



The Tenth Whitehall Lecture

Chagos: The Last British Colony in Africa – A Short History of Colonialism, a Modern Crime Against Humanity?

Professor Philippe Sands QC

Professor of Laws and Director of the Centre on
International Courts and Tribunals
University College London

Given on Wednesday, 27th October, 2021



Cambridge University
Land Society

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To watch a recording of the live broadcast of the lecture and panel discussion please click on the link <https://www.youtube.com/watch?v=t2eKawaBIqQ> or view it via the YouTube link on the Cambridge University Land Society website - www.culandsoc.com

We acknowledge with thanks the generous support from our Corporate Sponsors Carter Jonas LLP and J Leon. We are also grateful for the generous support received from Cambridge Land Economy Advisory Board members - Leon Bressler, Marc Mogul, Mark Tagliaferri, Jon Zehner. CULS members - Ian Marcus OBE, Sir John MacTaggart and in addition - Alan Liebowitz, Mark Magidson - Exhibition Plus, Zack Winfield and Florian Grosset along with others who wish to remain anonymous.





THE WHITEHALL LECTURE SERIES

The Cambridge University Land Society launched this important series of lectures at the Royal Institution of Great Britain in March 2014, in recognition of the part its members play in contributing to public policy issues. Society members are mainly alumni of the Department of Land Economy, but also from many other academic disciplines in the University of Cambridge. Many play important and often distinguished roles in a wide range of public policy issues that are covered by the work of the Department.

The Department of Land Economy is a leading international centre teaching in a strong research-orientated environment. It applies particularly the disciplines of economics, law and planning for the analysis of the governance of land use, urban areas and interactions with other environmental resources. It seeks to address contemporary problems as well as more fundamental analysis. This includes both the role of governments in establishing regulatory frameworks within which land and related markets operate and the role of private organisations in owning, managing and developing physical and financial assets within those markets. This combination gives the Department of Land Economy a unique and valuable perspective of critical public and private issues.

This series of lectures seeks to discuss major aspects of public policy that in one way or another touch on these disciplines. The lectures provide a valuable public discussion forum based on papers given by eminent speakers and experts in their fields.

The lectures are published as occasional papers and can be found at www.culandsoc.com (see 'Articles' Tab)



WELCOME FROM THE VICE CHANCELLOR OF THE UNIVERSITY OF CAMBRIDGE



The Cambridge University Land Society is notable for its longevity and for its level of engagement with a wide range of contemporary issues. Over the last 50 years, the Society has built a membership base of nearly 1,000 alumni, spanning those who graduated from Cambridge in the 1950s who now hold senior positions in their fields, to current students and recent graduates of the Department of Land Economy. The number of disciplines and interests represented in the Society's membership – as well as the broad range of issues discussed at business and social events held by the Society each year – highlight what Cambridge does so well. We recognise that the challenges we face today are increasingly complex, multi-faceted and global in nature, and that they cannot be overcome with the expertise of just one area. This is why it is so valuable that the Land Society continues to bring together fresh and diverse perspectives from those studying and working in economics, land, planning, governance, finance, environmental resources and beyond on critical public and private issues. The Whitehall Lecture series represents a great opportunity to take this debate forward – and to build the Land Society's critical mass of expertise – and I wish it every success.

Professor Stephen J Toope, Vice-Chancellor, University of Cambridge



CAMBRIDGE UNIVERSITY LAND SOCIETY

The Cambridge University Land Society (CULS) is the largest and oldest departmental alumni Society in the University of Cambridge with over 1,000 members and is the alumni society for graduates and undergraduates of the University of Cambridge who either studied at the Department of Land Economy, The Department of Architecture, or having studied in other fields have since moved into the Property Profession. The Society arranges over 25 events a year, mainly Business Breakfasts in London, Lectures, Conferences, Seminars and site visits to some of the most important developments in the UK. Its events have attracted over 13,000 registrations in the last 10 years.

CULS members work in Architecture, Real Estate, Investment Banking, Climate Change and Sustainability, Planning, Regional and European Economic Research organisations. It has a strong membership across mainland Europe and in Asia as well as in the United Kingdom.

Amongst the Society's membership are the heads of many Real Estate Investment Banks, Public Property Companies, Property Investment Funds and Professional Firms and Institutions. The University is No. 2 in the UK and Europe and 4th in the World rankings.

The Society runs a number of important regular events including the Alistair Ross Goobey, Denman and Whitehall Lecture series and the Whitehall Group thought leadership policy dinners and lunches.

CULS provides strong student support organising careers events, a strong Mentoring programme for Graduates and Undergraduate students and funds academic and support posts within the Department of Land Economy, and the Department of Architecture.



THE WHITEHALL GROUP

The Whitehall Group, a forum of the Cambridge University Land Society (CULS) is a high level influential policy discussion group of well-connected University of Cambridge alumni, who are mainly members of CULS. It pulls together a previous legacy of high quality events over the last decade which is outside the mainstream of CULS activities, into a special group restricted in size of membership, of individual and corporate members. The Whitehall Group operates through a series of focused lunches and dinners in London for up to 25 attendees per meeting in order to maintain an exclusive, intimate and senior level gathering under the Chatham House Rule. The Whitehall Group also runs a distinguished series of public policy lectures – The Whitehall Lectures. Whitehall Group events cover a wide range of macro-economic business, social and educational issues of the day – The Economy, Foreign Affairs, Social and Health Policies, Infrastructure, Transport, Energy, Climate Change, Finance and Investment, Environment, Housing, Technology, Real Estate Investment and Finance, Urban Planning, Education and Politics.

Honorary Speakers

Dame Kate Barker DBE; Dr Ian Black; Sir Tony Brenton KCMG; Rt Hon.
Sir Vince Cable; Rt Hon. Lord Clarke of Nottingham, CH, QC, PC;
Prof. Douglas Crawford-Brown; Prof. Sir Ivor Crewe DL; Prof. Orlando Figes;
Prof. Sir Malcolm Grant, CBE; Dr Loyd Grossman CBE;
The Lord Hannay of Chiswick, CH, GCMG;
Prof. The Lord Hennessy of Nympsfield;
Rt Hon. Lord Howard of Lympne CH QC; The Lord Kerslake;
Rt Hon. Lord Lilley; Prof. Sir David Omand GCB; Lord Prior of Brampton;
Gideon Rachman; Sir Kevin Tebbit KCB, CMG;
Rt Hon. The Lord Willetts; The Lord Turnbull KCB, CVO



COLM LAUDER WHITEHALL GROUP CHAIRMAN



Colm Lauder is the Head of Real Estate at investment bank Goodbody. Colm leads Goodbody's UK and Ireland company coverage, covering stocks such as Great Portland Estates, Derwent London, SEGRO, and Hammerson. Colm is a top ranked real estate analyst according to Thomson Reuters' Extel survey. He is a graduate of Real Estate Finance (MPhil) from Cambridge University and Property Economics (BSc) from Dublin Institute of Technology.

DOUGLAS BLAUSTEN, LECTURE CHAIRMAN (HONORARY VICE PRESIDENT OF CULS)



Douglas Blausten is a Consultant to Carter Jonas specialising in Corporate Real Estate Strategic work, the Healthcare and heavy industry sectors. He runs his own Corporate Real Estate Strategic Consultancy Company. He was Vice Chairman of NHS Property Services and Chairman of its Asset and Investment Committee until November 2015. He was a Trustee of the Mental Health Foundation for 7 years, and a Centre Fellow of the Cambridge Centre for Climate Change Mitigation Research. He is a member of the Cambridge Land Economy Advisory Board and holds a number of executive and non-executive directorships. He is a Trustee of charities working in education and mental health and addressing social inequality and deprivation. Douglas is an Honorary Vice President of the Cambridge University Land Society.



THE 10TH WHITEHALL LECTURER
PROFESSOR PHILIPPE SANDS QC
PROFESSOR OF LAWS AND DIRECTOR OF THE CENTRE ON
INTERNATIONAL COURTS AND TRIBUNALS
UNIVERSITY COLLEGE LONDON



Philippe Sands, is a British and French lawyer at Matrix Chambers, and Professor of Laws and Director of the Centre on International Courts and Tribunals at University College London. A specialist in international law, he appears as counsel and advocate before many international courts and tribunals, including the International Court of Justice, the International Tribunal for the Law of the Sea, the European Court of Justice, the European Court of Human Rights and the International Criminal Court. He serves on the panel of arbitrators at the International Centre for the Settlement of Investment Disputes (ICSID) and the Court of Arbitration for Sport (CAS).

He is the author of seventeen books on international law, including *Lawless World* (2005) and *Torture Team* (2008). His book *East West Street: On the Origins of Genocide and Crimes against Humanity* (2016) has been awarded numerous prizes, including the 2016 Baillie Gifford Prize for Non-Fiction. His latest book is *The Ratline: Love, Lies and Justice on the Trail of a Nazi Fugitive* (2020) about Otto Wächter.

He was educated at University College School in Hampstead, London and read law at Corpus Christi College, Cambridge, and went on to achieve a first-class honours in the LLM course. He spent a year as a visiting scholar at Harvard Law School. From 1984 to 1988 Sands was a Research Fellow at St Catharine's College, Cambridge and the Cambridge University Research Centre for International Law (now the Lauterpacht Centre for International Law).

He was co-counsel for the Philippines in its maritime case against China and advises Mauritius about the status of the Chagos Archipelago.



INTRODUCTION TO THE 10TH CAMBRIDGE UNIVERSITY LAND SOCIETY WHITEHALL LECTURE BY LECTURE CHAIRMAN, DOUGLAS BLAUSTEN

This, the 10th Whitehall Lecture, continues the Cambridge University Land Society Whitehall Group's work as a public policy discussion forum looking at major macro-economic, socio-geopolitical and national political issues of public concern. It has and will continue to bring outstanding speakers to discuss these issues in a public forum and to publish their Lectures. They all directly touch upon how land ownership, uses and abuses, have had and continue to have, an effect on our lives and the lives of others, our rights, our climate, our health, our democratic and socio-economic values.

The large international representation at this Live Lecture Broadcast was approaching 250 people in some 20 countries, 30 cities around the world, including attendees from 37 universities and a number of brave writers and activists who have risked their lives and some who have indeed been in prison for defending Human Rights. At the date of publishing this Lecture there have been over 600 YouTube viewings and the numbers keep growing. All this attests to the importance of Professor Sands Whitehall Lecture and the undoubted impact of his acclaimed Writings and Court advocacy.

The Department of Land Economy sits in the school of Humanities in the University of Cambridge. It is the pioneer in a holistic approach to the study and research into land use and so it is entirely appropriate for the Society to present this Lecture, as in this holistic approach to land use and ownership, a great part of the fabric must be the rights of people – their human rights.

As mankind has evolved over millennia the rights of indigenous people to the lands they inhabit have needed by necessity to be protected by land borders in all their forms – acknowledged by international law, treaties and accepted by ethnic and settled traditions. Yet such borders and who governs those lands have been the subject of incessant wars and invasions by countries, tribes, empires and colonial forces – in their wake creating mass incarcerations, enormous refugee



migrations – over 28 million at the end of World War Two by way of example. Today, immigration flows across so many borders and challenge our democratic and moral codes, national and international laws.

Many are the claims of colonial powers that they act or have acted on behalf of humanity but the hypocrisy of many such statements is self-evident in so many abuses of human rights throughout history. Professor Colin Samson has written “Over the centuries, national pride and moral authority have been derived from the equation of Western civilisation with liberal virtues such as human rights★” and yet we see just during the lifetimes of many of us, countless cases of human rights abuse – crimes against humanity – in China against the Uighurs; by Saudi Arabia with the horrific beheading and dismemberment of Jamal Khashoggi, all over much of the Middle East, imprisonment without trial and torture by the USA at Guantanamo Bay, the Windrush scandal here in the UK, massacres in the Balkans, Syria, The Yemen and West Africa, and so on.

In the 1960’s and 1970’s when I was a teenager I personally witnessed and experienced the systematic degradation of the black peoples of South Africa through the white Apartheid regime, the legacy of the imperial and colonial settlers from Europe and the British Empire. I was a witness, as are some of those who are watching the live broadcast, to the results of massive abuses of human rights as people’s homes were demolished and they were removed so that they were out of sight of white people and their lands were expropriated; where black people were beaten and effectively restricted to a near pure carbohydrate diet leading to kwashiorkor to further subjugate them; where black people’s rights in law were abused by the legal system and thousands died at the barrel of the State’s guns or fell from heights to their death – pushed by agents of the state – Crimes Against Humanity – one consequence of colonialism and empire.

Last November in Courtroom 600 at Nuremberg’s Palace of Justice, where the infamous trials of senior Nazi officials opened in November 1945, and where the first prosecutions of Crimes Against Humanity took place, the 75th Anniversary of the Trials was commemorated in a ceremony. I was already thinking of inviting Professor Sands to give the next Whitehall Lecture and had written to two friends, Professor Horatia Muir Watt and her husband Judge Andre Potocki in Paris, to ask for a contact.



The reply and the starting point for this Lecture this evening in London was an email trail titled 'On the train from Nuremberg' from Judge Potocki. A former colleague of his on the ECHR was travelling with Professor Sands from that 75th Commemoration. As most of you will know, Professor Sands has written an extraordinarily powerful and shattering book – 'East West Street' about the Holocaust in Poland and the Nuremberg Trials. In the book he writes about the Potocki Palace a former home of the Potockis that was usurped and pillaged by SS General Otto Wächter the Nazi Governor of Krakow and Galicia District and a primary perpetrator of the Holocaust all as described by Philippe Sands.

And so through this email following a commemoration of the first prosecutions under of Crimes Against Humanity, was my first contact with Professor Sands.

On the 70th Anniversary of the Universal Declaration of Human Rights a UK Foreign Minister declared that "Britain is a global defender of human rights, fundamental freedoms and democratic values..." some months later the International Court of Justice ruled that the UK had violated the human rights of 2,000 residents of the Chagos Islands forcibly deporting them from their homeland....

I now invite Professor Philippe Sands, QC, Professor of Laws and Director of the Centre on International Courts and Tribunals at University College London, noted author and advocate, to give the 10th Whitehall Lecture.

Douglas Blausten
Whitehall Lecture Chairman



THE 10TH WHITEHALL LECTURE GIVEN BY
PROFESSOR PHILIPPE SANDS, QC
PROFESSOR OF LAWS AND DIRECTOR OF THE CENTRE ON
INTERNATIONAL COURTS AND TRIBUNALS
UNIVERSITY COLLEGE LONDON

CHAGOS: THE LAST BRITISH COLONY IN AFRICA
A SHORT HISTORY OF COLONIALISM,
A MODERN CRIME AGAINST HUMANITY

It is an honour to deliver this Whitehall Lecture, and I express my thanks to the Cambridge University Land Society and to its officers and staff, and in particular to Douglas Blausten.

The invitation may have been prompted by my work on crimes against humanity and genocide – academic writings, cases and books, *East West Street* and *The Ratline*, exploring the origins of these two international crimes at Nuremberg, a revolutionary moment: the first time a country's leaders were held to account before an international tribunal; the creation of new international norms and crimes, to protect individual and groups; recognition that no country or individual is above international law; a new approach to international relations, multilateralism and rules.

Matters of justice and injustice are at the heart of these books – a third is on its way, with a Chilean flavour – personal and political, and the role individuals can play. This evening, however, I will address another story, not entirely unrelated. It too concerns matters of responsibility and silence, of memory and identity, but closer to home, to London. For we too, happily distracted by the horrors perpetrated by others, seem to find it difficult to engage with the horrors of our own past, of colonialism and enslavement, of the continuing shadow of race and discrimination.



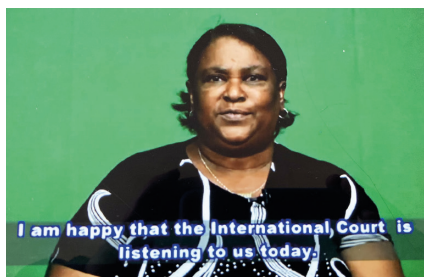


This story is about a place called Chagos, an archipelago scattered across a vast swathe of the Indian Ocean. I am not a neutral observer: for a decade I have acted as counsel for Mauritius on a place our government calls the ‘British Indian Ocean Territory’. HMG’s website jauntily describes “an archipelago of 58 islands covering some 640,000 sq km of ocean ... a British Overseas Territory ... administered from

London ... located approximately halfway between East Africa and Indonesia”. Access is restricted, the site informed, although owners of yachts are directed to how they may apply for “mooring permits”. The website doesn’t tell you about Chagos’ past, or that it is Britain’s last colony in Africa, or that Britain is in illegal occupation of the islands, or that its former residents were forcibly deported and wish to return. Britain hangs on, issuing colourful, beautiful stamps, like this one, released just a few weeks ago, the Royal Angelfish, adorned with an image of HM the Queen. The BIOT post office, or Stanley Gibbons, will not tell you that these stamps cannot actually be used. More about that later.

Let us begin with a first hand-account, a very short video, first shown in September 2018, in the Great Hall of Justice in The Hague. It is a witness statement, made for the judges the International Court of Justice: Madame Lisby Elysé offers a first-hand account of her removal from Peros Banhos in 1973, and her continuing desire to return.

I came to know Madame Elyse a few years ago, and we have stayed in touch. When she first told me her story it resonated, reminding me of other deportations, of my two great-grandmothers, transported from Vienna in July 1942. Like them,



Madame Elyse was allowed to take one suitcase. When we were at the Court, three years ago, she asked why it had taken so long to get to The Hague. ‘Justice is a long game’, was the best I could come up with.

The roots of her journey started before her birth. On Saturday August



9, 1941, the USS Augusta was moored in Little Placentia Sound, off the coast of Newfoundland, a British colony. On board, Franklin Delano Roosevelt and Winston Churchill quarrelled about colonialism and the future of the British Empire. The President told the Prime Minister that both countries must work together, to end 'a backward colonial policy'. FDR favoured an idea that would become the 'principle of self-determination'. They signed the 'Atlantic Charter'. Churchill called it 'a British production cast in my own words', setting out hopes for a 'better future for the world'. Churchill didn't realise he'd walked into Roosevelt's trap: paragraph three committed the two countries to 'respect the right of all peoples to choose the form of government under which they will live'. For Roosevelt, the Charter would end the British empire, offering the colonised a promise of their own nation-state. Churchill read the document differently, telling the House of Commons that the third paragraph was for those 'under the Nazi yoke, not for Britain's colonies'. That reading wasn't widely shared, particularly in Africa, where a young Nelson Mandela read the words as heralding new rights, "full citizenship" and end to discriminatory legislation.

One thing led to another. The Atlantic Charter's ideas were picked up by others, including China, Russia and the few African countries already independent. They influenced the drafting of the United Nations Charter, in the summer of 1945. Decolonisation was the 'hottest' subject in the 'hardest working conference I ever attended', Ralph Bunche wrote, the lead American negotiator on the colonial issue'. Bunche and the Americans largely succeeded – decolonisation became an aim of the UN Charter, Article 1 committing members to respect 'the principle of ... self-determination of peoples'. The language was revolutionary, although it didn't define 'self-determination' or resolve its legal status. Compromise offered a nod to the British and French, fearful about their colonies.

So began the process of decolonisation. For Britain, Transjordan went first, then India, with much bloodshed; the mandate in Palestine was terminated, then Burma and Ceylon gained independence; Newfoundland joined Canada; Libya passed from British and French control to statehood of its own; Eritrea merged with Ethiopia. And so on. Still, large parts of Africa remained under colonial rule, as France, Spain, Portugal and Belgium, and Britain too, held on to distant possessions and subjects. In Mauritius, the British governor, Sir Hilary Rudolph Robert Blood, remained happily ensconced in the 'pocket handkerchief paradise', as he called it.



Change remained in the air. In 1960, in Cape Town, Harold Macmillan evoked a 'wind of change' blowing through the continent. Sixteen African countries joined the UN that year, causing a British diplomat in New York to complain that decolonisation was largely based on emotion rather than reason, a form of 'colour prejudice in reverse'. It reflected, he mused in a report to London, an unjustified 'resentment of the darker peoples against the past domination of the world by European nations'.

As he wrote, 'self-determination' reached the floor of the UN General Assembly. It was autumn 1960, five years after 29 countries attending the Afro-Asian Conference in Bandung, Indonesia, created the Non-Aligned Movement and declared colonialism to be 'an evil' to be ended 'speedily and replaced by self-determination'. Resolutions circulated in New York, under the direction of Frederick Boland, an Irish diplomat who presided over the Assembly's deliberations. His daughter Eavan Boland, a renowned poet, would later write a famous poem, 'What is a colony?'

On the afternoon of 14 December 1960, eighty-nine countries voted in favour of resolution 1514, and none voted against. Nine countries abstained, including Britain. Resolution 1514 declared that 'All peoples have the right to self-determination'. It proclaimed a principle of 'territorial integrity', prohibiting 'the partial or total disruption of the territorial integrity' of a colonised country. Britain

explained its abstention: in favour of a 'principle' of self-determination, against characterising it as a legal 'right'. Mr Boland, on the other hand, was delighted, ending the session on an upbeat note: 'The Assembly may well congratulate itself on this accomplishment'.

The 'right of self-determination' came into being as the people of Mauritius urged Britain to give them independence. At the same time, the US was developing a new policy of placing military bases on distant atolls.

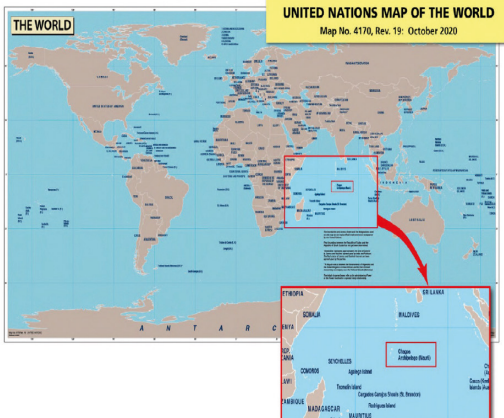
1514 (XV). Declaration on the granting of independence to colonial countries and peoples

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

6. 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 Charter of the United Nations.



A word about Mauritius. It became a British colony by the Treaty of Paris, signed in May 1814. This ended the Napoleonic wars, prohibited international trade in enslaved people, and ceded various French colonies to Britain. One was Île de France, known to the British as Mauritius. It came with dependencies, including



the Chagos Archipelago, about 2,000 kilometres away, closer to the Maldives, also a British colony.

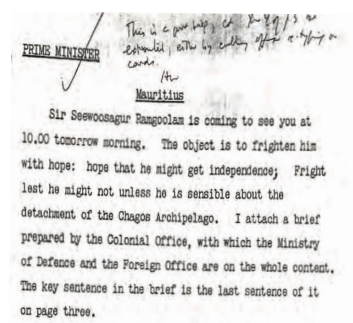
Chagos comprised some fifty-eight islands and atolls. They included Diego Garcia and, hundreds of miles to the north, Peros Banhos, named after Pêro dos Banhos, a Portuguese explorer who perished there in 1555 when his ship, the *Conceição*, ran

aground. The mariner Manuel Rangel recorded the event, and the travails of the 165 travellers – including two women and five Catholic priests – stranded on a flat, sandy island, populated with coconut trees, grasses, nesting turtles and thousands of birds, with drinking water nestled in shallow wells carved into the sand. The shipwrecked were extremely surprised to be met by some locals, a ‘group of black people’ with boats. The 1814 Treaty ceded all of Chagos to Britain, with its copra and oil producing plantations, worked by enslaved people introduced from a place we now call Mozambique. By the early 1960’s, as self-determination was written into international law, Chagos had about 2,000 inhabitants, most of whom worked for the *Société Huilière de Diégo et Péros*, descendants of the original enslaved inhabitants.

Britain resisted independence. Secretly, it acceded to an American request to make one of the islands – Diego Garcia – available on a long lease, as a ‘communications’ facility. The British decided to empty all of Chagos, to remove the inhabitants ‘at HMG’s expense’. We can do this, a Whitehall memorandum concluded, but must avoid the charge that we are ‘trafficking in Colonial territory’, or disregarding the interests of the inhabitants, or creating a new colony. Ever inventive, civil servants and lawyers sought to circumvent international law and resolution 1514. We can

do this, either by securing the consent of the Mauritians, or simply presenting them with a fait accompli.

The Americans asked the British to detach all of Chagos from Mauritius, although they would only use Diego Garcia. London agreed: having declined to engage in Vietnam, Harold Wilson offered Diego Garcia. It must be done 'as rapidly as possible', he concluded, and in utmost secrecy, to avoid scrutiny.



The Mauritians objected to detachment. Invited to London to discuss independence, on 23 September 1965 Wilson met the Mauritian leader at 10 Downing Street. A briefing paper told Wilson how deal with Mr Ramgoolam: 'The object is to frighten him with hope: hope that he might get independence; Fright lest he might not unless he is sensible about the detachment of the Chagos Archipelago.' You can return home 'with Independence or without it', Wilson told Ramgoolam; Diego Garcia can

be detached by Order in Council, or with your agreement. Ramgoolam proposed a lease, Wilson refused.

And so an 'understanding' was reached on 'detachment': Mauritius would get independence, with a little compensation, and a few trade concessions and fishing and other rights around Chagos. The British undertook that if the need for the facilities disappeared, the islands should be returned to Mauritius. Under pressure and reluctantly, a majority of the Mauritian Ministers in London agreed to the detachment under these pressured conditions.

On 24 September 1965 Britain announced independence for Mauritius. Behind the scenes, Colonial Secretary Anthony Greenwood prepared the way forward: 'Present the U.N. with a fait accompli', bypass Parliament, adopt an Order in Council, detach Chagos, create 'a separate colony', and do it now. There remained, however, one problem, a rather human one: what to do with the inhabitants? The British and Americans agree to 'concert tactics' and proceed on the basis of a lie:



they would tell the UN that Chagos had ‘virtually no permanent Inhabitants’. Not good enough, said Lord Caradon, Britain’s UN Ambassador: get rid of the ‘virtually’, as any population would cause Britain to be accused of violating its Charter obligations to the ‘permanent inhabitants’. The word ‘virtually’ was removed, and Britain told the UN that Chagos had no ‘permanent population’: the Chagossians were merely ‘contract laborers’. We must be ‘very tough’, a Foreign Office official recorded. ‘The object of the exercise is to get some rocks which will remain ours’, so Chagos becomes a place with ‘no indigenous population except seagulls’. The fiction opened up Britain’s fertile colonial imagination: ‘Along with the Birds go some few Tarzans or Men Fridays whose origins are obscure’, the official noted.

The Privy Council in London duly made an Order in Council, creating the ‘new British Indian Ocean Territory’, all the islands of Chagos. It changed Mauritius’ Constitution by removing Chagos from the territory, and it gave the ‘BIOT’ Commissioner the power to remove the entire population.

News reached New York, prompting an instant reaction. The General Assembly expressed ‘deep concern’ about the purported detachment, instructing Britain not to violate Mauritius’ territorial integrity. Britain ignored the resolution, a harbinger of future difficulties. It ignored a second resolution, the following year, and then a third, a year after that, decisions that declared disrupting the territorial integrity of Mauritius to be a violation of resolution 1514 and international law. Instead, Britain entered into an agreement with the U.S. declaring ‘BIOT’ to be British and available for the defence needs of both countries, to last fifty years,

until 2016, and extendable for another twenty, until 2036. No charge to the Americans, a most British gift.



In March 1968 Mauritius became independent, and a month later joined the United Nations. The Americans moved in to Diego Garcia. The comedian Bob Hope visited for Christmas, accompanied



by a troupe of seventy-five performers, including thirty-two ‘American Beauties’ and an Australian recently crowned as Miss World. As that old movie makes clear, the deportations had begun: starting in Diego Garcia, between 1968 and 1973, the entire population of Chagos was removed, some two thousand human beings deported to Mauritius, the Seychelles, and Crawley, near Gatwick Airport.

PART 2

In the years following independence Mauritius had other concerns, making its way in the world. Then in 1982, at the UN annual meeting, its Prime Minister called for the return of Chagos, illegally detached. The Chagossians too began to agitate, including litigation before the English courts, with some success: in 1998, Olivier Bancoult, Madame Elyse’s nephew, won a ruling from the Court of Appeal declaring the deportation illegal. Foreign Secretary Robin Cook agreed to their return to the outer islands. Then came 9/11. The US base at Diego Garcia was used as part of the Bush Administration’s program of ‘extraordinary rendition’ and the embrace of torture and, in



March 2003, to launch the war on Iraq. A year later, the British government reversed its decision to allow Madame Elyse and the other Chagossians to return to Peros Banhos and other outer islands. This caused protests in Port Louis, the British High Commissioner greeted by Chagossians with placards and claims.

This was how matters remained, until 2010. That spring, Foreign Secretary David Miliband announced Britain would establish, a vast and fabulous Chagos ‘Marine Protected Area’ over a quarter of a million square miles. The MPA would protect oceans and biodiversity and burnish Britain’s green credentials – in the run up to a general election – and cast a more favourable light on Chagos than its use in Iraq and the ‘war on terror’. It would ban fishing and all other human activity, and double the world’s coverage of protected oceans. ‘[T]he UK takes its international environmental responsibilities seriously’, Mr Miliband declared.



Conservation groups were thrilled. The Zoological Society of London hailed the proposal, along with Pew, a US group, and later the Chagos Conservation Trust and the Bertarelli Foundation. A ‘historic victory for global ocean conservation’, they declared. They were silent, however, about the Chagossians, who were disturbed by the announcement about the use of their homelands.

The government of Mauritius was equally concerned. Just a few months earlier, at the Commonwealth Heads of Government meeting, Gordon Brown had assured Prime Minister Ramgoolam that Britain would not act unilaterally. As Port Louis pondered options, Wikileaks unloaded millions of pages of US ‘Top Secret’ papers, some of which related to Chagos. Of particular note was a 2009 cable from the U.S. embassy in London to Washington, on the ‘MPA’. The document recorded the views of Mr Colin Roberts, director of overseas territories at the Foreign Office. He extolled the virtues of Mr Miliband’s plan – modelled on American sanctuaries in Hawaii and the Marianas – which would create ‘the largest marine reserve in the world’, and prohibit all human activity (except of course on and around the U.S. base at Diego Garcia!) Moreover, the proposal would create no difficulties for

provide the Chagossians warden jobs" within the BIOT. However, Roberts stated that, according to the HGM,s current thinking on a reserve, there would be "no human footprints" or "Man Fridays" on the BIOT's uninhabited islands. He asserted that establishing a marine park would, in effect, put paid to resettlement claims of the archipelago's former residents. Responding to Polcouns' observation that the advocates of

the local population, Mr Roberts added, because there are no inhabitants! ‘We do not regret the removal of the population’, the cable reported his words, so there would be ‘no human footprints, or ‘Man Fridays’, on BIOT’s ‘uninhabited islands’. The marine park would forever ‘put paid to resettlement claims of the archipelago’s former residents’, Mr Roberts explained. Marvellous! Environmental protection harnessed to stop the Chagossians from returning, forever.

This was a document of the kind to stiffen the backbone. The Chagossians lodged a new case at the High Court, Bancoult No. 4, challenging the ‘MPA’ on the grounds that it’s true purpose was to prevent the return of the Chagossians. The case would be rejected, like others, by the Supreme Court, but not before it threw up, in the process of discovery and in open court, a raft of government documents



that shone a bright light on Britain's actions between 1963 and 1973, behind the scenes. By now, KPMG was reporting that a return by the Chagossians was feasible – artisanal fishing, small coconut plots and ecotourism could provide jobs – and would have no adverse environmental effects. Yet the British government decided against resettlement, for reasons of 'feasibility, defence and security interests and cost'. The Chagossians mounted another legal challenge – Bancoult No. 5 – leave for appeal on that case is today pending before the Supreme Court.

Mr Miliband's announcement prompted Mauritius to reach out to lawyers. I became part of a legal team tasked with challenging Britain's actions under international law. Options were limited, because the FCO had closed off the possibility of Mauritius suing Britain directly at the ICJ, in a contentious case. So the path chosen was the UN Convention on the Law of the Sea, and arbitration proceedings to obtain a ruling that the MPA was illegal: because Mauritius had not been consulted; and because Mauritius (not the UK) was the coastal state in respect of Chagos, which had been illegally detached, which meant that Britain had no right to declare a MPA.

The path of justice is not speedy. Three years of pleadings, then a hearing in Istanbul (at the Pera Palas Hotel, no less, where Agatha Christie wrote *Murder on the Orient Express*), then an arbitral award. It was March 2015. The five arbitrators ruled unanimously that the MPA was established unlawfully, Britain having violated its obligations to Mauritius under the law of the sea, on fishing, marine resources and seabed minerals, and having failed to engage in proper consultations. On the other hand, by a narrow majority of three to two, the tribunal found it had no jurisdiction to decide on which country was the 'coastal state'. The majority concluded that the tribunal could not express a view on sovereignty over the Chagos islands, or the effect of resolution 1514 and its principle of territorial integrity. But two arbitrators disagreed: the arbitral tribunal could decide who was the coastal state, and stated that it was Mauritius: in 1965, Mauritius had not consented to detachment – Harold Wilson's 'frighten them with hope' was duress – so the whole enterprise was illegal and without effect.

The two dissenters – Judge Kateka of Tanzania, and Judge Wolfrum of Germany – had opened a new door. Their dissent – and the fact that the majority said nothing to support Britain's claim – caused Mauritius to ask again: 'Is there a route to The Hague?', to the ICJ, the UN's principal judicial organ, known as the World Court.



There was. The ICJ can give advisory opinions to the UN General Assembly. In 2010 we had advised against this option, concerned about the prospect of persuading a majority of the UN members to vote against the US and the UK, permanent members of the Security Council. But circumstances had changed. Two arbitrators found in favour of Mauritius' claim, and none spoke against it. And then, Britain voted to leave the European Union. As Ministers waxed lyrically about a new 'Empire 2.0' and alliances with Commonwealth countries, the reality was brutally different: Britain's international authority suffered an instant collapse. This was apparent in the UN General Assembly's General Committee, a body of 26 members able to place the Chagos issue on the General Assembly's agenda. Without EU votes or lobbying, Britain had no majority, so it was decided that if Britain and Mauritius couldn't resolve their differences by June 2017, the possibility of an ICJ advisory opinion on Chagos would be voted on.

There were talks, but no progress. In June 2017 the General Assembly debated Chagos, and decided to vote on a request for an ICJ advisory opinion. A draft resolution circulated on behalf of the 54 members of the Group of African States, supported by the Non-Aligned Movement. Britain opposed, supported by the US, whose ambassador, Nikki Haley, warned that it was "inappropriate" to seek an advisory opinion on a bilateral dispute, a vote would set 'a dangerous precedent'.

I travelled to New York to lobby with the Mauritian team, as Britain warned the UN was being used as 'a back door route to the Court', which risked 'compromising' it. I spent hours seated at a small table in the Indonesia Lounge, meeting delegates from dozens of countries, mostly legal advisers, some my former students. Over a full day, only two delegates – a genial Australian, and a sensitive Canadian – expressed any inclination to support Britain, albeit with little enthusiasm. Most delegates were from Africa, Asia and the Caribbean; none were hostile to Britain, all described pressure to vote against the resolution or abstain, none suggested they'd succumb. Many evoked Britain's continuing colonial instinct: patronising, entitled, hubristic. I learned much that day: the gap between how Britain sees itself, and how most others see Britain; the decline in authority; eyebrows at mention of the British Foreign Secretary, whose articles – replete with racist epithets – and racially charged put-down of President Obama were well-known and went down less well in New York than with the readership of the Daily Telegraph.



With the vote, the General Assembly's membership board lit up: green, in favour; red, against; yellow for abstention; black for absence. Resolution 71/292 passed with a big majority, 94 countries in favour, 16 against, 65 abstentions, including China, Russia and France, and 19 countries were absent. Only Croatia and Hungary of the EU supported Britain, along with only three of the fifty-four members of the Commonwealth. Not a single country from Africa, Latin America or the Caribbean voted with Britain. Global Britain? Not quite.

The General Assembly sent two questions to the Court. The first asked whether decolonisation had been lawfully completed, given the detachment of Chagos; the second addressed the consequences, if the Court ruled detachment to be illegal. The case had a name – 'Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965' – and a timetable: two stages of written pleadings, followed by hearings. By the time the case was heard, in September 2018, Britain had lost its judge on the Court, defeated in a closely fought election by the Indian candidate, a consequence of the toxic combination of Iraq, Chagos and Brexit. The first to address the Court was Sir Anerood Jugnauth, the last survivor of the Lancaster House conference in 1965. On that first morning the judges watched Madame Elysé's video, and they watched Madame Elyse, who sat in court, in the front row.

Britain followed, led by Solicitor-General (normally it would have been the Attorney General but he was conflicted, having previously offered advice that fully supported Mauritius' position). Mr Buckland set out the British arguments – the Court should not exercise its jurisdiction, and in any event the detachment was perfectly lawful. The Chagossians? The manner of their removal was 'shameful and wrong, he said, but not the fact it occurred. Madame Elysé's words were 'very moving', and he expressed 'deep respect' to the Chagossians, but nothing more. No commitment to right the wrong, no concession on a return. Compensation was paid, that was amends enough.

23 countries participated in the hearings. The UK and US were supported by Australia and Israel, pretty much the rest of the world – every continent – supported Mauritius. South Africa spoke with a special authority, as five decades earlier it took the position now being articulated by Britain, in respect of its illegal occupation of Namibia. As a former colony, we know about colonialism and deportations and





their continuing effects, counsel explained, and what it means when entire communities are taken from their homes ‘on the basis of race’. There is no such thing as part freedom, she concluded, and decolonisation can never be partial. The line was Mandela’s, whose bust stood on a pedestal right outside the Great Hall of Justice.

The Court gave its decision in February 2019. It had jurisdiction, and there were no reasons not to exercise it. It had all the facts it needed. The issues decided by the arbitral tribunal in the MPA case were different, so the principle of *res judicata* did not apply. The General Assembly’s questions were about decolonisation, not a bilateral territorial dispute, as Britain argued. ‘The Court cannot decline to give opinion’. Only two of the fourteen judges dissented on jurisdiction.

On the merits, the facts were clear. The British and Americans discussed, an ‘agreement’ was reached, Chagos was detached, independence followed, the Chagossians were ‘forcibly removed’. Was decolonisation completed? No. Resolution 1514 reflected the law already in 1965, and international law prohibited the disruption of the territorial integrity of a country without its consent. Did Mauritius consent? It did not. The detachment of Chagos ‘was not based on the free and genuine expression of the will of the people concerned’. The detachment was ‘unlawful’, a new colony was created, the decolonisation of Mauritius remained incomplete.

The consequences? Britain’s occupation of Chagos is illegal and the continued administration ‘a wrongful act’. Britain must end its administration ‘as rapidly as possible’. Chagos is part of Mauritius. The Court passed the baton to the General

Assembly, including the future of the Chagossians. Only one judge dissented, the American, but she did so only on grounds that the Court did not have jurisdiction, not the merits, on which she offered no support to Britain.

Three months later, in May 2019, the General Assembly adopted resolution 73/295. It welcomed the Court's opinion, affirmed Chagos was 'an integral part' of Mauritius, and ordered Britain to 'withdraw its colonial administration' within six months, by November 2019. The Chagossians could resettle, 'as a matter of urgency'. The UN, its members, the specialised agencies and all other international organisations, must recognise Chagos as part of Mauritius. They must also ignore all measures purportedly taken on behalf of the 'British Indian Ocean Territory'.

The resolution got an even bigger majority. Support rose to 116 countries, and those voting against fell from 16 to just 4 countries with London and Washington: Israel, the Maldives, Australia and Hungary. 'Embarrassing', the New York Times would report. The British Ambassador offered a last word. Depleted, crumpled, apparently tearful, she dissembled. Britain remained firmly committed to self-determination, she declared, just not for Mauritius: instead she evoked the Falklands, no sovereignty until those islanders so wish, she told the Assembly. How awkward: many in the room heard her to be evoking one rule for the whites, and another for the blacks.

PART 3

What came next? The Advisory Opinion and General Assembly resolution came in the dying days of Theresa May's government, landing in Foreign Secretary Jeremy Hunt's inbox. Whitehall advisers offered two options: the realists proposed that Britain, the US and Mauritius sort the matter out together on the basis of the legal ruling – the government may not like the advisory opinion, but it was what it was, Britain would have to live with it, and in any event Mauritius had publicly committed to the continuation of the U.S. base at Diego Garcia; the fundamentalists, pushed by the National Security Adviser, believed Chagos was so indispensable to national security that Britain should simply ignore the ruling, hunker down, and carry on as though nothing had happened.

The latter view prevailed. The British government said the Court was wrong and it had no doubt about its sovereignty: it should not have exercised jurisdiction,



had erred on the facts and the law, and in any event the Advisory Opinion was not binding as such on the UK. The Chagossians would not be allowed to return. The US offered support, Mr Trump declining the offer of a long term lease. Messrs Johnson and Mr Raab continued that policy, which remains the position of the British government today. The Labour Party has made clear that it would maintain Britain's traditional position of respecting for the rule of law, and would honour the ICJ decision and recognise the right of the Chagossian to return.

The decision makes Britain an illegal occupier of the territory of Mauritius, just as South Africa was in relation to Namibia after the ICJ's advisory opinion of 1971. Is that the end of the matter? It is not.

The advisory opinion has legal effects for the organ that requested it, and for the United Nations. Consequently, the UN has changed its map of the world, to show Chagos as part of Mauritius. Legal advisers of the UN and its specialised agencies have met and committed to give full effect to the ICJ Advisory Opinion and the UNGA resolution.

The Food and Agriculture Organisation of the UN has declined to recognise Britain's claim to be the Chagos coastal state for fisheries purposes. The Universal Postal Union has recognised Chagos as part of Mauritius, and decided that it will not register, distribute or forward any postage stamp issued by "the territory formerly known as the "British Indian Ocean Territory". It has also decided to remove all references to BIOT. This means that those lovely BIOT stamps – the ones that bear a portrait of HM the Queen – are without international validity.

The other specialised agencies will follow suit. We can expect the ITU to resolve that UK authorised telecommunications services operating from Chagos are unlawful. We can expect the ICAO to decide that the UK has no right to regulate flights in and out of Chagos, or over its vast territory. And so on. Step by step, Britain will have to confront reality.

Other international bodies are following suit, including courts. A few months ago the International Tribunal for the Law of the Sea in Hamburg ruled that the ICJ advisory opinion produced binding legal effects. How did that happen? One of the few countries to support Britain at the UN was the Maldives, which shares a maritime boundary with Chagos. Following resolution 73/195, Mauritius invited



its neighbour to negotiate a maritime boundary. The Maldives declined, invoking the UK's continuing claim. So Mauritius sued at ITLOS, asking the tribunal to delimit the maritime boundary. Maldives objected to the tribunal's jurisdiction: you cannot resolve a territorial dispute, it argued, citing the MPA arbitration. ITLOS rejected that argument: there is no dispute over sovereignty, the nine judges ruled, as there has been an intervening event: the ICJ has definitively resolved the matter. It's determinations "have legal effect", the Tribunal concluded, and Britain's so-called claim was "contrary to those determinations", worthless and meaningless. The Tribunal will shortly delimit the maritime boundary.

Britain's reaction to all this? It has chosen to bury its head in the sand and hope the problem will somehow go away. Following the ITLOS judgment, Mr James Heapey, a minister at the Ministry of Defence, repeated the mantra: "We have no doubt about our sovereignty ..." etc etc. Britain may have no doubt – and one is bound to wonder what has happened to the lawyers at the MOD and FCO – but 28 international judges and arbitrators have now addressed Chagos and not one of them – not one – has expressed support for Britain's claim: 23 have concluded that Mauritius is sovereign, and the other five have expressed no view on the matter, purely on jurisdictional grounds. Britain has made its arguments, and not persuaded a single international judge. Mr Heapey went further: the ITLOS judgment has "no effect for the UK or for maritime delimitation between the UK (in respect of [BIOT] and the ... Maldives", he told Parliament. Will London now negotiate its own maritime boundary with the Maldives, in parallel to the one delimited by ITLOS? 'Curiouser and curiouser', it might be said, Britain in Wonderland.

Britain's position is hopeless. Across the world there is incredulity. What happened to the country that believed in the rule of law, I am frequently asked. What happened to respect for international institutions? Yet the position on Chagos is part of a bigger picture, one in which the government treats judges and lawyers with contempt, sees international law as an inconvenience, and believes that international agreements (like the Northern Ireland Protocol to the Brexit Withdrawal Agreement) may be shredded at will.

A big price is being paid for all this. Trust and credibility are shot. A recent foreign policy paper – entitled "Global Britain" – signalled a shift away from Europe and toward the Indo-Pacific region. In it, the government asserted Britain's "absolute commitment to upholding the U.N. Convention on the Law of the Sea in all



its dimensions.” Absolute? Perhaps, just not in relation to Chagos. The world is a small place these days. Beijing and Moscow laugh, Europe weeps, others just feel embarrassed.

President Biden has called the “rule of law” one of America’s “most cherished democratic values”, a riposte to the Trump administration and a useful stick with which to beat China (on the South China Seas) and Russia (on Crimea). U.S. Secretary of State Antony Blinken castigates Beijing for making unjustifiable maritime claims in the South China Sea, for violating international law and ignoring law of the sea rulings (I was counsel for the Philippines in the case which found against China, so am well aware of China’s approach). Yet the Biden/ Blinken position of principle is undermined by its support for Britain on Chagos. One act of lawlessness does not justify another. If you want to weaponize the rule of law, first be sure your own house is in order. “A civilisation that plays fast and loose with its principles is a dying civilisation”, Aimé Césaire told us, in his Discourse on Colonialism.

The government is not alone in Wonderland. Private businesses too turn a blind eye. A Guernsey-based Bahrain-owned telecoms company called Sure offers telephone, broadband and other services to those living on BIOT, and nearby mariners, but without the benefit of a necessary Mauritian license. That is an offence, punishable by “a fine not exceeding one million rupees and to penal servitude for a term not exceeding 10 years”.

Football supporters amongst you will be familiar with advertisements and hoardings for Sportsbet.io, a betting company. You may not know that the domain name .io stands for ‘Indian Ocean’, nominally assigned to the British Indian Ocean Territory. The .io domain name is popular with tech companies, and more expensive than others. Someone is making a lot of money out of that illegality.

The Pobjoy Mint in Surrey blithely continues to issue and sell BIOT coins. Is Her Majesty aware that her image – alongside the Chagos anemone, also known as the clown fish – in being used with such lawless abandon?

The Zoological Society of London – patron HM Queen – is proud of marine conservation work in Chagos, yet it too ignores the international rulings. Still today it issues reports and sends out scientific expeditions, wrongly claiming that Chagos



remains a part of Britain. Its website describes “BIOT” as “one of the UK’s 14 Overseas Territories and one of the most amazing marine environments anywhere in the world”; proclaims the wonders of the marine protected area, and its work with the Bertarelli Foundation, “a global exemplar of science and conservation activities”; and touts its “team of 50 researchers from 14 institutions across the world studying all aspects of the animals and habitats of this amazing place”. All of this is totally illegal under international law, fully supported by the Foreign Office.

The FCDO has retained the services of another British company – MRAG – to provide scientific and technical advice on the management of the waters of Chagos and the illegal Marine Protected Area, including the provision of the single vessel that patrols a quarter of a million square miles. The executive Chair and founder of MRAG is the President of the Zoological Society of London, a former Chief Scientist the British Government. Lawlessness is safer in numbers, it might be said.

Let me be clear: such conservation work is hugely important, and I would fully support it if it was done lawfully, that is to say, authorised by the authorities of the only country recognised in international law to have sovereignty over the area. That country is Mauritius. All the ZSL needs to do is ask for permission. All the scientists need to do is ask permission. All the foundations that are thinking of giving grants need to do is ensure that the work supported by Mauritius.

And it is not just the illegality of these activities that is a concern. Britain’s illegal occupation of Chagos – with the support of companies like Sure and Sportsbet, io, of reputable organisations like the ZSL, the Chagos Conservation Trust and the Bertarelli Foundation – prevents Madame Elyse and other Chagossians from returning to the homes from which they were forcibly removed five decades ago. Business, science and conservation are, in effect, harnessed to support this act of wrongdoing. The 2009 US embassy cable made the point more clearly than I can: the environmental lobby is ‘far more powerful’ than the Chagossian advocates, Mr Roberts told the Americans. These organisations are being used to maintain an illegal occupation. The environment is being used to trump human rights.

Those engaged in authorising or engaging these activities – Prime Ministers, Foreign Secretaries, National Security Advisers, civil servants at the Foreign



(c) *Crimes against humanity*: namely, murder, extermination, enslavement, **deportation**, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.

Office and MOD and BIOT; the trustees of the ZSL, the Chagos Conservation Trust, the Bertorelli Foundation and others; the scientists conducting research,

and so many others – may want to reflect on their association with such international illegality, and on the human consequences of their decisions and acts.

Why? Because international law treats forcible deportation without lawful cause as an international crime. As I described in *East West Street*, when Hersch Lauterpacht put the concept of ‘crimes against humanity’ into the Nuremberg Statute and international law, in its Article 6(c), he and Robert Jackson included ‘deportation’, the forcible transfer of a group from one territory to another. The 1948 Universal Declaration of Human Rights recognises that each of us has the right ‘to return to his country’. The 1949 Geneva Convention explicitly prohibits the ‘forcible transfer’ of individuals or groups, or their deportation from one territory to another. Article 7 of the Statute of the International Criminal Court, adopted in 1998, defines a “crime against humanity” to include the “deportation or forcible transfer of population”.

One leading counsel has already prepared an opinion which concludes that it is strongly arguable that the forcible removal of the entire population of the Chagos Archipelago was a ‘crime against humanity’. Human Rights Watch is looking at the Chagos situation under international criminal law. The refusal to allow them to return to their homes may also be a ‘crime against humanity’. In November 2019, three judges at the ICC authorised the prosecutor to investigate the refusal of Myanmar to allow the Rohingya to return from camps in Bangladesh to their homes, on the basis that this amounted to a ‘crime against humanity’.

The mistreatment of the Chagossians is a continuing act. What began with forceable removals in the late 1960s, continues through the maintenance of the expulsions over five decades, to the refusal to allow them to return, all the more so following the determinations by the ICJ, ITLOS and General Assembly.



So what is to be done? It would be good if there could be more talking, on the basis of the law, for there is a simple solution, one that addresses the intertwined matters of the integrity of Mauritius, the environment, national security and the rights of Chagossians. Mauritius, Britain and the US have close and excellent relations, and India can play an important role.

The sovereignty of Mauritius over Chagos is now a given under international law. That ship has sailed. It is recognised by international courts and tribunals and organisations, and by virtually every country in the world.

Mauritius has long made clear that it supports the US base at Diego Garcia. It has offered the United States a 99 year lease over Diego Garcia, one providing a long-term security that is lacking under the current arrangement, which is unlawful and expires in 2036. It has also offered a role to the UK if it wants one.

Mauritius has made clear that it supports marine conservation for the whole of Chagos, that it would be willing to work with the British government, as well as with the ZSL and Chagos Conservation Trust and others. It has entered into an agreement with France for the environmental co-management of nearby Tromelin.



Which leaves the Chagossians. They are a large group – I first met them a decade ago, at the RGS – many individuals with a range of views and hopes and desires. Many want to be able to return to the outer islands of Chagos, including Peros Banhos, or to work at the US base, alongside other nationals working there today. The outer islands sustained human habitation for more than two centuries, and they can today. KPMG agrees. Moreover, they are hundreds of miles from Diego Garcia, posing no security threat whatsoever. Writing for the majority in one of the Bancoult cases before the Supreme Court, Lord Hoffmann made clear that the contrary view, that allowing the Chagossians to return would create a threat of terrorism, was ‘fanciful speculation’.



There is a win-win-win outcome. Security, human rights, the marine environment and respect for sovereignty and territorial integrity can all be assured. The rule of law, treaties and UNCLOS are promoted. Charges of hypocrisy and double standard can be cast to the wind. This is not a zero sum game.

It is time for Britain to lower the flag on its last colony in Africa, and to do so honourably. The alternative will be a stain on Britain's reputation and authority. It will undermine its ability to challenge the lawlessness of others. It will encourage the lawlessness of others. It will promote the view that Britain remains imbued with a colonial instinct. It will hardly not assist Britain as it seeks to make its way in an increasingly complex world.

Allow me to conclude with an unlikely connection between Lviv, the city that is at the heart of East West Street, and Chagos. A few months ago I received a letter from America. 'I'm a 79 year old survivor of the Holocaust, born in Lvov in January 1942 and come to the US in mid-1946', the writer explained. Only three members of the Lvov family survived the war, the rest perished under the command of The Ratline's Otto Wachter. 'Thank you for your brilliant book' he added, 'it helped me better to understand who I am.'

We exchanged correspondence. I learned that he was a retired US Navy pilot. Had he ever been to Diego Garcia? Actually yes, he replied, several times. 'We called it "Boys' Town" ... there wasn't much there then. Tents, a mess hall, &c. The big excitement was watching baby seagulls learn to fly.' He sent a couple of photographs asking me to credit Lieutenant General Steve Newberry of the US Navy, which I happily do.

More letters followed. Was he aware of those who were removed? 'Dimly', he replied. 'We knew it had once been populated ... Candidly, it's political history didn't interest us.' But now his interest was piqued, and he wanted justice to be done. 'I see the return of these islands to their original inhabitants as one of the very last stages of the decolonization of the British Empire', he explained. 'The Brits always were high-handed in dealing with colonial people ... just look at American history for an example of that'.

Plus ça change, plus c'est la même chose. In the meantime, Madame Elyse waits, patiently and with great dignity.



PANEL

Panel Moderator

Gideon Rachman is the Chief Foreign Affairs Commentator of *The Financial Times*. In 2016, he won the Orwell prize for political journalism. In the same year, he was awarded with the Commentator Award at the European Press Prize awards.

He was born in England, son of Jewish South Africans, but spent some of his childhood in South Africa. His uncle, Ronnie Hope, was news editor at The Jerusalem Post. He read History at Gonville and Caius College, Cambridge, gaining a first class honours degree.

He began his career with the BBC World Service in 1984. From 1988 to 1990, he was a reporter for *The Sunday Correspondent*, based in Washington DC. He spent 15 years at The Economist; first as its deputy American editor, then as its South-East Asia correspondent from a base in Bangkok. He then served as *The Economist's* Asia editor before taking on the post of Britain editor from 1997 to 2000, following which he was posted in Brussels where he penned the Charlemagne European-affairs column.

At *The Financial Times*, Gideon writes on international politics, with a particular stress on American foreign policy, the European Union and geopolitics in Asia. He maintains a blog on the FT site.

In August 2016, Gideon published a book entitled *Easternisation - War and Peace in the Asian Century*. The book argues that 500 years of Western domination of global politics is coming to an end as the result of the rise of new powers in Asia.

Gideon moderated a major Seminar for the Cambridge University Land Society on Foreign Policy with the Rt Hon. Lord Hurd, Sir Kevin Tebbit, and Sir Michael Palliser and has been a guest speaker at the Whitehall Group.



Panel Members

Professor Bonny Ibhawoh holds the Senator William McMaster Chair in Global Human Rights at the University of Ontario, Canada. He teaches Human Rights teaches Human Rights History and African History in the Department of History and the Centre for Peace Studies. He also teaches in the McMaster Arts & Science Program and the Institute on Globalization and the Human Condition. He is the Director of the McMaster Centre for Human Rights and Restorative Justice. He has taught in universities in Africa, Europe and North America and was a Human Rights Fellow at the Carnegie Council for Ethics and International Affairs, New York; Research Fellow at the Danish Institute for Human Rights, Copenhagen and Associate Member of the Centre for African Studies, School of Oriental and African Studies (SOAS), University of London. Dr Ibhawoh currently chairs the United Nations Expert Mechanism on the Right to Development in the Office of the United Nations High Commissioner for Human Rights, Geneva.

He is the author of *Human Rights in Africa* (Cambridge University Press, 2018); *Imperial Justice* (Oxford University Press, 2013) and *Imperialism and Human Rights* (SUNY Press, 2007). Professor Ibhawoh is a member of the College of New Scholars of the Royal Society of Canada, a recipient of the McMaster Student Union Teaching Award and the Nelson Mandela Distinguished Africanist Award.

Dr. Jeanne Morefield is Associate Professor of Political Theory; Fellow, New College, University of Oxford. Dr. Morefield is also a Fellow at the Quincy Institute for Responsible Statecraft, Washington D.C. Before coming to Oxford she taught as Associate Professor of Political Theory at the University of Birmingham, Professor of Politics at Whitman College, and was a Professorial Fellow at The Institute for Social Justice, Australian Catholic University. Between 2016 and 2019 she served as Co-President of the Association for Political Theory. During the 2021-2022 academic year, Dr. Morefield is holding a British Academy and Leverhulme Trust Senior Research Fellowship.

Dr. Morefield's research and writing have a particular focus on the relationship between liberalism, imperialism, and internationalism in Britain and America. She is the author of *Covenants Without Swords: Idealist Liberalism and the Spirit of Empire*; *Empires Without Imperialism: Anglo American Decline and the Politic of Deflection*.



Professor Colin Samson is author of *The Colonialism of Human Rights: Ongoing Hypocrisies of Western Liberalism* (2020). The book examines the paradox that the nations that credit themselves with formulating universal human rights were colonial powers, settler colonists and sponsors of enslavement. He points out that many liberal theorists supported colonialism and slavery, and how this illiberalism plays out today in selective, often racist processes of recognition and enforcement of human rights.

Prior to the University of Essex, Professor Samson taught at the University of California at Berkeley, the University of Arizona, and the University of Wyoming. Over two decades, he has been working with the indigenous Innu peoples of the Labrador-Quebec peninsula. The early phases of this work involved a human rights campaign with Survival International, resulting in the publication of the widely-cited report *Canada's Tibet: the killing of the Innu* in 1999. His book on the effects of forced assimilation, *A Way of Life that Does Not Exist: Canada and the Extinguishment of the Innu* was published in 2003. During 2015 and 2016 he was Eminent Visiting Professor at the American Indian Studies Centre, University of Wyoming, USA. Whilst there he participated in helping the water protectors resisting the oil pipeline traversing Sioux territory at Standing Rock.



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Florian Grosset who has supplied a platform backdrop image for this Lecture. Florian is the author of 'The Chagos betrayal - How Britain robbed an island and made its people disappear' published by Myriad Editions (www.myriadeditions.com). Florian is a graphic designer and illustrator living in Kent. She was born and grew up in Mauritius.



Mark Magidson of Exhibition Plus. Exhibition Plus is a dedicated interpretative exhibition design group. Their portfolio ranges from temporary exhibitions to complete museum installations. Their skills set embraces the complete design process from concept development to final fit-out - www.explus.co.uk

Zack Winfield who produced the video for this Lecture. Zack is an Independent producer of feature films and TV and is a partner in Native State.

Native State is a partnership of three independent producers who share a fresh outlook on filmmaking and a remit to make both cutting edge and thought-provoking cinema with innovative and visionary filmmakers. Native State also offers bespoke production services to international and domestic productions, bringing feature film talent and expertise to a full range of recorded media - www.nativestate.co.uk

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