

# The British Year Book of International Law 1950

## The Chagos Archipelago Cases: Nature Conservation Between Human Rights and Power Politics

by Peter H. Sand\*

### Abstract

This note summarizes past and current case law concerning one of the last-born colonies of our times, the British Indian Ocean Territory (BIOT). Created—and depopulated—for the sole purpose of accommodating a strategic US military base, the territory has since generated extensive litigation in the national courts of the United Kingdom and the United States, as well as proceedings in the European Court of Human Rights, an ongoing arbitration under Annex VII of the Convention on the Law of the Sea (*Mauritius v. UK*) and a potential dispute over continental shelf claims (the United Kingdom, Mauritius and the Maldives). The principal actors, besides the governments involved, have been the Chagos islanders, whose exile from their home archipelago has now lasted more than forty years. The material analysed and referenced in this note covers a range of legal and historical sources documenting the underlying disputes.

**Keywords:** Decolonization; denuclearization; depopulation; fortress conservation; human rights; law of the sea; marine reserve; military base; trusteeship; Wikileaks.

### I. Imperial Recolonization in the Indian Ocean

The Chagos Archipelago is a cluster of coral atolls in the middle of the Indian Ocean, ceded to Britain by France under the terms of the 1814 Peace Treaty of Paris, as part of the "lesser dependencies of Mauritius".<sup>1</sup> The archipelago "is considered to have the most pristine tropical marine environment on the planet and to be by far the richest area of marine biodiversity of the United Kingdom and its Overseas Territories".<sup>2</sup> At the same time, its central geographical location in the

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1 May 30, 1814, 63 CONSOLIDATED TREATY SERIES 171 (Clive Parry ed., 1969). See Garth Abraham, *Paradise Claimed: Disputed Sovereignty over the Chagos Archipelago*, 128 SOUTH AFRICAN LAW JOURNAL 63 (2011), and Ibrahim Afshar, *Diego Garcia (British Indian Ocean Territory)*, in 3 MAX PLANCK ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW 93 (Rodiger Wolfrum ed., 2012).

2 See generally ROBERT SCOTT, *LAUNDRY: THE LESSER DEPENDENCIES OF MAURITIUS* (1961, rev. ed., 1976); RICHARD EISEN, *PLAK OF LAUNDRY: THE STORY OF DIEGO GARCIA AND THE CHAGOS ARCHIPELAGO* (rev. ed., 2008), and the informative website by Richard P. DUNNE, available at <<https://sites.google.com/site/thechagosarchipelago/facts/home>>.

3 Chagos Conservation Trust, submission to the HOUSE OF COMMONS SELECT COMMITTEE ON FOREIGN AFFAIRS, OVERSEAS TERRITORIES: SEVENTH REPORT OF SESSION 2007–08, HC 147-II (2008), at 354. Curr-

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