www.youtube.com/watch?v=Pz4jQYoSw7o.

VII. “European Court of Human Rights.” HUDOC, hudoc.echr.coe.int/eng#["itemid":{"001-115714"}].


X. “Governance.” British Indian Ocean Territory, biot.gov.io/governance/

XI. “Image of Diego Garcia.”

XII. Image of the Location of the Chagos Archipelago.


XV. “The Royal Prerogative in the UK.” Law Teacher, www.lawteacher.net/free-law-essays/constitutional-law/the-royal-prerogative-in-the-uk.php?__cf_chl_captcha_tk__=74290b143e161854233014ea0a8e5feb939ffed-1575661330-0-AQ64HrKJ8Wlb9Nm_vtBokexv4yZA8Mlo4i52s5_Vfd15xn-1ybCm4Bt7qw9Upbl56etuS-rQRAPNHORIl4XCm8S

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**Appendix or Appendices**

**Useful links**


III. Full text of the Advisory Opinion by the International Court of justice given on the 25th of February regarding the matter at hand: https://www.icj-cij.org/files/case-related/169/169-20190225-01-00-EN.pdf