

# Averting an Environmental Catastrophe in the Chagos Archipelago

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Exchange 

Yuan Yi Zhu





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# Introduction

“Paradise on earth” is typically how the Chagos Archipelago are described by those who lived there. Nested in pristine waters in the Indian Ocean, the territory is not only a tropical haven for those who are lucky enough to be allowed to visit, but it represents an unspoilt natural habitat and refuge for thousands of animal species, including many that are under threat of extinction. Many species, like the rare Chagos clownfish and the almost extinct Chagos brain coral, are endemic to the islands and its waters, making its preservation even more critical to the future of the Earth’s biodiversity.

At the same time, as Sir David Attenborough reminds us in his documentary series *Ocean with David Attenborough*, the world’s oceans are under unprecedented attack from practices such as unsustainable fishing, threatening humanity’s shared patrimony. The United Kingdom contributes to the preservation of the world’s oceans in many ways, few of them as important as the Chagos Marine Protected Area (MPA), one of the world’s largest and most effective marine reserves, in which all fishing and commercial activities are forbidden.

But now, the Chagos MPA is under threat because of the government’s decision to hand over the Chagos islands to the Republic of Mauritius. As part of the mooted transfer, Parliament is being asked to enact the Diego Garcia Military Base and British Indian Ocean Territory Bill, which among other things would have the effect of abolishing the UK Chagos MPA as well as abrogating existing environmental protection laws for the Chagos Islands.

British ministers as well as the government of Mauritius have insisted that the decision to transfer the Chagos Islands to Mauritius would not affect the protection of the Chagos’ unique environment and would indeed enhance it. However, these promises ring hollow – they are unenforceable as a matter of strict international law and they are unbelievable given Mauritius’ poor track record in environmental matters and its state incapacity.

In this report, we show that:

1. The draft agreement between the UK and Mauritius, which Parliament is being asked to ratify by primary legislation, lays no legal requirement on Mauritius to protect the Chagos Archipelago’s natural environment. Mauritius may take measures to protect the environment, but only if it wants to. If Mauritius decides to renege on its nonbinding promise to protect the environment, the UK has

- absolutely no legal recourse under the draft treaty with Mauritius.
2. The MPA that Mauritius intends to establish to replace the existing British one is grossly inadequate. Unlike the British MPA, most of the Mauritian MPA would be open to fishing, risking devastating the sensitive marine environment. The establishment of a Mauritian MPA along these lines will represent a serious downgrade from the current levels of environmental protection currently provided by the United Kingdom's own MPA.
  3. Mauritius lacks the capacity to enforce environmental regulations in the Chagos. It has only two ships capable of reaching the Chagos. Its coast guard has a dismal record at environmental protection, according to Mauritius' own government. Mauritius has stated that it wants the help of third countries in enforcing the MPA, which raises serious concerns as to whether this would be compatible with the security of the Diego Garcia military base.
  4. Mauritius ranks low in international indexes on environmental performance. Yale University's Center for Environmental Law & Policy ranks Mauritius's Marine Protection Stringency, which measures "the stringency of marine protected areas", dead last among 131 countries.

Mauritius has neither the will nor the means to protect the ecosystem of the Chagos islands. If Parliament were to give its approval to the Diego Garcia Military Base and British Indian Ocean Territory Bill, it will be abolishing the Chagos MPA without any guarantee that Mauritius will continue to protect this environment. To do so will be failing to protect the Chagos's environment.

Parliamentarians should decline to enact the Diego Garcia Military Base and British Indian Ocean Territory Bill until and unless the government amends the treaty with Mauritius in order to ensure that environmental protections are included, and until they are satisfied that Mauritius can and will be a good steward of the Chagos' environment. There must also be means to hold Mauritius accountable for failing to protect the Chagos's environment, means which do not exist presently under the draft agreement with the Republic of Mauritius.

All of this requires changes to the draft treaty as it exists; and it is within the power of the United Kingdom to request these changes even at this late stage. After setting out proposals to amend the treaty, we explain why, contrary to some claims, Parliament and the government have the power to require modifications to the treaty.

The treaty does not become effective until the United Kingdom ratifies it; and the government has not yet done so. Therefore, even at this eleventh hour, it is within Parliament's power to push for changes which will guarantee the protection of one of the world's most crucial marine ecosystems.



# The Chagos Islands: An Environmental Outline

In the words of the Chagos Conservation Trust, “[t]he Chagos Archipelago is a unique ecosystem. It is one of the richest, natural marine environments remaining anywhere in the world.”<sup>1</sup> Due to the low levels of human activity in the Chagos and to its isolation, the Chagos has exceptional levels of biodiversity, which have been described as an “environmental insurance policy” for the Indian Ocean by the International Union for Conservation of Nature.<sup>2</sup> It is home to almost 800 species of fish, at least 300 types of coral, 280 species of plants and fern, and some 50 species of birds. Many of these are endemic to the Chagos, meaning that they cannot be found anywhere else. As of 2010, 76 species that are present in the Chagos archipelago are threatened with extinction.

**Table 1: Biodiversity in the Chagos<sup>3</sup>**

Type	Number of species
<b>Coral</b>	300 types of coral can be found in the waters of the Chagos Archipelago. They are threatened by rising temperatures, coral bleaching, overfishing, etc.
<b>Fish</b>	800 types of fish dwell in the Chagos Archipelago’s waters. They are threatened by overfishing (more details below). Many species are endemic to the Chagos.
<b>Plants</b>	There are 280 types of plants and ferns in the Chagos Archipelago. While extensive areas were altered by planting of coconut palm trees, unique and important habitats, including forests, still remain.
<b>Turtles</b>	Two endangered species of turtle can be found in the Chagos Archipelago. They are protected by the MPA.
<b>Invertebrates</b>	The coconut crab, which is the world’s biggest terrestrial arthropod, lives in the Chagos Archipelago.
<b>Birds</b>	175,000 pairs of breeding seabirds from 18 separate species visit each year. They are threatened by loss of habitat, depletion of prey due to overfishing, et cetera.

In order to preserve this exceptional environmental haven, the administration of the British Indian Ocean Territory has, since 1970, legislated to implement such protection, starting with the Protection and

1. “Biodiversity”, *The Chagos Conservation Trust*.

2. International Union for Conservation of Nature, “A Marine Protected Area (MPA) in Chagos: Response on behalf of IUCN and its World Commission on Protected Areas (WCPA) to the UK Foreign and Commonwealth Office (FCO) Consultation on whether to establish a Marine Protected Area in the Chagos Archipelago/British Indian Ocean Territory”, 11 February 2010.

3. “Biodiversity”, *The Chagos Conservation Trust*.

Preservation of Wildlife Ordinance of that year, which was followed by specific ordinances protecting green turtles as well as particularly sensitive parts of the Chagos islands.

In 2010, the British government established the Chagos Marine Protected Area. It covers 640,000 square kilometres and is one of the world's largest marine protected areas. Crucially, the Chagos MPA is a no-take MPA, meaning that fishing and other extractive activities are forbidden, with the sole exception of a zone around the military base of Diego Garcia, which is excluded from the MPA and where strictly limited fishing is permitted for recreation and personal consumption by the personnel at that base. Prior to the establishment of the Chagos MPA, a strictly controlled and licensed Mauritian fishery had been allowed in the Chagos Islands, with further licenced offshore tuna fisheries.

Enforcement of the MPA is undertaken by the United Kingdom, a task of great difficulty given the isolation and size of the zone. It is patrolled by MV *Grampian Frontier*, which is managed by the Marine Resources Assessment Group and supported by professional staff and Royal Navy and Royal Marines service personnel.<sup>4</sup> On occasion, Navy vessels in the Indo-Pacific are made available for patrol and enforcement duties. Their main targets are illegal fishing vessels: many smaller vessels from Sri Lanka and India attempt to fish for sharks and reef fish in these waters, while large distant-water tuna fishing vessels operate all around the MPA, and would quickly fish within the MPA in the absence of regular patrolling, as was the case during the Covid pandemic when there was a surge in illegal fishing due to the lack of enforcement.<sup>5</sup>

The need for the MPA can be seen from the fact that attempts at illegal fishing have persisted throughout the MPA's existence, deterred only by the extensive British efforts at enforcing the ban on fishing: from 2010 until 2020 there were 126 vessels suspected of non-compliance in the Chagos Archipelago. 97% targeted sharks, for an estimate of 14,000 sharks illegally caught. The majority of the non-compliant vessels were from Sri Lanka, which is natural given its proximity to the BIOT. It should be noted that the Sri Lankan government has been generally responsive to United Kingdom representations on the matter. The necessity of vigorous enforcement is demonstrated by the fact that, during Covid, when regular patrolling ceased, there was a spike in the number of such vessels to 19 vessels per month (as opposed to 1 per month before – the level to which they have since returned. There is no doubt that these numbers would be far higher without the United Kingdom's persistent efforts.

The creation of the MPA was contested by Mauritius, which claimed that this act was illegal and violated international law and Mauritian sovereignty. In 2015, a tribunal established pursuant to Annex VII of the United Nations Convention on the Law of the Sea rejected all but one of Mauritius' submissions. The one submission that succeeded resulting in a ruling that the United Kingdom should have consulted Mauritius before establishing the MPA, given that it had made promises to Mauritius that it would retain fishing rights "as far as practicable".

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4. Claire Collins, Ana Nuno, Annette Broderick et al. "[Understanding Persistent Non-compliance in a Remote, Large-Scale Marine Protected Area](#)", *Frontiers in Marine Science* 8 (2021).

5. Claire Collins, Chris Kerry, Asha de Vos et al. "[Changes in illegal fishing dynamics in a large-scale MPA during COVID-19](#)", *Current Biology* 33(16) (21 August 2023).

In October 2024, as part of the joint announcement between the United Kingdom and Mauritius that the former was intending to transfer sovereignty over the Chagos islands to Mauritius in exchange for large payments for the use of the military installation at Diego Garcia, it was announced that an MPA would be established by Mauritius. But for over a year, no details were forthcoming about this MPA, which if established would replace the existing one. Some limited details about the Mauritian MPA have at last been announced, in November 2025, immediately before the second reading of the legislation to authorise ratification of the treaty. The details of the Mauritian MPA will be scrutinised in the following sections.

## The treaty

The draft agreement between Mauritius and the United Kingdom contains few mentions of the environment. In total, there are three references to the environment in the draft agreement:

- In the preamble, it is stated that both the United Kingdom and Mauritius are “Desiring to promote the protection and conservation of the environment of the Chagos Archipelago, including its unique marine environment and biodiversity”. This is a broad declaration which is unenforceable and has no effect in international law.
- Article 2(1) provides that, “[a]s sovereign, Mauritius authorises the United Kingdom to exercise the rights and authorities of Mauritius with respect to Diego Garcia in accordance with the terms of this Agreement.”

Article 2(3) of the draft agreement provides that Mauritius “retains... **all rights and authorities not authorised under paragraphs 1 and 2, including**

...

f. sovereignty over natural resources, including fisheries;

g. conservation and protection of the environment, including the marine environment;” [emphasis added]

The rights of Mauritius in relation to the foregoing are only limited with respect to their exercise in Diego Garcia (Article 2(4) and paragraph 7 of Annex 3.) This means that, with respect to the island of Diego Garcia only, the United Kingdom-Mauritius joint commission must approve of any Mauritian exercise of sovereignty. In the rest of the Chagos, Mauritius’s jurisdiction over fisheries and conservation is therefore unlimited.

- Article 5 of the agreement notes that the United Kingdom “agrees to provide support and assistance to Mauritius in the establishment and management of its Marine Protected Area in the Chagos Archipelago, in accordance with terms to be agreed between the Parties by a separate written instrument” and says further that the two parties “shall cooperate on other matters relating to the protection of the environment, including in relation to oil and other spills, and illegal, unreported

and unregulated fishing.” The United Kingdom in addition agrees to have due regard for Mauritian laws on the environment.

Nothing in these articles imposes any positive obligation on Mauritius to do anything for the protection of the Chagos Islands environment. The treaty, if ratified, will impose obligations on the United Kingdom to assist Mauritius in the establishment of an MPA if and only if Mauritius agrees to establish one and chooses to seek the support of the United Kingdom. Moreover, it is unclear whether disputes arising from the separate written instrument will be subject to the dispute settlement mechanisms provided by the draft agreement.

**Parliament should not ratify the draft treaty until the “separate written instrument” under Art. 5 is made and laid before Parliament.**

In that connection, the statement by Baroness Chapman of Darlington, Minister of State (International Development and Africa), to the House of Lords on 4 November 2025, that “if the UK at any point believes that Mauritius is in breach of its environmental obligations, we can seek to resolve that using the agreed dispute resolution mechanism in Article 14”<sup>6</sup> is misleading at best since the draft agreement does not impose any sort of positive environmental obligations on Mauritius (except for the entirely undefined duty to “cooperate” with the United Kingdom) but only on the United Kingdom.

Articles 2 and 5 amount to a blank cheque to Mauritius: it has unlimited rights to fish in the Chagos (except for Diego Garcia), as well as unlimited rights to exploit its maritime environment, including the exploitation of underwater minerals and the like. It has no obligation whatsoever either to establish an MPA or to maintain one. The United Kingdom, on the other hand, is required to help Mauritius to do so if the latter requests it.

**Parliament should require that the draft treaty be amended so that Mauritius is obliged, as a matter of law, to establish and maintain an MPA in the Chagos in perpetuity.**

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6. [Hansard HL Deb., 4 November 2025.](#)

# The Mauritian Maritime Protected Area: An Inadequate Solution

During the course of the debate in the House of Lords on 4 November 2025, Baroness Chapman of Darlington reported that Mauritius had, the day prior, announced the creation of a marine protected area (MPA) for the Chagos. Mauritius so far has published no legislation establishing the MPA. Nevertheless, from what is known about this potential MPA, it can be seen that it represents a serious downgrade from the existing Chagos MPA established and administered by the United Kingdom.

According to Mauritian media, the Mauritian MPA is to comprise four zones:

- “General Conservation Zone (612,611 km<sup>2</sup>): This is the largest section, intended to safeguard seamounts, coral, and marine species. Sustainable quota-based fishing will be permitted for traditional practices.
- Traditional Resettlement Zone (7,261 km<sup>2</sup>): Designated to support the sustainable resettlement of Chagossians, this area will also protect marine fauna and landscapes.
- Strict Conservation Zone (23,712 km<sup>2</sup>): This zone focuses on protecting the sensitive ecosystems of the Great Chagos Bank. It will allow for guided visits for the Chagossian community.
- Habitat Protection Zone (2,251 km<sup>2</sup>): This segment permits limited artisanal fishing and small-scale tourism.”<sup>7</sup>

Table 2: Comparison between the United Kingdom MPA and the proposed Mauritius MPA

Metric	United Kingdom MPA	Proposed Mauritius MPA
No-fishing area	100% of the MPA (excluding only the waters around Diego Garcia)	1.1% of the MPA (the remaining is open to fishing)
Enforcement	Dedicated, full-time vessel supported by military personnel	Unknown—no significant marine capability

7. “Mauritius Declares Vast Marine Protected Area Around Chagos”, *NewsMoris*, 4 November 2025.

Legislative framework	Legislation under the BIOT commissioner, accountable to the Parliament of the United Kingdom	Unknown—no legislation published or maps as of this time. No international legal obligation to protect the environment through MPAs.
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What is crucial to note at this stage is that almost the entirety of the Mauritian MPA is open to fishing, with the potential exception of the Strict Conservation Zone, whose surface area represents a tiny 1.1% of the MPA's surface area. This stands in contrast with the United Kingdom's Chagos MPA, which is entirely off-limits to any form of fishing with the exception of a 3-mile area around Diego Garcia, where fishing is allowed under strictly enforced regulation. The decision to ban fishing over the quasi-entirety of the Chagos MPA was taken by the United Kingdom and represents the gold standard of environmental stewardship. If the Chagos Islands are transferred to Mauritius's sovereignty, 96% of the existing MPA will be opened up to fishing under Mauritian rule. This represents a serious downgrade from the status quo.

**Parliament should insist on the Mauritian MPA having equivalent environmental protection standards as the United Kingdom MPA. This includes the ban on fishing except in the immediate vicinity of Diego Garcia. Any relaxation of fishing rules for subsistence fishing must be limited to resettled Chagossians and not to Mauritians generally.**

The United Kingdom government claims that “there will be no commercial fishing across the entire 640,000 square kilometre area.” This depends on a generous reading of the Mauritian press release. In the “General Conservation Zone”, fishing will be authorised, based on what is described as a “sustainable quota agreed upon for artisanal, traditional, ceremonial and subsistence purposes”.<sup>8</sup> Given that there is no current Mauritian population in the Chagos, and given that separate provision is made for Chagossians in fishing terms, it is not clear what “artisanal”, “traditional”, or “subsistence” fishing could possibly mean in that context. Nor is there any suggestion of what a “sustainable quota” looks like. Mauritius is free to set the quota at any level and the United Kingdom would have no recourse at all.

Given the Mauritian state's traditional insistence that there is no difference between Chagossians and Mauritians, a suggestion rejected by most Chagossians, the implication must be that “traditional” fishing in the Chagos is determined vis-à-vis the practices of Mauritians around Mauritius, and not that of Mauritians in the Chagos, since there is no “traditional” Mauritian fisheries in the Chagos: the only “traditional” fishing that took place in the Chagos was the fishing by Chagossians, which has not occurred since their exclusion from their homeland. It is well-known that “traditional” fishing practices can cover for a multitude

8. Patrick Hilbert, Mukul Doollah, “[Souveraineté retrouvée - Conservation et réinstallation : Maurice dévoile son plan pour les Chagos](#)”, *Defimedia.info*, 4 Nov. 2025.

of sins, including commercial fishing that is rebadged as “traditional”, but which has no bearing at all with the small-scale, historically anchored sort of activities that the word “traditional” denotes.

Similar concerns can be noted for the Traditional Resettlement Zone. The government’s description suggests that fishing will be allowed in the parts of the Chagos which are used to resettle Chagossians. Of course, the draft agreement does not commit Mauritius to ever allow the resettlement of Chagossians but merely authorises it to resettle Chagossians on terms which are not known.<sup>9</sup> There are serious doubts as to whether Mauritius actually intends to ever resettle Chagossians, not least in views of the difficulties of maintaining an economically sustainable settlement. Chagossians in Mauritius have voted with their feet by moving to the United Kingdom in large numbers to the point of overwhelming local councils’ housing provision capacity. Hence it is not clear that there are enough Chagossians who have Mauritian nationality (a subset of Chagossians and the only group the Mauritian government has consistently committed to resettle) who want to resettle to the Chagos. But as Mauritius considers Chagossians to be simply Mauritian citizens who happen to have a relationship with the Chagos, it may well choose to resettle Mauritians with no connections to the Chagos in the Chagos, and these inhabitants would presumably be entitled to fish in the so-called Resettlement Zone.

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9. See Richard Ekins and Yuan Yi Zhu, “[Parliament's role in ratifying the UK-Mauritius Agreement concerning the Chagos Islands](#)”, Policy Exchange, 2025.



# How Will Mauritius Enforce an MPA?

Even if Mauritius is sincere in its desire to protect the Chagos Islands' environment, it lacks the capacity to do so. Mauritius has no navy but only a very small coast guard force. The Mauritian coast guard possesses two vessels that are capable of operating in the Chagos from Mauritius. Its aerial wing has four aircraft, none of which has the range to operate in the Chagos from Mauritius. It is obvious that Mauritius lacks the capacity to meaningfully surveil and to protect the Chagos MPA of 640,000 square kilometres even if it sincerely wishes to do so.

In addition, as explained below, the Mauritian coast guard has a very poor track record of environmental protection. In 2020, the Japanese ship *MV Wakashio* ran aground in Mauritian territorial waters and spilled 1,000 tonnes of oil into the surrounding oceans. A secret investigation by the government, whose report was only released in October 2025, concluded that the coast guard had “failed... to maintain an efficient monitoring of the territorial waters.” The report further said that “false entries have been made in the VHF logbooks [of the Coast Guard] ... the instructions for making false entries in the VHF logbooks must have been given by Capt Manu [the head of the Coast Guard] and the high level Officers who had proceeded to both sites on that night to investigate. We strongly suspect that they have tried to cover-up the failure of both Pointe du Diable CSRS and Ops Room to maintain an efficient monitoring of the territorial waters.”<sup>10</sup>

Those are the conclusions of an official investigation conducted by a Mauritian judge and two nautical professionals: they clearly demonstrate that Mauritius has lacked the ability and the professional culture necessary to protect one of the world's most vital environmental zones.

The United Kingdom has reportedly offered to detail a patrol vessel for two years, and Mauritius has had discussions with India to provide some support in patrolling the Chagos MPA, which raises questions as to whether the security of the base on Diego Garcia would be compromised by the presence of military ships from a foreign power, even one that is relatively friendly. But the fact that Mauritius is seeking assistance in patrolling Chagos waters is an admission that it lacks the means to do so.

**Parliament should ask the government to explain how Mauritius can protect the Chagos islands' maritime environment when it lacks the wherewithal to do so.**

10. Mauritius, “[REPORT of Court of Investigation Into the Grounding of MV M/V Wakashio Off Pointe d'Esny on 25th July 2020](#)”, 15 September 2022.

**Parliament should also consider whether Mauritius' desire to rely on third parties to help it to enforce the MPA is compatible with the necessity of protecting Diego Garcia from outside threats.**

# Mauritius's Environmental Record: Last in the Class

The MV *Wakashio* cover-up illustrates the inadequate record of Mauritius in terms of protecting the environment. According to the Environmental Performance Index compiled by Yale University's Center for Environmental Law & Policy, Mauritius ranks 77 out of 180 countries below Cuba and Zimbabwe. For the Biodiversity & Habitat category, which measures countries' actions toward retaining natural ecosystems and protecting the full range of biodiversity within their borders, it ranks 173 out of 180. For maritime habitat protection, Mauritius ranks 83 out of 129 countries; and for Marine Protection Stringency, which measures "the stringency of marine protected areas", it ranks 131 out of 131, dead last.

Such a dismal showing suggests that Mauritius is not a country that prioritises environmental protection, to the contrary. By contrast, the United Kingdom ranks 5 out of 180 on the Environmental Performance Index.

Of course, not all countries are endowed with the level of wealth that is necessary to protect their own environments. However, Mauritius is one of Africa's wealthiest countries: its GDP (nominal) of \$33,954 per person is second only to the Seychelles, and higher than that of several countries in Europe. With the large payments the United Kingdom plans to give Mauritius in exchange for the use of the Diego Garcia military base, it stands to be even wealthier. Its lack of means to enforce environmental protection in the Chagos is a policy choice and not one born out of necessity.

Under the current draft of the agreement, the United Kingdom has no right to withhold payment to Mauritius if Mauritius breaks the treaty's terms. Indeed, if the United Kingdom were to withhold payment for any reason whatsoever, Mauritius has the right to terminate the treaty (Article 15). This leaves Mauritius the right to break its meagre promises without impunity and without fear of punishment.

The last time the United Kingdom handed sovereign territory to a foreign country, viz. Hong Kong, China broke the undertakings under the Sino-British Joint Declaration in a matter of 20 years, declaring them to be void. 20 years is a long time in politics. It is therefore crucial for the United Kingdom to have some means to hold Mauritius to account if it does not do what is necessary to protect the Chagos' environment, either through action or through inaction.

**Parliament should require that payments to Mauritius be conditioned on environmental protection action being taken by the government of Mauritius, the MPA being maintained, and Mauritius investing in its maritime enforcement capabilities.**

**Parliament should ask that a portion of the monies payable to the Republic of Mauritius under the draft treaty be earmarked for the protection of the environment.**

**Parliament should insist that payments for Diego Garcia be withheld if these conditions are not adequately met.**

## Is It Too Late?

Some have claimed that it is too late for the treaty to be modified. Under this theory, Parliament has already given its assent to the treaty by not voting for a motion under the Constitutional Reform and Governance Act 2010. The Diego Garcia Military Base and British Indian Ocean Territory Bill is simply a technicality designed to implement the draft treaty; and no substantive changes can be made at this late stage.

This theory is flawed. The treaty does not come into force until the United Kingdom and Mauritius have ratified it. Ratification is done by the government, not Parliament, in the name of the King. The fact that it was not delayed by Parliament does not mean that it has been ratified. Nor does it mean that the UK has an obligation to ratify it. Many treaties are signed but never ratified; and if a treaty which needs requires ratification does not become ratified it has no force.

Moreover, after the signature of the treaty between the United Kingdom and Mauritius, the Mauritian government reportedly has tried on multiple occasions to change its content in order to extract more monies from the UK. If Mauritius does not consider the treaty to be final there is no reason for the UK to treat it as a done deal.

Even if the treaty had been ratified by the government, that would not settle matter. For this treaty purports to recognise (or confer) the sovereignty of Mauritius over territory that as a matter of British law is unquestionably under British sovereignty. That is why Parliament is being asked to enact legislation to enable the treaty to be implemented. For without legislation authorising it, the government constitutionally cannot terminate British sovereignty over the territory, even by treaty. But Parliament is not obliged to implement any treaty simply because the government has ratified that treaty--otherwise, the government could govern by executive fiat, since the conclusion of the treaties is a matter for the Royal prerogative.

As regards to the environment, if Parliament enacts the Diego Garcia Military Base and British Indian Ocean Territory Bill, it will abolish the Chagos MPA, since the MPA exists by virtue of the Crown's power to administer the British Indian Ocean Territory (BIOT) as British territory. This is confirmed by Clauses 2 and 3 of the Bill. Clause 2, by providing for the dissolution of the BIOT, terminates British sovereignty over the territory. Clause 3 preserves the legislation in force of the BIOT for Diego Garcia only. The MPA, which covers the entire British Ocean Territory, will disappear if the legislation passes.

Put differently, the Diego Garcia Military Base and British Indian Ocean

Territory Bill is not a mere piece of cleaning-up, but legislation which directly abolishes the Chagos MPA. To pass it without making sure that there will be similar arrangements for the protection of the Chagos's environment would be reckless in the extreme.



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