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**Oktawian Kuc**

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**Adam Dirda**

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## **CONTRACTING DECOLONIZATION. IMPLEMENTING THE CHAGOS ADVISORY OPINION THROUGH UK-MAURITIUS AGREEMENT**

**Oktawian Kuc**

Faculty of Law and Administration  
University of Warsaw, Poland  
ORCID: 0000-0002-7654-1925

**Abstract:** This article examines the implementation of the International Court of Justice's 2019 Advisory Opinion on the Chagos Archipelago through the 2025 UK-Mauritius Agreement. It situates the Agreement within the broader trajectory of Mauritian decolonisation, characterised by sustained engagement with international adjudication alongside diplomatic negotiation. After outlining the historical and legal background to the Chagos dispute, the article analyses the Advisory Opinion and its legal consequences, including its reception by the United Nations General Assembly. It then offers a detailed assessment of the Agreement, focusing on sovereignty, security arrangements relating to the Diego Garcia military base, resettlement of the Chagossians, environmental governance, and financial provisions. While acknowledging significant criticism, particularly concerning limitations on resettlement and participation of affected communities, the article argues that the Agreement represents a rare example of the effective operationalisation of international judicial determinations through treaty-making. It concludes that the Chagos settlement, though imperfect, illustrates the potential of law-informed diplomacy in resolving protracted disputes.

**Keywords:** Decolonization; Chagos Islands; ICJ; Advisory Opinion; United Nations; UK-Mauritius Agreement.

**Resumo:** Este artigo examina a implementação do Parecer Consultivo de 2019 do Tribunal Internacional de Justiça sobre o Arquipélago de Chagos através do Acordo Reino Unido-Maurícia de 2025. Situando o Acordo na trajetória mais ampla da descolonização da Maurícia, caracterizada por um envolvimento sustentado com a adjudicação internacional a par de negociações diplomáticas. Após delinear o contexto histórico e jurídico da disputa de Chagos, o artigo analisa o Parecer Consultivo e as suas consequências jurídicas, incluindo a sua receção pela Assembleia Geral das Nações Unidas. Em seguida, o artigo apresenta uma avaliação detalhada do

Acordo, com foco na soberania, nos acordos de segurança relacionados à base militar de Diego Garcia, no repovoamento do povo de Chagos, na governança ambiental e nas disposições financeiras. Embora reconheça críticas significativas, particularmente no que diz respeito às limitações ao repovoamento e à participação das comunidades afetadas, o artigo argumenta que o Acordo representa um exemplo raro da operacionalização eficaz de determinações judiciais internacionais por meio da celebração de tratados. Conclui que o acordo de Chagos, embora imperfeito, ilustra o potencial da diplomacia informada pelo direito na resolução de disputas prolongadas.

**Palavras-chave:** Descolonização; Ilhas Chagos; TIJ; Parecer Consultivo; Nações Unidas; Acordo entre o Reino Unido e as Maurícias.

## 1. Introduction

The Chagos Archipelago, situated in the central Indian Ocean, represents one of the most complex and enduring episodes in the history of decolonization. The sovereignty dispute, persisting well into the twenty-first century, has long opposed the United Kingdom, as the former colonial power, and the Republic of Mauritius, an independent State, former colony, and member of the Commonwealth. Unlike many decolonisation controversies, the Chagos case has been shaped not only by diplomacy and politics, but also by sustained engagement with international and domestic judicial bodies. This judicialization of decolonisation culminated in the Chagos Advisory Opinion<sup>1</sup> of the International Court of Justice (ICJ), which provided an authoritative legal assessment of the United Kingdom's continued administration of the Archipelago (for discussion of the ICJ involvement in the decolonization, see Tzanakopoulos, 2025).

Against this background, the conclusion of the *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Mauritius concerning the Chagos Archipelago* (22 May 2025) marks a decisive moment. The Agreement purports to resolve all outstanding issues relating to sovereignty, security,

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1. International Court of Justice ruling of 25/02/2019. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. Advisory Opinion. In: ICJ Rep. 95.

resettlement, and financial arrangements, while giving effect to the legal determinations of international courts and tribunals. This article analyses the Agreement as an implementing vehicle of the Chagos Advisory Opinion and related international decisions. It begins by outlining the historical and legal context of the Chagos dispute, with particular emphasis on its decolonisation dimension. It then examines the ICJ Advisory Opinion and its legal consequences, before turning to a detailed analysis of the Agreement itself. The article concludes by assessing the broader significance of the Agreement for the relationship between international adjudication and diplomatic implementation in the law of decolonisation.

## 2. Chagos Archipelago and Decolonization

The Chagos Archipelago is a group of approximately sixty islands located in the central Indian Ocean, around 1,600 kilometres south of the Indian subcontinent and roughly equidistant between Africa and Indonesia. It includes Diego Garcia, the largest and most strategically significant island. Historically uninhabited until the late eighteenth century, the islands were settled with enslaved Africans under French colonial administration as a dependency of *Île de France* (Mauritius), primarily for the purposes of coconut plantations (Vine, 2011: 22-23). Following the Napoleonic Wars, sovereignty over the Chagos Archipelago passed to the United Kingdom, and the territory was administered as a dependency of the colony of Mauritius, as confirmed by the *Treaty of Paris*<sup>2</sup>. After the adoption of the *Charter of the United Nations*,<sup>3</sup> Mauritius, together with its dependencies, was included on the list of non-self-governing territories,<sup>4</sup> and the United Kingdom has been furnishing the UN General Assembly with information in accordance with Article 73 of the UN Charter.

Throughout the nineteenth and early twentieth centuries, the islands developed a distinct and permanently settled population, known today as the Chagossians or *Ilois*. This population, composed largely of descendants of enslaved persons and labourers from India (Gifford, Dunne, 2014: 37-38), developed a cultural identity and economic life centred on plantation labour, fishing, and local trade.

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2. *Treaty of Paris*, 30/05/1814. Article 8.

3. UNITED NATIONS. *Charter of the United Nations*. San Francisco: XV UNCIO 355; 26/06/1945.

4. UNGA Resolution 66(I): *Transmission of Information under Article 73e of the Charter*. 14/12/1946. UN Doc. A/RES/66(I).

The contemporary legal controversy surrounding the Chagos Archipelago has its origins in the process of Mauritian decolonization during the 1960s. In anticipation of independence, the United Kingdom sought to secure continued access to strategically significant sites in the Indian Ocean, in cooperation with the United States. In 1965, three years prior to Mauritian independence, the United Kingdom detached the Chagos Archipelago from the colony of Mauritius and constituted it as a separate Crown Colony, the British Indian Ocean Territory (BIOT).<sup>5</sup> This detachment was discussed during the Lancaster House talks, at which Mauritian political leaders were presented with the separation as a condition for the grant of independence. The principal motivation of the separation was the establishment of a joint UK-US military base on Diego Garcia, the largest island, which soon followed. The 1966 Exchange of Notes provided for the creation of the base, granting the United States extensive control over the island for an initial period of fifty years, with the possibility of extension.<sup>6</sup> To enable the construction and operation of the base, the United Kingdom undertook the removal of the civilian population of the Archipelago. The Diego Garcia base remains one of the principal strategic installations in the Indian Ocean, having been used most recently in operations against Islamic State/Daesh in the Middle East, as well as previously in Iraq and Afghanistan. At present, the base includes an airfield, a logistic hub, a deep-water port, and facilitates supporting communication and surveillance abilities.<sup>7</sup>

The forced displacement of the Chagossians involved the termination of employment, restrictions on return following medical treatment or travel, and, ultimately, physical removal from the islands. By 1973, approximately 1,500 Chagossians residing in the Archipelago had been resettled, predominantly in Mauritius, although some relocated to the Seychelles or the United Kingdom (Gifford, Dunne, 2014: 46), where small communities were formed, for example in Crawley. Notably, they have been consistently prevented from returning to the Archipelago.

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5. UK GOVERNMENT. *British Indian Ocean Territory Order 1965*. 08/11/1965. SI 1965 No. 1920.

6. UK GOVERNMENT. *Exchange of Notes constituting an agreement concerning the availability for defense purposes of the British Indian Ocean Territory (with annexes)*. London; 30/12/1966. 603 UNTS 274.

7. UK HOUSE OF COMMONS. *2025 Treaty on the British Indian Ocean Territory/Chagos Archipelago*: Research Briefing. 08/09/2025. p. 12.

The process was accompanied by severe hardship, including poverty, social marginalisation, and unemployment. The expulsion of the Chagossians has been widely criticised as a violation of fundamental human rights, including the right to home, family life, and freedom from arbitrary displacement, as well as the impediment of the right to self-determination. The Ilois and their descendants initiated numerous domestic legal proceedings in the United Kingdom,<sup>8</sup> which were largely unsuccessful and resulted only in partial acknowledgement of the injustice suffered. Nevertheless, these domestic proceedings contributed to the internationalisation of the dispute, leading firstly to an application before the European Court of Human Rights. In 2012, the ECtHR declared the claims inadmissible on the basis of prior compensation arrangements concluded before British courts.<sup>9</sup>

The detachment of the Archipelago has been consistently challenged on the ground that it violated the principle of territorial integrity of non-self-governing territories, as recognised under United Nations General Assembly *Declaration on the Granting of Independence to Colonial Countries and Peoples*.<sup>10</sup> This resolution marked a pivotal political moment in the process of decolonisation, contributing to the crystallization of the law of self-determination and reflecting what has been described as “a new normative consensus on the nature of sovereignty” within the international community (Mellish, 2023: 1317). Its paragraph 6 emphasized rather equivocally that “any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles” of the UN Charter.

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8. First case was brought in 1975 before the High Court in London by Michel Vencatassen, but was settled in 1982, with the UK Government providing a payment of GBP 4 million and Mauritius providing land, in exchange for the islanders relinquishing their claims; see International Court of Justice ruling of 25/02/2019. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. Advisory Opinion. In: ICJ Rep. 95, §§ 118-120. More recent cases include, *inter alia*, High Court of England and Wales ruling of 09/10/2003. *Chagos Islanders v Attorney General*. [2003] EWHC 2222 (QB), and UK House of Lords ruling of 22/10/2008. *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 2)*. [2008] UKHL 61. For further discussion, see Allen (2011) and Allen (2014).

9. ECtHR ruling of 11/12/2012. *Chagos Islanders v. the United Kingdom*. Delivered in App. No. 35622/04, available at <https://hudoc.echr.coe.int>.

10. UNGA Resolution 1514 (XV): *Declaration on the Granting of Independence to Colonial Countries and Peoples*. 14/12/1960. UN Doc. A/RES/1514(XV).

Moreover, the UN General Assembly has played a sustained role in addressing the question of the Chagos Archipelago question. As early as December 1965, Resolution 2066 (XX)<sup>11</sup> explicitly recognized the separation of the Chagos Islands as a contravention of the mentioned *Declaration* and invited the United Kingdom, as the administering Power, “to take no action which would dismember the Territory of Mauritius and violate its territorial integrity” prior to independence. Due to British non-compliance, the issue remained on the UN agenda for decades. In the Resolution 2232 (XXI), the General Assembly reiterated, including in relation to Mauritius, that the partial disruption of territorial integrity of colonial territories and the establishment of military bases and installations therein was contrary to the UN Charter.<sup>12</sup> The same conclusions were reaffirmed in the following year.<sup>13</sup>

### **3. Chagos Archipelago before the International Court of Justice**

The prolonged diplomatic deadlock and the growing frustration within the international community regarding the United Kingdom’s refusal to complete the decolonization of Mauritius eventually led to a significant breakthrough. On 22 June 2017, the UN General Assembly<sup>14</sup> requested the International Court of Justice, pursuant to Article 96(1) of the UN Charter, to render an advisory opinion on the following questions:

- (a) 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;
- (b) what are the consequences under international law arising from the continued administration by the United Kingdom 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.

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11. UNGA Resolution 2066 (XX): *Question of Mauritius*. 16/12/1965. UN Doc. A/RES/2066(XX).

12. UNGA Resolution 2232 (XXI). 20 /12/1966. UN Doc. A/RES/2232(XXI).

13. UNGA Resolution 2357 (XXII). 19/12/1967. UN Doc. A/RES/2357 (XXII).

14. UNGA Resolution 71/292: *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*. 22/06/2017. UN Doc. A/RES/71/292.

The resolution was adopted despite opposition from 15 States, including the United Kingdom, the United States, the Republic of Korea, New Zealand, the Maldives, Japan, and Australia, as well as substantial abstentions from 65 States<sup>15</sup>.

The Court delivered its advisory opinion on 25 February 2019. Notably, it was accompanied by only one dissenting opinion (Judge Donoghue), four separate opinions (Judges Cañado Trindade, Gaja, Sebutinde, Robinson), six declarations (Judges Xue, Tomka, Abraham, Gevorgian, Salam, Iwasawa) and one joint declaration by Judges Cañado Trindade and Robinson. Despite the multiplicity of individual opinions expressing different approaches to the legal issues at hand, the International Court of Justice was almost unanimous in its final dispositions<sup>16</sup>. It found that it had jurisdiction to give the advisory opinion as requested by the UN General Assembly and decided, in the exercise of its discretion, to comply with the request. With only one vote against, the Court expressed its opinion that:

“having regard to international law, the process of decolonization of Mauritius was not lawfully completed when that country acceded to independence in 1968, following the separation of the Chagos Archipelago”, and

“the United Kingdom is under an obligation to bring to an end its administration of the Chagos Archipelago as rapidly as possible”.<sup>17</sup>

Finally, it stated unequivocally that the cooperation with the United Nations to complete the decolonization of Mauritius is an obligation not only of the United Kingdom, but of all Member States of the UN.

In the Chagos Advisory Opinion<sup>18</sup>, the Court affirmed that the right to self-determination had crystallised as a rule of customary international law by 1965, and that respect for the territorial integrity of non-self-governing

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15. UNGA. Seventy-first session, 88th plenary meeting, Official Records. 22/06/2017. UN Doc. A/71/PV.88.

16. INTERNATIONAL COURT OF JUSTICE. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. Advisory Opinion. 2019 ICJ Rep. 95, § 183.

17. *Ibid.*

18. For more in-depth discussion of the Chagos Advisory Opinion and its substantial and procedural aspects, consult, for example: Allen (2020: 203); Kuźniak, Kabat-Rudnicka (2021: 45); Kattan (2020: 12); Webb (2021: 726); McCorquodale, Robinson (2020: 221).

territories constituted an essential component of that right.<sup>19</sup> Given that the Chagos Archipelago formed an integral part of the non-self-governing territory of Mauritius, the principle was applicable to the Islands at the time of their separation. The ICJ further concluded that the Lancaster House arrangements could not be regarded as the free and genuine expression of the will of the people concerned,<sup>20</sup> since Mauritius remained a colony at the relevant time and was subject to the authority of the UK as administering Power. Crucially, the Court held that the United Kingdom's continued administration of the Archipelago constitutes a wrongful act engaging its international responsibility. This unlawful act was characterised as having a continuing nature, arising from the initial detachment of the Chagos from Mauritius.<sup>21</sup> Finally, the Court also confirmed the *erga omnes* character of the obligation to respect for the right to self-determination, emphasised the special role of the UN General Assembly in the process of decolonization, including in determining the modalities of its completion in relation to Mauritius, and underlined the legal obligation of all Member States to cooperate with the United Nations for that purpose.<sup>22</sup>

The Chagos Advisory Opinion represents the most authoritative legal assessment of the dispute concerning the Chagos Archipelago, transforming what had been a political grievance into a question of continuing international legality. Although advisory opinions, unlike judgments in contentious cases, are not legally binding and do not enjoy *res judicata* effect pursuant to Article 59 of the ICJ Statute, they nevertheless constitute "juridical legal acts attributable to the UN and they embody the official legal position of the organization on the legal questions answered by the Court" (d'Argent, 2019: 1809). In this context, the persuasive power of the Court's reasoning stems from its judicial character, the legitimacy conferred by its impartiality and deliberative method (Aljaghoub, 2006: 121; Ago, 1991: 439-441), and its status as the principal judicial organ of the United Nations.<sup>23</sup>

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19. International Court of Justice ruling of 25/02/2019. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. Advisory Opinion. In: ICJ Rep. 95, §§ 147-162.

20. *Ibid.*, §§170-172.

21. *Ibid.*, §§ 177-179.

22. *Ibid.*, §§ 179-180.

23. UNITED NATIONS. *Charter of the United Nations*. San Francisco: XV UNCIO 355; 26/06/1945. Article 92.

Subsequent international jurisprudence has confirmed this understanding. In considering the legal effects of the Chagos Advisory Opinion, the Special Chamber of the International Tribunal for the Law of the Sea observed that “determinations made by the ICJ in an advisory opinion cannot be disregarded simply because the advisory opinion is not binding. This is true of the ICJ’s determinations in the Chagos advisory opinion (...). The Special Chamber considers that those determinations do have legal effect”.<sup>24</sup> Consequently, the ICJ’s pronouncements have been treated as dispositive of the territorial status of the Archipelago, notwithstanding their formally advisory character.

Following the delivery of the ICJ’s Opinion, the UN General Assembly adopted Resolution 73/295,<sup>25</sup> welcoming the Court’s findings and determinations and stressing that the functions of the Court are “essential to international law and justice and to an international order based on the rule of law”. The Assembly concluded that the Chagos Archipelago forms an integral part of Mauritius, affirmed Mauritius’s sovereignty over the Islands, and demanded that the United Kingdom withdraw its administration unconditionally within six months. Importantly, the resolution also called upon Member States, the United States, specialized agencies, and other international organizations to recognize Mauritius’s sovereignty over the Archipelago and to refrain from “recognizing, or giving effect to any measure taken by or on behalf of, the British Indian Ocean Territory”.

In response to this call, the United Nations, for example, updated its official maps to indicate the Chagos as forming part of Mauritius (United Nations, 2020). Another example is provided by the Universal Postal Union, which in 2021 acknowledged Mauritius as having authority over postal operations in relation to the Archipelago<sup>26</sup> and resolved no longer to register, distribute, or forward postage stamps issued by the BIOT (Universal Postal Union,

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24. ITLOS ruling of 28/01/2021. *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*. Preliminary Objections. Case No. 28, § 205.

25. UNGA Resolution 73/295: *Advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965*. 24/05/2019. UN Doc. A/RES/73/295.

26. UPU. Resolution C 15/2021: *Implementation of United Nations General Assembly resolution 73/295 on the advisory opinion of the International Court of Justice on the legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965*. Decisions of the 2021 Abidjan Congress. Berne; 2022.

2021). Similar objections have been raised against the United Kingdom in other international fora, including the Indian Ocean Tuna Commission and the Comprehensive Test-Ban Treaty Organisation.<sup>27</sup>

While the majority opinion of the International Court of Justice emphasized the role of the UN General Assembly in determining the modalities for completing the decolonization of Mauritius, other judges highlighted the importance of bilateral diplomatic engagement. In his declaration, Judge Tomka expressed that: “the process of decolonization in relation to the Chagos Archipelago can be successfully completed only in negotiations between the key actors, in particular between Mauritius and the United Kingdom”.<sup>28</sup> Subsequent developments suggest that his assessment has proven accurate.

#### **4. The UK-Mauritius Agreement and its Analysis**

Direct bilateral negotiations between Mauritius and the United Kingdom commenced in November 2022<sup>29</sup> with the aim of settling the question of sovereignty over the Chagos Islands, addressing security concerns related to the Diego Garcia military base, facilitating the long-awaited resettlement of the Chagossians, and resolving environmental and maritime issues. Importantly, the UK Government considered that the conclusion of a political agreement on sovereignty over the Chagos Archipelago was the only viable means of securing the continued operation of the military base.<sup>30</sup> This

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27. UK HOUSE OF LORDS. *UK-Mauritius Agreement on the Chagos Archipelago including Diego Garcia*: HL Paper 146. 25/06/2025. p. 10.

28. International Court of Justice ruling of 25/02/2019. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*. Advisory Opinion. In: ICJ Rep. 95 (Declaration of Judge Tomka), § 10.

29. UK PARLIAMENT. *British Indian Ocean Territory / Chagos Archipelago*. Statement UIN HCWS354. 3 November 2022. Available at: <https://questions-statements.parliament.uk/written-statements/detail/2022-11-03/hcws354> (accessed 28. Dec. 2025); Bagheri (2025).

30. In the *Explanatory memorandum: UK/Mauritius: Agreement concerning the Chagos Archipelago including Diego Garcia*, Command Paper No 1334, the Foreign, Commonwealth and Development Office explained: “The result of any judgment would create serious real-world operational impacts for the Base. It could affect everything from secure communications and overflight clearances, to securing contractors with consequential heightening costs, declining investment and a degraded facility. The previous UK government took the view that the long-term, secure and effective

position was consistent with the statements made by Mauritius as early as 2016 (Snoxell, 2018: 3, 8), indicating the possibility of the continuing use of the military base even after the transfer of sovereignty. On 3 October 2024, both Governments announced that they had reached “a historic political agreement”, characterising it as “a demonstration of our enduring commitment to the peaceful resolution of disputes and the rule of law”.<sup>31</sup> These diplomatic understandings were subsequently required to be translated into binding legal obligations through a treaty.

Accordingly, on 22 May 2025, the Prime Ministers of Republic of Mauritius and of the United Kingdom, Navin Ramgoolam and Keir Starmer, respectively, signed an *Agreement concerning the Chagos Archipelago including Diego Garcia*<sup>32</sup>. The Agreement was swiftly welcomed by several

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operation of the Base was therefore under threat and the situation was no longer sustainable. In turn, the UK’s unique relationship with the US and its international reputation was also threatened. Throughout 2021 and 2022, the UK sought to dissuade Mauritius from pursuing its legal campaign through a range of diplomatic and bilateral initiatives. These were unsuccessful and it became clear by mid-2022 that the only viable means to halt the process was to enter negotiations”.

31. UK GOVERNMENT. *UK and Mauritius joint statement*. 3 October 2024. Press release. Available at: <https://www.gov.uk/government/news/joint-statement-between-uk-and-mauritius-3-october-2024> (accessed 29 Dec. 2025).

32. *Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Mauritius concerning the Chagos Archipelago including Diego Garcia*. London and Port Louis; 22 May 2025. Mauritius No. 1 (2025). Available at: [https://assets.publishing.service.gov.uk/media/682f25afc054883884bff42a/CS\\_Mauritius\\_1.2025\\_Agreement\\_Chagos\\_Diego\\_Garcia.pdf](https://assets.publishing.service.gov.uk/media/682f25afc054883884bff42a/CS_Mauritius_1.2025_Agreement_Chagos_Diego_Garcia.pdf) (accessed 27 Dec. 2025).

international actors, including the United States<sup>33</sup>, India,<sup>34</sup> and the African Union.<sup>35</sup>

This treaty is intended to constitute “a full and final resolution of the differences that have arisen between them in relation to the Chagos Archipelago”, as stated in its preamble. The Agreement itself is a relatively concise instrument, consisting of 19 articles and six annexes, two of which take the form of charts. It is accompanied by additional diplomatic documents, namely an exchange of notes concerning the signature of the Agreement, and an exchange of letters concerning the arrangements regarding international organisations and implementation and interpretation relating to financing obligations.

The core provision of the Agreement is contained in Article 1, which provides that “Mauritius is sovereign over the Chagos Archipelago in its entirety, including Diego Garcia”. This clause confirms and effects the transfer of sovereignty over the islands to the Republic of Mauritius, thereby completing the process of decolonisation, as accentuated in the preamble, the Chagos Advisory Opinion, and multiple UN General Assembly resolutions.

Nevertheless, pursuant to Article 2, Mauritius, as the sovereign State, grants authorization to the United Kingdom to exercise all rights and authorities

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33. US DEPARTMENT OF STATE. *U.S. Support for UK and Mauritius Agreement on Chagos Archipelago*. Press Statement. 22 May 2025. Available at: <https://www.state.gov/u-s-support-for-uk-and-mauritius-agreement-on-chagos-archipelago> (accessed 29 Dec. 2025).

34. GOVERNMENT OF INDIA, Ministry of External Affairs. *Statement on Chagos Treaty signed between the United Kingdom and Mauritius regarding return of Mauritian sovereignty over Chagos Archipelago*. 22 May 2025. Available at: <https://www.mea.gov.in/Speeches-Statements.htm?dtl/39518/Statement+on+Chagos+Treaty+signed+between+the+United+Kingdom+and+Mauritius+regarding+return+of+Mauritian+sovereignty+over+Chagos+Archipelago> (accessed 30 Dec. 2025).

35. AFRICAN UNION. *Press Statement by H.E. Mahmoud Ali Youssouf, Chairperson of the African Union Commission on the Agreement Between the United Kingdom and the Republic of Mauritius on the Chagos Archipelago and the Establishment of a Strategic Partnership Framework*. 23 May 2025. Available at: <https://au.int/en/pressreleases/20250523/statement-auc-chairperson-agreement-between-uk-mauritius#:~:text=The%20African%20Union%20warmly%20welcomes,a%20new%20Strategic%20Partnership%20Framework> (accessed 31 Dec. 2025).

necessary for the long-term, secure, and effective operation of the base on Diego Garcia. The Agreement specifies that these rights are extensive and quasi-sovereign in nature. The UK shall exercise them in relation to Diego Garcia defined not merely as the base itself, but the entire island encompassing a 12-nautical-mile zone surrounding it, together with the airspace above and seabed and subsoil beneath. This broad authorisation reflects shared security considerations. In this respect, the Parties emphasised in the preamble the security of the wider Indian Ocean region and the importance of protecting international peace and security, and, within this framework, underscored the need to ensure the long-term, secure, and effective operation of the military base on Diego Garcia.

One of the most controversial aspects of the Agreement concerns the United Kingdom's unrestricted authority to control the conduct and deployment of armed operations and lethal capabilities from Diego Garcia, as provided in Section 1(b)(i) of Annex 1. This authority encompasses the launching of armed attacks against third States, a possibility indirectly envisaged by the Agreement, since Section 2 of the Annex 1 stipulates that Mauritius shall be informed "expeditiously" of any such attacks originating from the base.

At the same time, the Agreement does not establish explicit substantive limitations on the use of force or on the categories of weapons deployed and stored on Diego Garcia, particularly in reference to nuclear weapons. Notwithstanding, Article 4 contains a general clause requiring that the implementation and application of the Agreement, "including activities in relation to the Base", comply with international law. This general reference necessarily encompasses the universal norms governing the use of force, as codified in the UN Charter.

The duration of the authorisation granted to the United Kingdom is addressed in Article 13, which provides for a period of ninety-nine years, with the possibility of extension for further forty years. In addition, under Article 3(2)(c), the United Kingdom assumes fully responsible for the defence and security of Diego Garcia, and may further authorise the United States of America to operate the base jointly.<sup>36</sup>

Under Article 9, the United Kingdom is granted jurisdiction and control over Diego Garcia, including prescriptive, enforcement, and adjudicative jurisdiction in both criminal and civil matters. While Mauritius retains the right

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36. Article 2(5) of the Agreement.

to exercise criminal jurisdiction, this competence is limited to its nationals and to persons not connected with the operation of the military base. This limitation applies in particular, pursuant to Section 3 of Annex 2, to offences such as unlicensed commercial fishing and trafficking in arms and narcotics. In civil matters, the courts of the United Kingdom enjoy primary jurisdiction on Diego Garcia, while Mauritian courts are accorded limited jurisdiction over tort claims relating to injury or damage suffered by a Mauritian national or by the Republic of Mauritius, subject to traditional exclusions concerning State immunity and acts performed in the exercise of official duties.

Mauritius's sovereignty is further constrained in respect of areas of the Archipelago beyond Diego Garcia. Section 4 of Annex 1 requires Mauritius to conduct a special security review before approving or proceeding with any proposal for land development and the construction of maritime installation. This obligation effectively incorporates the United Kingdom into the decision-making processes concerning such developments and ultimately vests authority in the Joint Commission created under the Agreement, which, pursuant to Section 5 of Annex 3, operates on the basis of agreement between both Parties.

Control over, and access to, the natural and living resources of the Archipelago, and of Diego Garcia in particular, constituted another contentious issue. Full rights and title over the land and the territorial sea, including the seabed and subsoil, are vested in Mauritius. In this respect, Article 2(3)(f) indirectly affirms the Mauritian sovereignty over natural resources, including fisheries. Nevertheless, with regard to Diego Garcia, the exercise of these rights remains subject to decisions of the Joint Commission, which again require the consent of both Parties.

Sovereign rights over resources are closely linked to competence in the conservation and protection of the environment, including the marine environment. Notably, in 2011, Mauritius initiated arbitral proceedings against the United Kingdom before an arbitral tribunal convened under Annex VII of the United Nations Convention on the Law of the Sea (UNCLOS) regarding the unilateral establishment of a marine protected area (MPA) around the Chagos Archipelago. In its 2015 award, the tribunal held that the creation of the MPA violated relevant provisions of the UNCLOS, in particular by failing

to take into account certain legitimate interests of Mauritius.<sup>37</sup> Against this background, and with a view to both remedying that situation and to conserving one of the most biodiverse marine environments in the world, described as “the world’s largest contiguous undamaged reef area” (Sheppard, *et al.*, 2012: 232), the Agreement provides that Mauritius alone is entitled to establish and manage a MPA, while the United Kingdom undertakes to provide support and assistance in this regard.<sup>38</sup>

Financial arrangements constitute another significant element of the Agreement and are addressed primarily in Article 11. The United Kingdom undertakes to make annual payments, predominantly in consideration for the rights to operate the military base on Diego Garcia. These payments amount to £165 million annually for the first three years, followed by a fixed annual sum of £120 million, which will be indexed from the fourteenth annual payment onwards.<sup>39</sup>

In addition, the United Kingdom commits to capitalising a trust fund established for the benefit of Chagossians with a contribution of £40 million and to providing an annual grant of £45 million for a period of 25 years. The latter funds are intended to support projects that “promote the ongoing economic development and welfare of Mauritius and its people”<sup>40</sup>. However, the accompanying exchange of letters specifies that United Kingdom businesses are to be involved in the implementation of such projects “to the maximum extent practicable”.

Article 6 of the Agreement is of particular importance in that it opens the way for the resettlement of the original inhabitants of the Archipelago across its more than fifty islands, with the exception of Diego Garcia. This exclusion has become the principal focus of criticism, as the indigenous inhabitants of the largest island in the Archipelago will remain unable to return to their place of origin, to access their cultural and ancestral sites, or to safeguard

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37. Permanent Court of Arbitration ruling of 18/03/2015. *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)*. Delivered in Case No. 2011-03, available at <https://pca-cpa.org>. § 547.B. For more on the case, see Colson and Vohrer (2015: 845).

38. Article 5(2) of the Agreement.

39. UK GOVERNMENT. *Explanatory memorandum: UK/Mauritius: Agreement concerning the Chagos Archipelago including Diego Garcia*. Command Paper No 1334. Available at: <https://www.gov.uk/government/publications/ukmauritius-agreement-concerning-the-chagos-archipelago-including-diego-garcia-cs-mauritius-no12025> (accessed 28 Dec. 2025),

40. *Ibid.*

their heritage. Furthermore, some representatives of the Chagossian community have argued that they were not adequately consulted or meaningfully involved in the negotiations of the Agreement, and that, as a result, the right to self-determination of the Chagossian people was not sufficiently protected in the process.

More recently, the UN Committee on the Elimination of Racial Discrimination voiced its concerns regarding the Agreement in the context of its early warning and urgent action procedure.<sup>41</sup> It reiterated the concerns outlined above and further emphasised its view that the bilateral arrangement does not guarantee full reparation to the Chagossians. In this regard, the Committee warned that certain provisions of the Agreement might be inconsistent with the UN General Assembly Resolution 73/295 and, more significantly, called for suspension of the ratification process. While this criticism is, to some extent, well-founded, it does not acknowledge the distinction between issues of decolonization and sovereignty, which are addressed by the Agreement, and questions of individual reparation, which are of a different legal nature. Moreover, Mauritius does not represent all affected individuals. As noted earlier, some former inhabitants of the Archipelago are British citizens and have pursued claims before domestic courts in the United Kingdom. In addition, the European Court of Human Rights examined claims brought by Chagossians and rejected them on the basis that they had been raised and definitively settled in domestic proceedings.<sup>42</sup>

It also appears that the aspirations of the Chagossian communities based in Mauritius, supported by the Mauritian Government, and those residing in the United Kingdom have diverged over time. Members of the latter group have at times expressed support for remaining part of the United Kingdom, possibly with a degree of autonomy and the benefits associated with British citizenship, while those based in Mauritius have consistently insisted on the restoration of Mauritian sovereignty (Khan, 2023). Views also differ as to whether the indigenous inhabitants of the Archipelago were adequately consulted during the negotiation process (McKeon, 2025).

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41. UNITED NATIONS (CERD). Committee on the Elimination of Racial Discrimination, Decision 1 (2025). 02/12/2025.

42. ECTHR ruling of 11/12/2012. *Chagos Islanders v. the United Kingdom*. Delivered in App. No. 35622/04, available at <https://hudoc.echr.coe.int>. §§ 77-83.

Although the exclusion of Diego Garcia from the resettlement regime constitutes the most problematic aspect of the Agreement, this does not mean that Chagossians will be entirely denied access to the island. First, the Agreement itself envisages and encourages employment of future inhabitants of the Archipelago on Diego Garcia. Article 10 recognizes the role of the military base as an employer for resettled populations and provides that the United Kingdom shall employ suitably qualified Mauritian nationals “to the maximum extent practicable”. In this context, it is noteworthy that, in 2015, the Foreign and Commonwealth Office conducted a public consultation on potential resettlement in the Chagos Archipelago,<sup>43</sup> in which 70 per cent of Chagossian respondents seeking resettlement indicated a willingness to seek employment at the military facility or within the British Indian Ocean Territory administration. Second, the UK Government has previously organised visits to Diego Garcia for resettled inhabitants and their descendants and recent statements reaffirm a commitment to facilitating “a programme of heritage visits” for the Chagossian community.<sup>44</sup>

Finally, the Parties agreed that the Agreement constitutes the full and final settlement of all claims relating to the Archipelago, including financial claims. In this sense, the relevant provisions of the Agreement may be understood, even if only partially, as attempts to address questions of reparation for the colonial past and the displacement of the Chagossians. This approach broadly aligns with 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*,<sup>45</sup> as referenced by the UN Committee on the Elimination of Racial

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43. UK FOREIGN AND COMMONWEALTH OFFICE. *BIOT Resettlement Policy Review: Summary of Responses to Public Consultation*. 2015. Available at: [https://assets.publishing.service.gov.uk/media/5a80443ee5274a2e8ab4f28c/Summary\\_of\\_BIOT\\_Public\\_Consultation\\_Responses.pdf](https://assets.publishing.service.gov.uk/media/5a80443ee5274a2e8ab4f28c/Summary_of_BIOT_Public_Consultation_Responses.pdf) (accessed 28 Dec. 2025). Obviously, the results of the consultations must be analysed with a certain degree of caution as they were conducted by the UK government, which has a direct interest in the matter under discussion.

44. UK PARLIAMENT. *Chagossians and the Diego Garcia Base Treaty*. Statement made on 15 December 2025. Available at: <https://questions-statements.parliament.uk/written-statements/detail/2025-12-15/hcws1166> (accessed 29 Dec. 2025).

45. UNGA Resolution 60/147: *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and*

Discrimination, although the applicability of those principles to the present case remains highly contested. With regard to restitution, as already explained, Article 6 of the Agreement ultimately permits the return of Chagossians to the Archipelago, with the exception of Diego Garcia, a possibility further supported by financial arrangements and the establishment of the trust fund intended to facilitate and support future inhabitants of the islands.

In relation to compensation for wrongful acts under the law on State Responsibility,<sup>46</sup> as already stated, both domestic courts in the United Kingdom and the European Court of Human Rights have recognised that the settlement reached between the UK Government and the majority of islanders in the 1980s constituted effective compensation for material and moral damages arising from human rights violations. Nevertheless, it remains significant that the trust fund envisaged in the Agreement is designed specifically to benefit the Chagossian population. To this end, in December 2025 the Government of Mauritius introduced the *Trust Fund for the Benefit of Chagossians Act*<sup>47</sup>, which establishes the legal framework governing the fund and provides for predominant Chagossian management. Out of twelve members of the board, seven, together with the chairperson, are to be Chagossians appointed from the communities in Mauritius, Seychelles, and the United Kingdom. This institutional design constitutes an important safeguard aimed at ensuring that the funds benefit the affected population to the greatest extent possible.

As regards reparation in the form of satisfaction, the preamble to the Agreement includes an acknowledgement of “the wrongs of the past” and recognises that “past treatment of Chagossians has left a deeply regrettable legacy”. While these statements fall short of a formal public apology, the substantial financial commitments undertaken by the United Kingdom reflect at least a partial acceptance of responsibility.

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*Serious Violations of International Humanitarian Law*. 16/12/2005. UN Doc. A/RES/60/147.

46. See Articles 34 and 36 of UNGA Res 56/83: *Articles on Responsibility of States for Internationally Wrongful Acts*. 12/12/2001. UN Doc A/RES/56/83.

47. *The Trust Fund for the benefit of Chagossians Bill* (No. XXXII of 2025). Available at: <https://mauritiusassembly.govmu.org/mauritiusassembly/wp-content/uploads/2025/12/The-Trust-Fund-for-the-benefit-of-Chagossians-Bill-No.-XXXII-of-2025.pdf> (accessed 29 Dec. 2025).

### Conclusion

The history of the Chagos Archipelago illustrates a distinctive trajectory of decolonisation, shaped by sustained engagement with international adjudication and diplomacy. The UK-Mauritius Agreement represents the culmination of this process, translating declaratory judicial findings into binding treaty commitments. While the Agreement has attracted some legitimate criticism, particularly with regard to limitation on resettlement, it nevertheless constitutes a form of “contractual transposition” of the determinations of international courts and tribunals (Afogo, 2025). As confirmed in the preamble, the Parties reached consensus “*having regard to the decisions of international courts and tribunals, including the International Court of Justice, relating to the Chagos Archipelago*”. In addition to the Chagos Advisory Opinion, three other judicial decisions mentioned in this article have had a bearing on different aspects of the legal ramifications of the situation of the islands and on the ultimate outcome and consensus embodied in the Agreement. These include decisions of the European Court of Human Rights,<sup>48</sup> the UNCLOS Annex VII arbitration tribunal,<sup>49</sup> and the International Tribunal for the Law of the Sea.<sup>50</sup>

By operationalising the ICJ’s Advisory Opinion through a negotiated settlement, the Agreement offers a rare example of the effective interaction between international judicial interpretation and diplomatic implementation. In doing so, it reinforces the authority of international adjudication and the centrality of the international rule of law (Crawford, 2003: 24; Keith, 2015: 403),<sup>51</sup> albeit following considerable delay, while at the same time accommodating complex security and political realities. In this sense, the Chagos settlement might serve as a model, albeit an imperfect one, for the resolution of other protracted international disputes through law-informed diplomacy. Although the enthusiastic characterisations of the Agreement as

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48. ECHR ruling of 11/12/2012. *Chagos Islanders v. the United Kingdom*. Delivered in App. No. 35622/04, available at <https://hudoc.echr.coe.int>

49. Permanent Court of Arbitration ruling of 18/03/2015. *Chagos Marine Protected Area Arbitration (Mauritius v. United Kingdom)*. Delivered in Case No. 2011-03, available at <https://pca-cpa.org>.

50. ITLOS ruling of 28/01/2021. *Dispute concerning delimitation of the maritime boundary between Mauritius and Maldives in the Indian Ocean (Mauritius/Maldives)*. Case No. 28.

51. For a critical approach to a concept often equated with the international rule of law, see Mik (2024: 27).

“a fourfold win” (Overfield, 2025) may be overstated, the Chagos treaty is quintessentially diplomatic in nature, in that it offers a pragmatic response to the range of contested issues, balancing the interests at stake and seeking to strike an equilibrium between past wrongs and present necessities, between security and military concerns and human rights and self-determination considerations.<sup>52</sup>

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52. An insightful summary of the Agreement was offered by Philippe Sands (2025), counsel for Mauritius in the Chagos Advisory Opinion, who stated that it is “doing the right thing, for the Chagossians, the environment, national security and the rule of law, can truly be something to be proud of, not to belittle or attack”.

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