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**THE PEOPLE OF  
CHAGOS UNDER  
COLONIALISM AND  
THE PREPONDERANCE  
OF THE INTERESTS OF  
NATIONAL STATES ON  
PEOPLES WITHOUT  
STATE**

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**Abstract:** The people of Chagos was taken from his territory between the years 1968 and 1973 without knowledge that they could not return. They never stopped dreaming about the native land. In places where they were left, mainly Mauricio and Seycheles, have suffered misery and discrimination. They are victims of colonialism and disrespect from European states, which by force of the weapons or the decod has dominated people without state. This archipelago was part of Mauritius and was dismembered when negotiations for independence in front of the United Kingdom, when he became a Republic of Mauritius. Continuous act to independence, the Chagos archipelago was emptied to build a military base there. The people of Chagos has fought in the courts before the United Kingdom of Britain and Northern Ireland, which are those who hold the sovereignty on the territory of the Chagos archipelago. They have suffered more defeats than victories. More recently, from 2017, the International Court of Justice was triggered to issue an advisory opinion in which the independence of Mauritius is in question, sovereignty on the Chagos Archipelago and the resettlement of its inhabitants originating.

**Keywords:** Chagos people. Resettlement. Territory. Right. Colonialism.

## INTRODUCTION

With its own identity and autonomy in relation to other peoples and states, having the main activities fishing or coconut production and derivatives, the people of Chagos lived in peace. But for reasons they interested in the United Kingdom, Mauritius politicians and the United States of America, were taken from the Chagos archipelago without his consent. Never settled. Most were left in the Republic of Mauritius, others can be found in Seycheles, and others have migrated to the UK. The people of Chagos is doubly victim

of the colonizing countries. At first, most of them was brought to Africa's strength to work as slaves. Then, meeting a need that was not yours, they were taken to Mauritius and Seychelles in order to give up room for a military base, given the strategic position of the islands.

The search for return has been made in courts both in the United Kingdom and in the international jurisdiction. Between victories and defeats, they have not yet found the means to return home.

This work addresses the history and expectations of the people of Chagos; Colonialism as a practice of European countries for the expansion of agricultural, commercial and industrial boundaries; the preponderance of the interests of the nation-state on the unusual peoples; and, the judicial trajectory traced by the representatives of the people of Chagos.

## HISTORY AND EXPECTATIONS OF THE PEOPLE OF CHAGOS

The ancestors of the Chagos People were partly slaves and partly indentured servants. They came mainly from East Africa and Madagascar, brought by the French and British to the Chagos archipelago at the end of the 18th century, which was uninhabited at the time. From 1715 until the Napoleonic Wars, the archipelago was administered by France as an appendix of the current Republic of Mauritius, also controlled by the same French state. In 1810 Great Britain conquered the territory of Mauritius, which was transferred to British control through the Treaty of Paris of 1814 (JEFERY, 2007).

In the nearly two centuries of occupation of the Chagos archipelago, they built a society with its own autonomous identity. According to Vini (2006, p. 26), dark skin and Creole language are predominant among its members. It so happens that since 1965 their peace has

been broken by events of which they were not even aware. This year, at the suggestion of the American government, the islands of Chagos were separated from what would become the Republic of Mauritius. A fact that is censored by the UN rules on decolonization. The purpose of the separation was to give the archipelago a very special destination, which will be described below.

Between 1968 and 1973, Vini (2008, p. 26) reports that the natives were moved to the Republic of Mauritius and Seychelles, 1200 miles away, without knowing that they could not return. Since then, the people of Chagos began to live in misery, suffering from diseases, precarious housing, unemployment and the ailments resulting from contact with societies with different values from their own, including the presence of illicit drug use and prostitution.

In 2010, according to Vini (2008, p. 26), the British Indian Ocean Territory (BIOT) was created. The British government is said to have been rewarded with \$14 million in secret payments from the United States. It was installed on the largest island, Diego Garcia, an American military base, with all the infrastructure, including restaurants, tennis courts, gym and sauna. Visits by researchers and the press are prohibited, as is tourism.

## **COLONIALISM AS A METHOD OF EXPANSION**

Colonialism is characterized by the need for more arable land and available labor, already scarce on European soil, mainly in England, and necessary for the development of the capitalist model, of unlimited growth by nature.

The century At the end of the 19th century, it witnessed an arms race carried out by France, Germany, England and Russia that launched themselves to dominate territories around the world. At the beginning of the 20th century,

Great Britain dominates 1/4 of the world, on all continents. Africa is divided between Great Britain, France, Germany, Italy, Belgium and Portugal.

In this colonial expansion promoted by European states, many territories were taken and populations were removed or brought from there according to the need for the production of goods. This is the case, as we have seen, with the forced migration of African slaves to the Chagos archipelago.

Many irregularities are present in this case, for example, the separation of the Chagos archipelago from the territory of Mauritius represented a transgression of Resolution 1514 (XV), in its item 6, of the United Nations General Assembly of December 14, 1960. There it is defined that “Any attempt aimed at breaking, in whole or in part, the national unity and territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations”. Therefore the split could not have taken place.

The Charter of Nations was also violated by the United Kingdom, in its art. 73, which provides for the obligation of the State to assume responsibility for the administration of peoples who have not reached the full capacity to govern themselves (and it is believed that this is not the case in Chagos, as its inhabitants did not ask for guardianship and this, when it came, it only caused them harm) of: a) accepting as a “sacred mission” the well-being of the inhabitants of these territories (caput); b) ensure its political progress, with absolute respect for its culture and protect it from all abuse (art. 73, “a”); and, c) promote the development of the capacity of these peoples and help them to have free political institutions, according to the circumstances and their degree of development (art. 73, “b”). Therefore, the United Kingdom failed to comply with its basic obligations, provided

for in the Charter, and those derived from Resolution 1.514 (XV).

## **THE PREPONDERANCE OF NATION-STATE INTERESTS OVER STATE-LESS PEOPLES**

Another reason for the violations of rights that the people of Chagos are victims of, but not excluding the previous one, but in addition to that, is related to the model of the nation-state.

The context in which the conflict between the people of Chagos and the British government takes place is that of the State structured along the lines of the French Revolution, that is, it does not exist if it does not have a Constitution. The constitutional text will include homogeneous rights as if all citizens of the State were equal and as if there were no groups with their own identity and culture within the territory of the State. This legal presumption exposes part of the citizens who do not live according to the hegemonic culture, which is the generator of the State's rules.

For Georges Burdeau apud Dallari (2007, p. 110), the State is an institutionalization of power. Dallari affirms that the State is power, and for this reason its acts oblige. Jellinek, apud Dallari (2007, p.111) concluded that power is an element apart from sovereignty, which is one of the characteristic elements of the State. Dealing specifically with state power, Jellinek makes a division between dominant and non-dominant power. The first type applies to the State and the second to all other societies, which one enters voluntarily or not. Societies that have non-dominant power, although they may present great strength in a material sense and have a disciplining power, lack precisely the power of domination or *imperium*.

From this angle, that of the classical doctrine of the General Theory of the State, the rules established by the indigenous and

tribal social organization are those of the non-dominant species. In other words, there is a disciplinary power, with a certain strength, but that does not have the coercive power, of *imperium*, of the State.

For Morin (2003, p. 71), the 20th century witnessed the explosion of nationalist conflicts caused by the forced coexistence between ethnic groups that were agglutinated in territories dominated by European colonialist states. The author states that "Increasingly, throughout this century, the irresistible aspiration to constitute a nation endowed with a State where there was previously ethnic".

What happened after self-determination, for example in Africa, was the dispute between various peoples for the dominion of many of the new states that emerged, a situation that is still contemporary to the present day. This problem is linked to the situation of Mauritius. This happens because the definition of people is linked to the State, as if the State had only one people (considered in the sense of ethnicity and not from a legal point of view).

## **THE PEOPLE OF CHAGOS IN THE COURTS**

In the last decade of the 20th century, the people of Chagos, on behalf of the refugees, began to fight for their rights, starting with the British courts. In 2000, the UK Supreme Court ruled that exile was illegal and granted the people of Chagos the right to return to the archipelago, with the exception of Diego Garcia Island.

Unable to carry out the return and rebuild their society, by their own means, the people decided to file another lawsuit to claim adequate compensation. For this action, the Supreme Court rejected the request.

In 2004, the Blair government issued two orders to the Council on behalf of the Queen, which resulted in a sort of review of the United Kingdom's Supreme Court decision (the year

2000), which means that it had returned to exile to the people of Chagos.

This reversal in their situation made the representatives of the people of Chagos resort to the British judiciary, which annulled the orders, classifying them as ‘repugnant’ and ‘irrational’. Another year later, the Court of Appeal upheld this lower court decision, dismissing the orders as “abuse of power”. The government appealed this appeal decision to the Law Lords. The result, in this step, is the loss of action by the people of Chagos, as reported by The Guardian website, on 06/29/2016<sup>1</sup>.

A new lawsuit<sup>2</sup> was submitted by the representatives of the people of Chagos questioning the creation of BIOT and the Protected Marine Area (MPA) with a 200-mile range, for protection and preservation, established under the authority of the BIOT commissioner. The appellants allege that the MPA’s definition had an “improper ulterior motive”. This reason would be linked to the interest, not admitted by the British government, of making it impossible for the people of Chagos to return to the archipelago, since their main source of subsistence was fishing. Therefore, more than fishing rights, what is at issue is the return of the people of Chagos to their territory. In the analysis of the case, the judges detained extensively in analyzing a question of form, which is whether a document obtained through the press (The Guardian, on December 2, 2010, and, by The Telegraph, on February 4, 2011 ) and that would have been passed on by Wikileaks, would be accepted as evidence. The result of the action was a defeat for the applicants as five of the seven judges rejected the appeal.

This decision weakened the position of the people of Chagos in the fight for the return to the territory of origin..

Since 2017, by resolution 71/292, taken at the UN General Assembly dated June 22, 2017, a consultative procedure by the Republic of Mauritius before the International Court of Justice (ICJ) was admitted, the result of which could have effects on the situation of the people. of Chagos. This procedure is included in the ICJ Annual Report to the General Assembly, from 08/01/2016 to 07/31/2017<sup>2</sup>, page 61, as “pending a solution” and is entitled “Legal consequences of the separation of the Archipelago of Chagos de Maurício in 1965”. It was defined by the Court that on September 3 and 6, 2018, public hearings would be held on the subject of the consultation.

It is noted that the issue of resettlement desired by the people of Chagos remained in court until the end of this article. It is certain that the result of the consultation will not decide on the major dispute, but it will be one more step in the search for what the people of Chagos want.

## FINAL CONSIDERATIONS

The ecological crisis and the disrespect for traditional peoples in the world are connected. They are in the prevailing economic model and in the legal-political system that sustains it. The prevailing economic model is based on ever-increasing production, and this is incompatible with the planet’s limited resources.

It is part of the essence of man to search for progress (not necessarily in the concept given to him). It so happens that the paths to which the search for progress takes us must

1 Available in <<https://www.theguardian.com/world/2016/jun/29/chagos-islanders-lose-supreme-court-bid-to-return-to-homeland>>. Accessed on 12.07.2018.

2 Judgment R (on the application of Bancoult No 3) (Appellant) v Secretary of State for Foreign and Commonwealth Affairs (Respondent). 8 February 2018. Available in <<https://www.supremecourt.uk/cases/uksc-2015-0022.html>>. Accessed on 10.18.2018.

2 Available in <<https://www.icj-cij.org/files/annual-reports/2016-2017-es.pdf>>. Accessed on 12.09.2018.

also be controlled by human beings. The progress produced by humanity must turn to man, otherwise it will fall into an unprofitable aridity.

At this moment we have many choices open and not all of them will be able to take us to good destinations. But the certainty that cannot be missing is that the future is built by men and that who should be at the center of the objective to be achieved in this future is man himself, in harmony with other men, peoples and with nature.

Nature has become the object of grandiose violations (on land, in water and in the air) and traditional peoples are no different. In the face of these constant and brutal violations, the land has presented, in the last decades, so to speak, "the bill". For the time being, we have not yet exhausted the earth's capacity and its effects have not reached the point of making life on the planet unfeasible. Under the International Agreements on the environment, the harmful effects of human action can still be stopped. The frightening aspect is that the current and predominant production model in the world does not lead to broad adherence by States to the aforementioned agreements.

The predominance in Great Britain of the nation-state model and of the economic and political-legal models that it adopted produces a deep tension with the tribal peoples that are under its tutelage. This is so, because national states are dominated by interests that are dissociated from indigenous or tribal respect and well-being.

When the State intervenes in its organization, the consequence is extremely negative, since tribal peoples are owed the autonomy to manage their affairs. All external interference weakens your organization.

From the creation of the Charter of Nations in 1948, peoples formally acquired the right to self-determination. But, considering that in the international order the State is only

considered as a subject of rights if you have sovereignty, for existing peoples within states already constituted self-determination did not apply. The solution given by the universal system of Human Rights was to treat the members of each people as individuals and, of course, this does not serve the collective (which is within what the tribal cosmovision is identified).

The people of Chagos continue to fight for the recognition of their identity and the right to return to their territory. They do not seek self-determination, but only respect for their social organization and the territory they occupied. This quest is in progress.

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