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## **Re-colonization in the Indian Ocean: The cases of Mayotte and Chagos**

### Introduction

Coinciding with the demise of the Soviet Union and the end of the bi-polar Cold War, the process culminating in the inauguration in May 1994 of Nelson Mandela as president of a non-racial, democratic South Africa was widely seen as the last step of Africa's long walk towards majority rule and national independence. Thus, the historic achievement was three months later formally acknowledged through the closure of the Liberation Committee of the Organization of African Unity (OAU).<sup>1</sup> On the African continent, however, the people of Western Sahara are still struggling for the right to self-determination and national sovereignty<sup>2</sup>, while in the African part of the Indian Ocean European powers in contravention of United Nations (UN) resolutions and beyond the global headlines are implementing policies best characterized as re-colonial.

From perspectives of international law, human rights and conflict management, this paper discusses the cases of Mayotte and Chagos, Indian Ocean territories which, respectively, have been dismembered from the independent states of the Union of the Comoros and Mauritius by France and the United Kingdom (UK). Both are likely to draw increasing international attention as the small claimants - Comoros and Mauritius - with support from the African Union (AU) challenge the European permanent members of the UN Security Council, as well as indirectly the United States (US) and the European Union (EU).

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<sup>1</sup> At the inaugural OAU summit in Addis Ababa, Ethiopia, it was in May 1963 decided to establish a 'Co-ordinating Committee for the Liberation of Africa'. Based in Dar es Salaam, Tanzania, the OAU Liberation Committee channeled support to the African liberation movements recognized by the OAU.

<sup>2</sup> Western Sahara - occupied by Morocco and claimed by the POLISARIO national liberation front (Front for the Liberation of Saguia el Hamra and Rio de Oro) - is the only remaining territory on the African continent to which the 1960 UN Decolonization Declaration (see below) still applies.

## United Nations and De-colonization

The right to national self-determination by all peoples was included among the eight guiding principles for a post-war global order in the 1941 Atlantic Charter, jointly issued at the height of the Second World War by the United States' President Franklin D. Roosevelt and the British Prime Minister Winston Churchill.<sup>3</sup> In general terms, the UN Charter - adopted in June 1945 - was to echo this tenet by stating in its preamble and opening chapter, respectively, that the new world body *inter alia* was based on the belief in "equal rights [...] of nations large and small", as well as on "the principle of equal rights and self-determination of peoples".<sup>4</sup> Initially, however, the United Nations was only marginally concerned with decolonization and African affairs. At a time when there were merely four independent African member states (Egypt, Ethiopia, Liberia and South Africa), the continent was together with Asia for almost two decades excluded from a non-permanent seat on the Security Council.<sup>5</sup>

With 49 of today's 53 sovereign African states under colonial status or indirect administration by Belgium, Britain, France, Italy, Portugal and Spain<sup>6</sup>, it was only from 1960 - twenty years after the Atlantic Charter and fifteen years after the launch of the UN - that the global body became actively seized with the issue of decolonization. In an "atmosphere [that] was slightly anti-colonialist", and assuming the role of "an absentee imperial landlord"<sup>7</sup>, in the meantime, however, the UN steered a number of African trust territories towards nationhood and independence. Responsibility for this task was assumed by the UN Trusteeship Council.<sup>8</sup>

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<sup>3</sup> Churchill had in mind self-determination only for the conquered nations of Europe, not for the British colonies and dependencies around the world. Roosevelt held the view that a post-war global dispensation should include self-determination for all colonized peoples.

<sup>4</sup> 'Charter of the United Nations' in Sidney D. Bailey and Sam Daws, *The United Nations: A Concise Political Guide*, MacMillan Press, Basingstoke and London, 1995, pp. 114-15.

<sup>5</sup> In 1946, the non-permanent seats on the UN Security Council were allocated to Latin America (2), Western Europe (1), Eastern Europe (1), Middle East (1), and the British Commonwealth (1). As a result of the 1950s' and 1960s' massive membership of Asian and African states, in 1963, however, the General Assembly resolved that five out of the ten non-permanent seats on the Security Council should be occupied by Asian and African members.

<sup>6</sup> South West Africa/Namibia was administered by South Africa.

<sup>7</sup> Edmond Kwam Kouassi: "Africa and the United Nations since 1945" in Ali A. Mazrui (ed): *UNESCO General History of Africa*, UNESCO (1993) and New Africa Books, Glosderry, 2003, pp. 873 and 901.

<sup>8</sup> The Trusteeship Council was established under Chapter XIII of the UN Charter of 1945 to ensure that certain non-self-governing territories - known as 'trust territories' - were administered in the best interests of their inhabitants and of international peace and security. It was also mandated to prepare them for self-determination. Three categories of dependencies fell under the council, namely i) those administered under mandates formerly established by the League of Nations; ii) those "detached from enemy states (i.e. Germany and Japan) as a result of the Second World War"; and iii) territories voluntarily placed under the system by states responsible for their administration. Ultimately, eleven territories were placed under trusteeship - seven in Africa (among them South West Africa/Namibia) and four in Oceania -, out of which ten had previously been League of Nations' mandates. The eleventh territory was Italian Somaliland. The last trust territory was Palau (formerly Pacific Islands), which gained independence from the US in 1994. On the Trusteeship Council, decolonization and liberation in Africa, see Tor Sellström: 'The Trusteeship

In the main, the role of the UN for the elimination of colonialism was indirect. In the case of Africa, and with the exception of the trusteeship territories, the world body was primarily supporting the anti-colonialist quest pursued by the Africans themselves. In turn, this aspiration would find support in the UN Charter and its Article 73, which stated that

“[the] [m]embers of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognise the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost [...] [their] well-being, and, to this end, [...] develop self-government, [...] take due account of the political aspirations of the peoples, and [...] assist them in the progressive development of their free political institutions”.<sup>9</sup>

1960 was symbolically declared ‘Africa Year’ by the UN. During the year, a number of developments also placed the African decolonization cause on the agenda. No less than seventeen former French (12), German/Trust Territories (2), British (1), Belgian (1) and Italian/Trusteeship (1) dependencies graduated peacefully to national sovereignty and UN membership. In December 1959-January 1960, the UN Secretary-General Dag Hammarskjöld went on a six-week fact-finding mission to Africa, visiting no less than 21 independent countries and dependent territories. Finally, in March and July, respectively, the Sharpeville massacre in South Africa and the outbreak of post-independence violence in the Congo brought the complexities of the African peoples’ march towards freedom and national self-determination to the fore.

Above all, 1960 was the year in which in the UN General Assembly adopted the ‘Declaration on the Granting of Independence to Colonial Countries and Peoples’, a watershed in the history of the United Nations. A draft resolution on decolonization was introduced by the Soviet Union - represented in New York by its Premier, Nikita Khrushchev - during stormy General Assembly proceedings in September-October 1960.<sup>10</sup> Popularly known as the ‘Decolonization Declaration’,

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Council’ in Adekeye Adebajo (ed): *From Global Apartheid to Global Village: Africa and the United Nations*, University of Kwa-Zulu Natal Press, Scottsville, 2009, pp. 107-37.

<sup>9</sup> ‘UN Charter’ (Article 73) in Bailey and Daws op. cit., pp. 131-32.

<sup>10</sup> As vividly described by Nikita Khrushchev’s son and biographer Sergei, the 1960 UN General Assembly - the last to be chaired by Secretary General Dag Hammarskjöld - was marked by a series of extraordinary events. Among them was the famous ‘shoe incident’, where the Soviet Premier punctuated an intervention during the decolonization debate by waving a shoe. (The shoe had been lost during Khrushchev’s tumultuous entry into the assembly hall. Subsequently found by a UN orderly and placed on his desk, he instinctively picked it up during the debate). Of greater significance was Khrushchev’s defeated proposal during the debate on the Congo to replace the UN Secretary General by a “troika” of representatives from the Socialist, Western and Non-aligned camps and to move the UN Headquarters from New York to West Berlin or Geneva (Sergei Krushchev, “Nikita Khrushchev and Dag Hammarskjöld” in Sten Ask and Anna

the seminal Resolution 1514 of 14 December 1960 - adopted by 89 votes to 0, with 9 abstentions<sup>11</sup> - established that

“[t]he subjection of peoples to alien subjugation, domination, and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations, and is an impediment to the promotion of world peace and co-operation;

[a]ll 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;

[i]nadequacy of political, economic, social, or educational preparedness should never serve as a pretext for delaying independence; [and]

[i]mmediate steps shall be taken, in trust and non-self-governing territories, or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed, or colour, in order to enable them to enjoy complete independence and freedom”.<sup>12</sup>

Of critical importance was that the UN General Assembly rejected any initiative to break up or dismember a dependent territory prior to its independence. Thus, the Decolonization Declaration emphasized that

“[a]ny 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”.<sup>13</sup>

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Mark-Jungkvis (ed.), *The Adventure of Peace: Dag Hammarskjöld and the Future of the UN*, Palgrave Macmillan, New York, 2005, pp. 64-74.

<sup>11</sup> Those abstaining were Australia, Belgium, Dominican Republic, France, Portugal, Spain, South Africa, the United Kingdom and the United States.

<sup>12</sup> ‘Declaration on the Granting of Independence to Colonial Countries and Peoples’, cited in *Yearbook of the United Nations: 1960*, United Nations, New York, 1961, p. 49. The concept of national self-determination was to be interpreted as applying only to geographically distinct territories, but not to those contiguous to a dominant metropolis, such as the member states of the Soviet Union resulting from Russian or Soviet conquest, nor to separate parts of colonial dependencies. Through Resolution 1541 of 15 December 1960, the UN General Assembly established a *prima facie* criterion for accepting a territory as a colony, namely that it should be “geographically separate and [...] distinct ethnically and/or culturally from the country administering it” (Bjørn Møller: *The UN as a Security Political Actor with a Special Focus on Africa* in Garth le Pere and Nhamo Samasuwo (eds): *The UN at 60: A New Spin on an Old Hub*, Institute for Global Dialogue, Midrand, 2006, pp. 176-77).

<sup>13</sup> ‘Declaration on the Granting of Independence’ in *Yearbook op. cit.*

### Mayotte (Comoros)

With the islands of Grande Comore (also known as Ngazidja), Mohéli (or Mwali) and Anjouan (or Nzwani) - which constitute the Union of the Comoros -, the French-held island of Mayotte (or Mahoré) forms part of the Comorian archipelago, situated in the northern end of the Mozambique Channel between Mozambique and Madagascar. Colonized by France from the mid-nineteenth century, in 1947 the four islands became a French Overseas Territory. Granted limited internal autonomy in 1961, thirteen years later - in December 1974 - the French government organized a referendum in which the Comorian population could opt for national independence or continued attachment to France.

With a participation of 93.5 % of the registered voters, an overwhelming majority of 94.9 % of the Comorians voted in favour of independence. On the islands of Grande Comore, Mohéli and Anjouan, practically all - or 99.9 % - opted to break with France. On Mayotte, however, with less than 10 % of the registered voters, only one third (34.5 %) supported independence, while a majority (65.0 %) chose to remain under French administration.

In breach of the 1960 UN General Assembly Decolonization Declaration, France subsequently decided to interpret the outcome of the Comorian independence referendum island by island, maintaining its sovereignty over Mayotte. The unilateral action was censored by the UN. When independent Comoros in November 1975 was admitted as a member of the UN, the General Assembly reaffirmed

“the necessity of respecting the unity and territorial integrity of the Comoro Archipelago, composed of the islands of Anjouan, Grande-Comore, Mayotte and Mohéli”.<sup>14</sup>

As France in February and April 1976 held new referendums on Mayotte to confirm the island's attachment, in October 1976 the UN General Assembly went a step further, condemning “the presence of France in Mayotte”, declaring the referendums “null and void”, characterizing them as “a violation of the sovereignty of the Comorian State and of its territorial integrity” and stating that “the occupation by France of the Comorian island of Mayotte constitutes a flagrant encroachment”. At the same time, the assembly rejected “[a]ny other form of referendum or consultation which may hereafter be organized on Comorian territory in Mayotte by France”, as well as “[a]ny foreign legislation purporting to legalize any French colonial presence [...] in Mayotte”, issuing an appeal to all UN member states “to intervene, individually and collectively, with

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<sup>14</sup> UN General Assembly Resolution 3385 (XXX): ‘Admission of the Comoros to membership in the United Nations’, 12 November 1975. The argument against dismemberment does not apply in the case of Réunion, Mayotte's sister island in the Indian Ocean. An entity in its own right, Réunion was granted full departmental status by the French government already in 1946.

the Government of France to persuade it to abandon once and for all its plan to detach the Comorian island of Mayotte from the Republic of the Comoros".<sup>15</sup>

Having declared Mayotte a French *Collectivité Territoriale* in 1976, France, however, continuously increased its hold over the island. In November 1994, this prompted the UN General Assembly not only to request the French government to "honour the commitments entered into prior to the referendum on the self-determination of the Comoro Archipelago of 22 December 1974 concerning respect for the unity and territorial integrity of the Comoros", but also to emphasize that "a speedy solution of the problem is essential for the preservation of the peace and security [...] in the region".<sup>16</sup> This notwithstanding, in 1995 the French government under Prime Minister Balladur unilaterally introduced visa requirements for Comorians wishing to visit Mayotte, and in early 2000 it upgraded the island's status to that of a *Collectivité Départementale*, a move which was supported by yet another referendum on Mayotte in July.<sup>17</sup>

The developments have had far-reaching consequences, deepening the tensions in the already conflict-ridden Comorian archipelago. Whereas the population on Mayotte - amounting to some 220,000 - increasingly has benefited from French social grants and generous financial transfers, on the other islands pervasive poverty has led to instability, massive emigration and secessionist movements. The so called 'Balladur visa' requirement has in this context played a particularly divisive and tragic role. Introduced by France to curb what it considers illegal immigration, it encourages human trafficking and provokes scores of deaths as Comorians from the other islands - in particular from Anjouan, only some 60 kilometers across the ocean - try to enter Mayotte to see their families, sell their produce, seek a job or visit a health centre. It is estimated that one third of the people on the island are 'illegals', mainly Comorians, but also of Malagasy origin.

For obvious reasons, there are no reliable statistics on the number of people who have died while attempting to reach Mayotte in makeshift *kwassas* (small boats). The Comorian authorities claim that the figure approaches 7,000 since the introduction of the Balladur visa. On Mayotte, however, the *préfecture* regularly publishes data on "the struggle against illegal immigration". According to these official figures, no less than 26,405 persons - out of which 25 % children - were in 2010 alone forcefully expelled and sent back to the Comoros, i.e. a staggering number corresponding to 12 % of the entire population of Mayotte. In financial terms, more than 50 million Euros are each year spent on these operations.<sup>18</sup>

<sup>15</sup> UN General Assembly Resolution A/31/4: 'Question of the Comorian island of Mayotte', 21 October 1976.

<sup>16</sup> UN General Assembly Resolution A/RES/49/18: 'Question of the Comorian island of Mayotte', 28 November 1994.

<sup>17</sup> In the referendum in July 2000, 75.2 % of the voters approved the decision to declare Mayotte a *Collectivité Départementale*.

<sup>18</sup> *Malango Actualité*, 13 October 2010 and 19 February 2011.

The latest chapter in the Mayotte drama opened on 29 March 2009, when the French government - still in contravention of UN resolutions - once again organized a referendum, this time to determine whether the population would accept the status of a fully-fledged overseas department of France (*Département d'Outre-Mer* - DOM) similar to that of French Guiana, Guadeloupe, Martinique and Réunion. Strongly criticized by the Union of the Comoros, the AU, the Arab League and other international entities, in metropolitan France the referendum was only rejected by the Communist Party. In Mayotte itself, all major political parties and organizations supported the initiative, the only dissenting voices raised coming from a small number of Islamic imams and religious leaders who opposed the implications of joining republican France, notably the abolition of polygamy, Islamic courts and related customs. For the overwhelmingly Muslim population<sup>19</sup>, in which the French-speakers are in a minority, the short-term socio-economic benefits, however, out-weighed religious and cultural considerations. The result of the poll was a conclusive vote in favour.

The question put to the electorate was: "Do you approve of the transformation of Mayotte into a unique collectivity called 'Department' [as] laid down in Article 73 of the [French] Constitution [...]?" There were 71,420 registered voters, out of which 61.4 % made use of the vote and 38.6 % abstained. Of the valid votes cast, no less than 95.2 % were in favour with a low 'No' vote of 4.8 %. With regard to the registered voters, the 'Yes' vote garnered an absolute majority of 57.6 %. Thus, while there was a clear expression of support for turning Mayotte into a DOM and extend full French citizenship to its inhabitants, the considerable proportion of abstentions - approaching 40 % - should be noted, in particular as the referendum campaign received massive backing from the French government, including from President Sarkozy himself.

While the AU reaffirmed that "the territorial integrity of Africa cannot be legally affected by referendums conducted by foreign powers on an African territory"<sup>20</sup>, experts on international law questioned the fact that the poll was organized by France rather than by the UN or another neutral body.<sup>21</sup> It could also be noted that the voters - and tax-payers - in metropolitan France were not given the opportunity to take a stand for or against Mayotte's status as a department.<sup>22</sup> In Mayotte itself, the so called 'illegals' did, naturally, not have the right to vote. As

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<sup>19</sup> Around 95 % of the inhabitants of Mayotte are Sunni Muslims.

<sup>20</sup> African Union: 'Special session of the Assembly of the Union on the consideration and resolution of conflicts in Africa' (SP/ASSEMBLY/PS/PLAN(I)), Tripoli, Libya, 31 August 2009.

<sup>21</sup> Cf. in this context the case of Tokelau, situated in the South Pacific Ocean, consisting of three coral atolls and with a very small population of some 1,400. Administered by New Zealand, Tokelau is by the UN considered a 'non-decolonized' and 'non-self-governing' territory. In 2006, a UN-supervised referendum on decolonization was held in Tokelau. Interestingly, the voters rejected the offer of self-government. A second referendum was held in 2007, with the same outcome. Contrary to the case of Mayotte, however, Tokelau has not been detached from a former colonial entity, nor has New Zealand taken unilateral action to include the territory within its administration.

<sup>22</sup> The decision to hold a referendum was presented to the French Senate and National Assembly, followed by a debate, but no vote.

the 'metropolitan' minority in Mayotte - including civil servants, police and military personnel - was active during the campaign, it is, finally, of relevance that the presence of settlers in other parts of the world - notably Russian citizens in some former Soviet states - has cast shadows over the legitimacy of constitutional referendums. In the case of Gibraltar, the UN has decided that self-determination principles should not apply even if supported by the population.<sup>23</sup>

Following endorsements by the French Senate in October and the National Assembly in November 2010, Mayotte became France's 101<sup>st</sup> department on 31 March 2011.<sup>24</sup> The last steps towards French departmental status were accompanied by vigorous denunciations by the Comorian government, protest marches by Comorians in France and on Mayotte, as well as a pronounced deterioration in the relations between Paris and the Union of the Comoros. While the AU at its annual assembly in Addis Ababa on 31 January 2011 "reaffirm[ed] its] position on the sovereignty of the Union of the Comoros over the island of Mayotte"<sup>25</sup>, the Comorian President, Ahmed Abdallah Sambi, declared his government's intention to re-activate the issue at the level of the UN and the EU. The latter would seem particularly urgent as France has taken steps to turn Mayotte into an Outermost Region of the European Union.<sup>26</sup> Under international law, this could be a thorny issue. As noted above, in 1976 the UN General Assembly rejected "[a]ny foreign legislation purporting to legalize any French colonial presence [...] in Mayotte".<sup>27</sup>

France's position, in the meantime, leaves no room for doubt. During a visit to the island in January 2010, President Sarkozy defiantly emphasized that "I will not allow anybody or any foreign power the right to decide what should or should not be French! France is Mayotte, and Mayotte is France!"<sup>28</sup>

<sup>23</sup> Neophytos G. Loizides: 'Designing Referendums in Peace Processes', Queens University, Belfast, p. 14.

<sup>24</sup> 2011 has been declared *Année des Outre-Mer* (Overseas Year) by the French government.

<sup>25</sup> African Union: 'Decision on the report of the Peace and Security Council on its activities and the state of peace and security in Africa', Assembly/AU/Dec. 338 (XVI), Addis Ababa, 31 January 2011.

<sup>26</sup> Outermost Regions (OR) of the European Union are covered by EU law and other rights and duties associated with EU membership. They benefit from funding from the European Regional Development Fund (ERDF) and the European Social Fund (ESF), which for the period 2007-13 together have set aside no less than 7.8 billion Euros in favour of the regions. In early 2011, there were nine OR entities, namely Azores and Madeira (Portuguese autonomous regions), Canary Islands (Spanish autonomous community), French Guiana, Guadeloupe, Martinique and Réunion (French overseas departments) and Saint-Barthélemy and Saint-Martin (French overseas collectivities). The latter two will change status on 1 January 2012 and could be replaced by Mayotte. According to the European Commission, the OR "represent the vanguard of the EU's position vis-à-vis other major economic blocs. They [...] confer a special dimension of the Union's external activities and participate in the development of a true wider neighbourhood policy through their geographical, cultural and historical links with other countries and peoples, particularly in Africa and the Americas" (EU/Communication from the Commission: 'The Outermost Regions: An asset for Europe', COM/2008/0642 final, Brussels, 17 October 2008).

<sup>27</sup> There is, of course, the possibility that the around 20 EU member states who in 1976 voted for the UN resolution no longer consider France's presence as being 'colonial'.

<sup>28</sup> Quoted from the speech by Marie-Luce Penchard, French Overseas Minister, to the *Conseil Général de Mayotte* during the DOM celebrations on 3 April 2011.



### Chagos (Mauritius)

The Chagos archipelago consists of some 50 islands (atolls) and is situated in the north-eastern corner of the African part of the Indian Ocean, east of the Seychelles and south of the Maldives. With an area of 27 square kilometers, Diego Garcia is the largest of the islands. In colonial times, the archipelago was administered from Port Louis, the capital of Mauritius. Prior to the independence of Mauritius, it was detached by the UK and together with some of the islands in the Seychelles in 1965 set up as the British Indian Ocean Territory (BIOT).<sup>29</sup> For reasons explained below, there are no original inhabitants on the Chagos islands. On Diego Garcia, however, around 4,000 military and civilians are stationed at the US naval base.

While the story of Mayotte is that of French arrogance coupled with pomp and circumstance, the tale of Chagos is one of British-American duplicity, secrecy and falsity. Thus, where France has openly defied the UN Decolonization Declaration, celebrating the inclusion of Mayotte as its 101<sup>st</sup> department, Great Britain has behind the scenes and beyond parliamentary scrutiny together with the United States not only re-colonized Chagos, but turned its inhabitants into non-people.

In February 1964, at a time when Great Britain and Mauritian representatives were embarking on talks with a view to national independence, a secret meeting between US and British delegations was held in London on the identification of strategic island bases in the Indian Ocean. One of the islands identified for a possible US military base was Diego Garcia.<sup>30</sup> As information about the meeting became known, the issue was brought to the attention of the UN Special Committee on Decolonization<sup>31</sup>, set up in 1961 to monitor the implementation of the 1960 Decolonization Declaration. After examining its report, in December 1965 the UN General Assembly considered the question of Mauritius. Requesting the British government “to take no action which would dismember the territory of Mauritius and violate its territorial integrity”, the assembly noted “with deep concern” that

“any step taken by the administering power (i.e. the United Kingdom/TS) to detach certain islands from the territory of Mauritius for the purpose of

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<sup>29</sup> At the time of Seychelles’ independence in 1976, the islands of Aldabra, Farquhar and Desroches were returned to the new nation. Subsequently, BIOT consists only of the islands in the Chagos archipelago. The government of Mauritius has never recognized BIOT and refers to it in official statements as “the so called BIOT”.

<sup>30</sup> On the history of the US military base on Diego Garcia, see David Vine: *Island of Shame*, Princeton University Press, Princeton and Oxford, 2009. At the time of the London meeting, the British government was considering a withdrawal of its military forces ‘East of Suez’. An announcement to that effect was made by Prime Minister Wilson in 1967 and was implemented from 1971, when British troops were withdrawn from major military bases in South East Asia.

<sup>31</sup> Also known as the Committee of 24.

establishing a military base would be in contravention of the Declaration [on the Granting of Independence to Colonial Countries and Peoples]”.<sup>32</sup>

Through an Order-in-Council, i.e. by royal prerogative and outside of parliament, the British government, however, proceeded to split Chagos from Mauritius. In 1966, it subsequently - and secretly<sup>33</sup> - leased the island of Diego Garcia to the US for a period of 50 years, with the option of an extension of 20 years.<sup>34</sup> In the process, the Mauritian delegation to the independence negotiations with the UK was faced with a *fait accompli*. On independence in March 1968, Mauritius was paid an amount of 3 million Pounds as a recompense for the loss of the Chagos archipelago.

Basing itself on the UN General Assembly resolutions 1514 of December 1960 and 2066 of December 1965, independent Mauritius has never relinquished its sovereignty over the Chagos islands, since 1968 in both multilateral and bilateral forums demanding an early and unconditional return of the archipelago.<sup>35</sup> In this endeavour, the Indian Ocean state has continuously been supported by the OAU/AU and the Non-Aligned Movement (NAM). As late as in January 2011, the annual assembly of the African Union reaffirmed that “the Chagos Archipelago, including Diego Garcia, forms an integral part of the territory of the Republic of Mauritius”.<sup>36</sup> While Mauritius’ efforts over more than four decades so far have been unsuccessful, on account of the similarly drawn out drama of the Chagossian people, the British decision to proclaim the archipelago as a marine protected area, as well as damaging revelations by Wikileaks, in 2009-10 the issue of Chagos came to the fore with unprecedented force. Backed by a growing international opinion, the Chagossians took their case against the UK to the European Court of Human Rights, while the government of Mauritius instigated legal proceedings against the British at the UN International Tribunal for the Law of the Sea. A decision by the tribunal is expected in 2013.

The human rights abuses inflicted upon the original inhabitants of Chagos cannot be sufficiently illustrated in a short paper such as this. Suffice it to register that in order to - as it was put in a US document - “sanitize” the islands<sup>37</sup>, render them uninhabited and make way for the US military base<sup>38</sup>, between 1968 and 1973 the around 1,500-2,000 Chagossians were cut off from food supplies<sup>39</sup> and

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<sup>32</sup> UN General Assembly Resolution 2066 (XX): ‘Question of Mauritius’, 16 December 1965.

<sup>33</sup> The deal was not disclosed to the British Parliament, the US Congress or the United Nations.

<sup>34</sup> To conceal any financial transactions with regard to the lease, the US granted the UK a discount of millions of Dollars on ‘Polaris’ nuclear missiles.

<sup>35</sup> In 1982, the constitution of Mauritius was amended to incorporate the Chagos archipelago, including Diego Garcia.

<sup>36</sup> African Union: ‘Resolution on Mauritius’, Assembly/AU/Res.1 (XVI), Addis Ababa, 31 January 2011.

<sup>37</sup> Quoted in Vine op. cit., p. 78.

<sup>38</sup> Construction of the US military base on Diego Garcia started in 1971. The naval communications station was commissioned in 1973 and upgraded to a US Naval Support Facility in 1977.

<sup>39</sup> From 1968, the British authorities cancelled food imports to the Chagos islands.

forcibly evicted from their homes on the islands of Diego Garcia, Peres Banhos and Salomon. Uprooted and without any means, they subsequently ended up squatting in slum conditions in Mauritius and Seychelles. At the same time as a British Immigration Order prevented anyone from going back, the Chagossians became stateless. In order to uphold the fiction that there never had been an indigenous population on the islands - and despite the fact that they as former inhabitants of BIOT formally remained British nationals -, the Chagossians were denied recognition by the British government. With all the odds against them, thus started the islanders' struggle for the right to return and British citizenship.<sup>40</sup>

Eventually granted British passports in May 2002, i.e. after three decades, the right to return, however, is still denied. There was an opening in late 2000 when the UK High Court ruled against the British government and declared that the Chagossians in principle could go back to some of the islands, although not to Diego Garcia. In June 2004, however, the British government overturned the ruling through yet another Order-in-Council. (At the same time, the Chagossians were refused permission to appeal a High Court ruling from October 2003 which denied them compensation). After subsequent rounds of legal battles, in early 2010 the struggle seemed definitely lost when the UK authorities announced that the whole of BIOT as from 1 November would be turned into a marine sanctuary, with severely restricted access to people and where no human settlement was to be allowed. Effectively shut out by the British legal system - but supported by documentary evidence released by Wikileaks -, in this situation the Chagossians re-submitted their case to the European Court of Human Rights.

Confidential US diplomatic correspondence made public by Wikileaks on 1 December 2010, i.e. one month after the entry into force of the marine protected area, revealed that the primary objective behind the sanctuary was to stop the Chagossians from returning. In a memorandum dated 9 May 2009, the US embassy in London reported from a meeting with the UK Foreign and Commonwealth Office (FCO) during which the two parties agreed that "establishing a marine reserve might, indeed [...], be the most effective long-term way to prevent any of the Chagos islands' former inhabitants, or their descendants, from resettling in the BIOT".<sup>41</sup> Introducing the proposal to the US representative, the FCO Director for Overseas Territories underlined that a marine park "would in no way impinge on USG (i.e. US government/TS) use of the BIOT, including Diego Garcia, for military purposes", while there at the same time "would be no human footprint or Man Fridays on [...] the uninhabited islands" and a sanctuary would "put paid to resettlement claims of the

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<sup>40</sup> Over the years, the Chagossians have set up their own support and advocacy organizations. Led by Olivier Bancoult, the Mauritius-based Chagos Refugees Group (CRG) has been particularly active. There are also a number of solidarity groups in the UK and elsewhere. In April 2011, several of the Chagossian and international organizations took the joint initiative to launch Chagos International Support (CIS), based in Geneva, Switzerland. CIS aims at "providing an international platform for raising awareness of the forced deoportation of the Chagossians and of their right to return". (See the CIS website on [www.chagosinternational.org](http://www.chagosinternational.org)).

<sup>41</sup> <http://cablegate.wikileaks.org/cable/2009/05/09LONDON1156.html>, retrieved on 2 December 2010.

archipelago's former residents". Looking back, the British government official further stated the opinion that "we do not regret the removal of the [original] population, since removal was necessary for the BIOT to fulfill its strategic purpose".<sup>42</sup>

Not surprisingly, the publication by Wikileaks provoked forceful reactions among the Chagossians and in Mauritius. Later in December, the Mauritian Prime Minister, Navin Ramgoolam, who already was "furious" with the UK following its unilateral announcement of the marine park<sup>43</sup>, declared that his government was bringing the issue to international arbitration. In January 2011, Mauritius also re-activated the question of Chagos at the annual assembly of the AU, which noted "with grave concern that notwithstanding the OAU/AU Resolutions/Decisions [in the past] and the strong opposition expressed by the Republic of Mauritius, the United Kingdom has proceeded to establish a 'marine protected area' around the Chagos archipelago [...], thereby further impeding the exercise by the Republic of Mauritius of its sovereignty over the archipelago".<sup>44</sup> While greeted with delight by environmentalists, among them Greenpeace, the Chagos Marine Protected Area<sup>45</sup> was condemned by Mauritius, the AU, the Chagossians and various international human rights' organizations seeing the British initiative as a ruse to "greenwash" the real issues of sovereignty and the right to return.

The root of the problem of Chagos is, of course, the US military base on Diego Garcia. A critical link in the worldwide chain of US military facilities, in this case under the concept of strategic islands<sup>46</sup>, the location of the base was, as noted, negotiated with the British government in the mid-1960s. Originally conceived as a communications facility, over the years Diego Garcia - by far the biggest military base in the Indian Ocean - has developed into a full naval support facility, housing up to 2,000 US marines and air force personnel. In addition to a similar number of civilians, the base hosts about 50 British soldiers and police. The base became fully operational in 1986 and was during 'Operation Desert Storm' against Iraq in 1990 the only US navy base that launched offensive air operations. It has since played an increasingly important role as a launch pad for US interventions in Somalia, Iraq and Afghanistan, as well as for so called 'rendition flights' in the 'war on terror'.

Although little is known about the Diego Garcia base and its armament, it is widely suspected that it harbours a nuclear capability. If so, this would be in

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<sup>42</sup> Ibid.

<sup>43</sup> 'Chagos: Navin Ramgoolam accuse un ex-ministre britannique de malhonnêteté' in *lexpress.mu*, 3 November 2010.

<sup>44</sup> African Union: 'Resolution on Mauritius' op. cit.

<sup>45</sup> Covering an area of 545,000 square kilometers, the International Union for Conservation of Nature Category I, 'no-take', Marine Protected Area (IUCN-MPA) around the Chagos archipelago (with the exclusion of Diego Garcia) is the largest marine reserve in the world. Banning commercial fishing, deep-sea mining and human settlement, it is meant to protect the Great Chagos Bank, the world's biggest living coral structure and one of the richest marine eco-systems on the globe.

<sup>46</sup> On the US concept of strategic island bases, see Vine op. cit., pp. 56-72.

breach of the Pelindaba Treaty, which establishes Africa as a nuclear-weapon-free zone.<sup>47</sup> In November 2010, Mauritius became a founding member of the African Commission on Nuclear Energy (ACNE), which *inter alia* monitors the implementation of the Pelindaba Treaty. In that capacity, the Mauritian Foreign Minister, Arvin Boolell, announced that his government would request a nuclear inspection of Diego Garcia.

In this context, it should be noted that prominent international intellectuals over the last years have added their voices to those who support Mauritius' claim over the Chagos archipelago, the struggle of the Chagossians and/or the closure of the Diego Garcia base. In an open and passionate letter to US President Obama, the 2008 Nobel prize laureate in literature, Jean-Marie G. Le Clézio<sup>48</sup>, wrote in October 2009 that "the American troops have even refused the Chagossians to return to put flowers on their ancestors' graves", pleading for a presidential intervention on their behalf.<sup>49</sup> And in March 2011, Joseph Stiglitz, recipient of the 2001 Nobel prize in economics, stated in a syndicated article on Mauritius that "the US should now do right by this peaceful and democratic country: recognize Mauritius' rightful ownership of Diego Garcia, renegotiate the lease [with the UK] and redeem past sins by paying a fair amount for land that it has illegally occupied for decades".<sup>50</sup>

### Concluding Remarks

*"[The Indian Ocean] is the key to the seven seas in the twenty-first century. The destiny of the world will be decided in these waters".*

*Alfred Thayer Mahan*<sup>51</sup>

From the points of view of international law and human rights, the two cases of Mayotte and Chagos present obvious similarities. Both were in contravention of

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<sup>47</sup> The Pelindaba Treaty was signed in 1996 and came into effect on 15 July 2009, when a sufficient number of African states had ratified the text. It covers the continent of Africa, island states that are members of the AU and all islands considered by the AU in its resolutions to be part of Africa, among them Mayotte and Chagos/Diego Garcia.

<sup>48</sup> Le Clézio describes himself as a Franco-Mauritian writer. Several of his works are inspired by life on Mauritius.

<sup>49</sup> Le Clézio's letter to Obama was *inter alia* published by the French newspaper *Le Monde* on 17 October 2009, i.e. shortly after the announcement that the US President had been awarded the 2009 Nobel peace prize. It is here quoted from *Malango Actualité*, 20 October 2009.

<sup>50</sup> Joseph Stiglitz: 'The Mauritius miracle, or how to make a big success of a small economy' in *The Guardian* (UK), 7 March 2011.

<sup>51</sup> This foreboding statement was made by Mahan in the early 1900s. Alfred Thayer Mahan (1840-1914) was a US navy officer, historian and geo-strategist. As a strategist, he is associated with the concept of 'sea power'.

UN General Assembly Resolution 1514 ('Decolonization Declaration') prior to independence separated from their mother territory, a fact which has been repeatedly denounced by the UN and the AU. In both cases, however, the administering states (France and the UK) are permanent members of the UN Security Council, with powers to block initiatives in favour of binding decisions by the world body, in the case of Chagos furthermore with US backing. Both disputes are thus characterized by huge asymmetric relations, with the odds heavily stacked against the Lilleputians in their pursuit of justice against the Gulliverians. In addition to the issue of sovereignty, human rights abuses and suffering have in the two cases also followed upon the territorial dismemberment. Lastly, but in this context far from least important, is the common feature of both Mayotte and Chagos (Diego Garcia) as military base areas.

With regard to possible political instability and conflict, however, the two cases are altogether different. On Chagos, where the indigenous population has been evicted, a conflict scenario is non-existent. This is in marked contrast to the situation in the conflict-ridden Comorian archipelago, where the independent Union of the Comoros since independence in 1975 has experienced more than twenty coups and repeatedly been torn by secessionist movements. Open and covert French destabilization runs as a continuous thread throughout its violent history.<sup>52</sup> The incorporation of Mayotte as a department of France will in all likelihood not lower the tensions in this endemically unstable environment. On Mayotte itself, expulsions of Comorian immigrants and a considerable number of "illegals" - estimated to represent one third of the population - could also lead to escalating social unrest.

For the Indian Ocean island states of Comoros and Mauritius, an important corollary of sovereignty over Mayotte and Chagos is the right to extensive territorial waters, with potentially significant economic returns through tourism, fisheries, deep-sea mining and oil exploration.<sup>53</sup> Attached to the Comorian and Mauritian claims over the islands are re-drawn Exclusive Economic Zones (EEZ) and delimitations of new national maritime boundaries. According to the UN Convention on the Law of the Sea, adopted in 1982, a state's EEZ normally<sup>54</sup>

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<sup>52</sup> France's interventions in Comoros are illustrated by the extraordinary role played by the mercenary 'Colonel' Bob Denard. With close links to the French government, Denard was for two decades the strong man of Comorian politics. He organized the overthrow of the first president, Ahmed Abdallah, in 1975 and the assassination of President Ali Soilih in 1978. After reinstating Abdallah, from 1978 Denard headed the Comorian presidential guard until 1989, when he once again turned against Abdallah, who was killed in yet another coup. In 1995, however, Denard's attempt to oust President Said Mohamed Djohar failed.

<sup>53</sup> Oil has been found in Mozambican territorial waters. Presently, oil explorations in the ocean are carried out by the Union of Comoros, France around Mayotte, Madagascar and the Seychelles.

<sup>54</sup> The exception to the rule occurs when EEZs would overlap. It is then up to the two (or more) states to amicably delineate the actual maritime boundary or submit their case to the UN International Tribunal for the Law of the Sea. In May 2011, the government of Madagascar announced that it was seeking international arbitration with regard to its EEZ vis-à-vis the French-held, uninhabited islands in the Mozambique Channel. Since 2007, these islands - which form part of the so called Scattered Islands in the Indian Ocean (*Îles Éparses de l'Océan Indien*) - are administered by France as the fifth district of the French Southern and Atlantic Lands (*Terres Australes et Antarctiques Françaises*). Situated west, north

extends to a distance of 200 nautical miles (370 kilometers) from its coastal baseline. For France and the UK, a withdrawal from Mayotte and Chagos would, conversely, be equal to losing control over significant tracts of an ocean which is becoming the prime focus of global attention.<sup>55</sup>

With the post-Cold War rise of China, India and other Asian powers, the global economic and strategic centre of gravity has shifted from the Euro-Atlantic to the Asia-Pacific arena. In the process, the Indian Ocean is emerging as an increasingly critical conduit for trade. More than two thirds of the world's shipments of petroleum products, half of its containerized cargo and one third of its bulk cargo now travel across the Indian Ocean. Political and military developments which would adversely affect the trade flow could impact on the major economies in the world. Against this background, the Indian Ocean region - including the African part - has assumed prime strategic significance. To this should be added that many Indian Ocean coastal states - from Somalia via Pakistan to Sri Lanka and further afield - at the same time have been torn by war and domestic conflict; that al-Qaeda and associated movements have bases there; and, notably, that the piracy which in 2008 became rampant in the Gulf of Aden by 2010 had extended south and east, reaching as far as the Mozambique Channel and southern India.

For all these reasons, the Indian Ocean is drawing the attention of naval forces from not only the traditional maritime powers such as the US, France, Russia and the UK, but also from Iran, India, China, Japan, South Korea and the EU<sup>56</sup>, arguably turning it into "the most nuclearized of the seven seas".<sup>57</sup> Without a regulatory security mechanism, but with diverse and contending military build-ups, the Indian Ocean will according to observers become the nexus of world power and conflict in the coming years.<sup>58</sup>

While the quest for port facilities and military installations by the foreign fleets may offer trade-offs and economic opportunities for the small African Indian

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and east of Madagascar, the unpopulated islands are claimed by Madagascar itself, Comoros, Mauritius and Seychelles.

<sup>55</sup> Covering 11,351,000 square kilometers, the US EEZ is the largest in the world. Due to its overseas departments and possessions in all oceans of the planet, with 11,035,000 square kilometers France's EEZ is the second largest.

<sup>56</sup> In a highly publicized operation, both domestically and around the world, two destroyers and one supply vessel from the People's Liberation Army (Navy) left China for the Gulf of Aden in December 2008. This was the first deployment of Chinese warships outside mainland China in modern times. In October 2009, two Chinese missile frigates were added to the international counter-piracy mission off the Horn of Africa. Nordic naval forces also take part in the mission. As its first naval operation ever, in late 2008 the EU launched 'Operation Atalanta'. In May 2009, two corvettes from the Swedish navy joined this task force, and - although not an EU member - in August of the same year Norway added a frigate. Finland joined the campaign with a minelayer vessel in February 2011. Denmark, finally, had earlier joined the US-led NATO task force with one command and one patrol vessel.

<sup>57</sup> Robert D. Kaplan: *Monsoon: The Indian Ocean and the Future of American Power*, Random House, New York, 2010, p. 8.

<sup>58</sup> Ibid., *passim*.

Ocean states<sup>59</sup>, the struggle by the Comoros and Mauritius for historical justice takes place on a geo-political stage which is radically different from the de-colonizing era when UN Resolution 1514 was adopted. Under its agreement with the UK, the US - for which a dominant military presence in the Indian Ocean is deemed critical - has since developed the base on Diego Garcia into its "single most important military facility. [...] [I]t's the base from which [the US] control[s] half of Africa and the southern side of Asia".<sup>60</sup> Still trying to project itself as a major global power, at the same time France has as an integral part of its military presence in the Indian Ocean incorporated Mayotte. While its main base in independent Djibouti covers the Horn of Africa and South-East Asia, from the naval facilities on the overseas departments of Reunion and Mayotte France is in a position to monitor the sea lanes to and from the Cape both east and west of Madagascar.<sup>61</sup> Answering the question "Is Mayotte of use to France?", during the DOM celebrations on the island on 3 April 2011 the French Overseas Minister, Marie-Luce Penchard, stated that "evidently, everybody has in mind what this advanced position in the Indian Ocean may represent for our country, [with] the strategic interest of a presence in the Mozambique Channel, [as well as] the economic stakes [involved]".<sup>62</sup>

With regard to the rightful recovery of the African territories of Mayotte and Chagos, it can, thus, be safely concluded that the Union of the Comoros, the Republic of Mauritius and the African Union are facing a serious challenge.

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*Nota Bene:* The concluding remarks will be expanded into more comprehensive 'Conclusions' following the discussions at the ECAS conference.

Tor Sellström  
Uppsala  
18 May 2011

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<sup>59</sup> Cf. Jean-Louis Guébourg: 'Les petites îles dans les systèmes commerciaux et géopolitiques de l'Océan Indien' in *Revue Hermès*, No. 32-33, 2002, pp. 435-45.

<sup>60</sup> US national security analyst John Pike, quoted in Andrew S. Erickson, Walter C. Ladwig III and Justin D. Mikolay: 'Diego Garcia and the United States' emerging Indian Ocean strategy' in *Asian Security*, Vol. 6, No. 3, 2010, p. 227. One third of the entire US pre-positioning force, i.e. tanks, armoured vehicles, fuel, munitions, spare parts etc on board pre-positioned ships, occupies the lagoon at Diego Garcia. The US base is currently undergoing an expansion of 200 million US Dollars.

<sup>61</sup> With a strength of close to 3,000 soldiers, the base in Djibouti (FFDJ) is the largest French military base in Africa, consisting of army, air force and naval units. Forces deployed in the southern zone of the Indian Ocean (FAZSOI) are mainly stationed on Reunion and Mayotte. In addition to army and naval forces, Reunion has the only French air force element in the Indian Ocean. On Mayotte, there is a naval station, as well as a detachment of the French Foreign Legion and military from the *gendarmerie*. In total, some 3,500 French soldiers are based on Reunion and Mayotte.

<sup>62</sup> Penchard op. cit.