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Chagos sovereignty and resettlement

A dearth of diplomacy



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Soon after arriving in Mauritius as British High Commissioner, I discussed with Prime Minister Jugnauth the sovereignty issue. He pointed out that since the British government had agreed to the High Court's ruling of 3 November 2000 permitting the Chagossians to return to the Outer Islands, the UK no longer required them for defence purposes; so there was no reason why these islands could not be restored to Mauritius. I thought the islanders would return to their homeland in 2001 and the sovereignty issue resolved long before the renewal of the 1966 UK/US agreement on 29 December. If the islands had been restored to Mauritius at that time, Chagossians would have been able to return to their part of the Mauritian homeland and years of Anglo-Mauritian bad blood and litigation would have been avoided. The tortured history of why, nearly 16 years later, they have not been allowed

to return needs examination. Here I will focus on the sovereignty dispute.

In November 2001, the Deputy PM, Paul Bérenger, put to Jack Straw, the Foreign Secretary, a proposal that the Outer Islands should be returned to Mauritius whilst leaving Diego Garcia for a later date. Straw seemed taken with the idea and asked officials to consult the Americans. Eventually, officials agreed a line with their US colleagues which was that in view of 9/11 (September 2001) the US was content with the status quo. In March 2002, I passed Mr Straw's letter, explaining why he could not take the proposal forward, to Mr Bérenger. In November 2002, Condoleezza Rice, US National Security Advisor, wrote to Mr Jugnauth to say that she was confident that a mutually agreeable solution would be found.

Since then, the issue has not advanced despite successive attempts by Mauritian governments to persuade HMG to discuss it. The UK has continued to stonewall while sending mixed signals. Our standard right of reply in the



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That was the case with the second round of bilateral talks on the UN Tribunal Award on 11 May which was amply described in the PM's PNQ statement of 17 May.

In response to the PNQ, a press release from the BHC said that the talks were a forum to address the Award and "any other issues" but it did not say that sovereignty was not one of them. In fact, the Foreign Office remains opposed to discussing sovereignty. It is difficult to understand why

discussion should in any way prejudice the UK's position on sovereignty. Bilateral talks between friendly nations should allow both sides to express their views on any aspect pertaining to the subject under discussion. I can understand the frustration and hurt national pride that the prime minister and Mauritius feel in being strung along for nearly 16 years. The same applies to Chagossians who have been waiting since 2000 to return to their homeland.

As a former diplomat, I believe that the purpose of diplomacy is to create conditions in which solutions can be found. I know of no valid reasons why a timetable for the gradual transfer of the Outer Islands to Mauritius cannot be discussed. The Americans no longer seem fussed. Perhaps the Foreign Office delegation explained at the talks why it refuses to discuss sovereignty. Recourse to the law should always be the last resort. Mr Jugnauth has been left with little alternative to taking the

dispute to the UN General Assembly to secure a resolution citing the Award, and asking the International Court of Justice for an advisory opinion.

In July 2004, following the Orders in Council depriving the Chagossians of their right to return, Mr Bérenger's government threatened to go to the UN but action was later postponed. In 2010, Mauritius submitted a case over the UK's unilateral declaration of the Marine Protected Area (MPA) to a UN Tribunal

which, 14 months ago, delivered an Award upholding Mauritius' legally binding rights to eventual sovereignty. The recent talks should have been an opportunity to negotiate a solution but neither side was willing to compromise. No progress was made so the MPA remains a paper tiger. It will be an intensive lobbying exercise for Mauritius to obtain the necessary two thirds majority vote in the UN General Assembly, but I would expect the international community to support Mauritius.

The Chagossians have been faced with similar obstacles and obliged to resort to litigation. But in 2013, the Foreign Secretary commissioned an independent KPMG study into resettlement, published 15 months ago. It concluded that resettlement was feasible. Chagossians too have been strung along by consultations and "further work" on cost and demand. The decision will be taken by David Cameron before the summer recess. He seems supportive but is up against some opposition within government. He and Jeremy Corbyn, Leader of the Opposition, discussed resettlement with President Obama in London last month. That no obstacles were raised by the president suggests that from the US side there are no insuperable difficulties.

In a letter he delivered to Downing Street on 7 April, Olivier Bancoult said "Our wrongful deportation a generation ago is a source of worldwide shame on the UK, a blot on the UK's claim to respect human rights and a catastrophe for our community... I implore you to show statesmanship in securing a just restoration of our fundamental human right to go home and to put an end to our exile". That exile has lasted longer than the biblical Babylonian exile.

A ruling by the Supreme Court, which heard the case on 22 June 2015, is still awaited. ■