

*P***ROPHECY**

**ON THE**

*C***HAGOS ARBITRATION**

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**JAMAAT UL SAHIH AL ISLAM**

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## Preface

A Divine Message is that light which God Almighty (Allah) uses to brighten man's once darkened life. If light is hope for darkness, then Divine Revelation is hope for man's salvation once he surrenders himself completely to Allah. This submission in turns is fertile land for him to accede to Allah, to become close to Him. And once the signs and manifestations of Allah become clear to him, he gets to feel blessed in every way, especially in the times of a Messenger of Allah, who comes to fuel for him that hope, and to enable him to open his inner eye and see the realisation of the signs of Allah.

The present article entitled *“Prophecy on the Chagos Arbitration”* examines the realisation of the words of Allah revealed to this humble self, the Khalifatullah of the age. These words which in turn are vehicled to the people through the tongue of the Messenger of Allah- thus called prophecy -are food for thought for humanity.

## Prophecy on the Chagos Arbitration

Among the many prophecies which have been revealed and realised, the one on Chagos, a group of Islands in the Indian Ocean and the fate of the ex-Government of Mauritius is a call for Mauritian people and the world to acknowledge that there is a Superpower much powerful than any superpower of this world who has the ability to manifest His presence and call the attention of all mankind to see clearly the truthfulness of the one He sent to the world with His blessing for the reformation of the world. The subject matter of this article is backed by both divine and mundane actualities. Man has a plan and God Almighty has a plan, but it is definitely the divine plan which supersedes man's plan in every way. The Divine plan is the best plan, and Allah definitely knows what He does.

All Praise be to Allah who has enabled my humble disciple Hadhrat Mukarram Fazil Jamal Sahib to put into perspective one of the thousand prophecies revealed in the light of spiritual and mundane verities.

**Hadhrat Khalifatullah Munir A. Azim**

**Jamaat Ul Sahih Al Islam**

*06 May 2015*

## **Introduction**

In a Special Speech on 17 May 2012, the Khalifatullah Hadhrat Munir Ahmad Azim Sahib (atba) of Mauritius spoke succinctly on a range of world and national issues, and religious and political developments. The Speech was made in the backdrop of Divine Revelations and it included many comments that were prescient and prophetic, waiting to be unveiled in the fullness of time. Almost three years down the timeline from that Speech, it is astonishing to reflect on the extraordinary Light of Truth the short document represents in many ways. In this essay, we shall seek to illustrate the truthfulness of the Divine words which Allah made the Khalifatullah (atba) to pronounce on the Special Sermon regarding the then Navin Ramgoolam government's efforts to seek possession of the Chagos Islands through international court procedures.

It is instructive and striking to note that the Speech delivered in May 2012 began its assessment of the national issues with a frontal attack on the wily character of the then actual Prime Minister Navin Ramgoolam and his administrative corruption and illegal business practices. In his Speech, the Khalifatullah (atba) was highly critical of

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what he perceived as political manipulations of the Prime Minister seeking to defraud the national exchequer by millions of rupees and also his hypocritical duplicities and strategies to remain in power even beyond his term of office (ending in 2015). The Khalifatullah (atba) goes on to state: ***“If a profound investigation is made on his activities, then there is prison involved for him, and it is possible that such prison terms be for life!”***

In a previous article in this series, we have already noted how the judicial system in Mauritius is indeed seeking to catch up with the former Prime Minister and his coterie of men and women for their unlawful activities and criminal offences. For reading the same, see the link: <http://sahih-al-islam.blogspot.in/2015/04/navin-ramgoolam-deeds-on-trial.html> ~ In this article, we shall seek to unravel yet another issue discussed on the occasion of the Special Speech- the then raging national debate over the effectiveness of the international strategies to regain possession over the Chagos Islands, over which Mauritius has, for long, raised historic title and legal claims; though in reality and in fact, these islands remain the British-administered island territories in the Indian Ocean.

### **The Prime Minister's 'posturing' on the Chagos Dispute**

It is strikingly instructive to note that the Special Speech was also made in the contextual backdrop of the political posturing of the then Prime Minister of Mauritius, Mr. Navin Ramgoolam, who was trumping his 'patriotic' fervour over the national media: that he was seeking to re-establish effective national sovereignty over the Chagos Island through international court procedures. Without full disclosure on the complex legal situation where the matrix of facts and law requiring evidentiary backing would invariably entail enormous legal costs and also the possibility that the potential benefits of the proposed initiative to approach the international tribunals on the dispute could be of limited range, the Prime Minister hoodwinked the nation on perceived benefits through hammering on certain selective facts and the legal procedures.

In a political and financial context where the governmental subsidy for politically expedient, populist programmes had become a major strain on the resource-base of the Mauritius national economy, the Speech of the Khalifatullah (atba) underscored the need for avoiding the wastage of precious national resources through wrong policy choices. In a searing indictment of the lop-sided priorities of then

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Prime Minister, the Khalifatullah (atba) questions the real motivations behind the ‘official foreign tours’ of the Prime Minister and the wasteful expenditures it entailed for the country. Given that the international arbitral proceedings would further entail the national exchequer to release millions of dollars in terms of legal and administrative costs, the concern was that the Prime Minister was committing the country to a course of legal action abroad which was uncertain of achieving the professed national purposes. In the backdrop of the Prime Minister’s ‘political posturing’ on the Chagos Islands dispute, the Khalifatullah (atba) clearly viewed it as one of the ways in which the then Prime Minister was seeking to “fool” the common people by hiding behind national aspirations and sovereign claims over the territory. He goes on to unambiguously predict that **the litigation shall not attain its objective** the Prime Minister had set out - to regain possession over the Chagos Islands from the UK.

**The link to the speech is here:**

[http://www.jamaat-ul-sahih-al-islam.com/jusai2012/diseng\\_17may12.pdf](http://www.jamaat-ul-sahih-al-islam.com/jusai2012/diseng_17may12.pdf)



**The Khalifatullah (atba) on the Chagos Question**

With regard to the dispute over the Chagos Archipelago between Mauritius and the UK, the Khalifatullah (atba) made the following central points in his Speech of May 17, 2012:

- (i) Chagos once belonged to Mauritius
- (ii) Sir Seewoosagur Ramgoolam, father of the then Prime Minister Navin Ramgoolam, played a significant role in the detachment of the Chagos from Mauritius, to the British administration.
- (iii) Britain has established certain rights over the Islands.
- (iv) The current legal procedures and cases will not be fruitful, in terms of Mauritius regaining possession over the disputed territory of Chagos Islands.

**Chagos Arbitration Award of 18 March 2015**

On 18th March 2015, the Tribunal constituted under Annex VII of the United Nations Convention on the Law of the Sea (the “**Convention**”) in the matter of the *Chagos Marine Protected Area Arbitration*, between the Republic of Mauritius and the United Kingdom of Great Britain and Northern Ireland, announced its Award.<sup>1</sup> The arbitration proceedings were instituted by the Republic of Mauritius in the wake of the establishment by the United Kingdom on 1 April 2010 of a Marine Protected Area (“**MPA**”) around the Chagos Archipelago, an area that is presently administered by the United Kingdom as the British Indian Ocean Territory, over which the Republic of Mauritius has long claimed sovereignty and historic rights.

In its Award of 18 March 2015, the Tribunal essentially addressed four main legal issues that were put to it by the competing claimants. For, the Parties differed between themselves, on questions ranging from the competence of the Tribunal to adjudicate on the matters at dispute to the very characterization of the nature of the dispute between the two Parties. The main legal questions at dispute may be

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<sup>1</sup> The press summary of it, and the full records as well, are now available in public: [http://www.pca-cpa.org/showpage.asp?pag\\_id=1429](http://www.pca-cpa.org/showpage.asp?pag_id=1429)

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summarized as follows: Mauritius made four submissions, requesting the Tribunal to find that:

- (1) The United Kingdom is not entitled to declare an MPA or other maritime zones because it is not the “coastal State” for the purposes of the Convention;
- (2) Given the commitments that it made to Mauritius, the United Kingdom is not entitled unilaterally to declare an MPA or other maritime zones because Mauritius has rights as a “coastal State” for the purposes of the Convention;
- (3) The United Kingdom may not prevent the Commission on the Limits of the Continental Shelf from acting on any submission that Mauritius may make regarding the Chagos Archipelago; and
- (4) The MPA is incompatible with the United Kingdom’s substantive and procedural obligations under the Convention and the UN Fish Stocks Agreement.

Through the submission of these legal questions, Mauritius challenged the sovereign authority of the United Kingdom (which administers the Chagos Island as part of its British Indian Ocean Territories) in its purported establishment of a Marine Protection Area in and around the Islands, in the year 2010. Through this

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challenge, Mauritius was seeking a legal determination on the disputed question as to which country is the coastal state for the purposes of the Chagos Islands. Given the complex background of Mauritius-UK colonial relations and the associated political negotiations in the prelude to the detachment of the Islands from, and granting of, independence to the remaining territories of Mauritius in 1968 and also the subsequent developments, Mauritius found it expedient to invoke the authority of the International Tribunal (with a mandate to adjudicate on disputes arising out of the interpretation or application of the UN Convention on the Law of the Sea (UNCLOS, 1982)) to adjudicate on the diverging matters between the Parties. From the nature of the submissions/legal claims presented, it is also apparent that Mauritius was advancing the legal argument that the issue of sovereignty is inextricably intertwined with the determination of the identity of the coastal state, for the legal authority to declare an MPA (Marine Protection Area) in and around the Chagos Islands would directly emerge and flow from being the coastal state in question.

The Tribunal in its Award, however, took the majority view that the legality of the MPA purported to have been established by the UK in

and around the Chagos Islands in 2010 could be segregated from the larger dispute over territorial sovereignty between the two countries, a dispute that has its origins in the alleged illegality surrounding the colonial power's detachment of the Islands prior to the granting of independence to the Republic of Mauritius. Mauritius, thus, did not succeed in getting the Tribunal to pronounce on this crucial question of the alleged illegality of the detachment of the Islands by the UK. The Tribunal viewed the first two questions raised by Mauritius as pointing to the dispute over sovereignty-issues beyond the scope of its jurisdiction. As a Tribunal with a mandate only to look into questions of interpretation or application of the UN Convention on the Law of Sea and its provisions, the Tribunal determined that in the circumstances of the case, the determination of identity of the coastal state does not amount to a question within the scope its mandate as any such determination cannot be separated from the sovereignty question and as such, the Award refused to answer the questions on merits. The third question was also not found to be of worthy of substantive consideration as there is no standing dispute between the Parties at this point of time and consideration of a futuristic/hypothetical questions would be juridically premature and unnecessary.

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On the fourth question regarding the compatibility of the unilateral declaration of the MPA by the UK, with its international legal obligations under the Law of the Sea and other applicable rules, the Arbitration Award upheld that the UK was obliged to have due regard for the interests and rights of Mauritius and to act in good faith with respect to the terms of the political undertakings that were drawn up in the negotiations with the Mauritius leaders at the time of the negotiations leading to the detachment of the Chagos islands. Mauritius was successful in persuading the Tribunal to agree with its arguments on the binding nature of the “Lancaster House Undertakings” of September 1965, the outcome of the political negotiations leading to the eventual detachment of the Chagos Islands. Hence, the United Kingdom’s undertaking to ensure that fishing rights in the Chagos Archipelago would remain available to Mauritius as far as practicable is legally binding insofar as it relates to the territorial sea. Secondly, the United Kingdom’s undertaking to return the Chagos Archipelago to Mauritius when no longer needed for defense purposes is also held to be legally binding and finally, the undertaking to preserve the benefit of any minerals or oil discovered in or near the Chagos Archipelago for Mauritius is also held to be legally binding.

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Reviewing the record of events from February 2009 to April 2010, the Tribunal found that the United Kingdom engaged far less with Mauritius in consultations regarding the proposed MPA and the absence of sufficiently reasoned exchanges between the Parties.

Despite creating reasonable expectations that Mauritius would have further opportunities to respond and exchange views before any final decision was taken, the United Kingdom announced the MPA without meeting these expectations. Accordingly, the Tribunal found that the United Kingdom failed to meet its obligations under the Convention. In its final observations, the Tribunal indicated with regard to the possible re-establishment of an MPA in the Chagos Islands that it is now “open to the Parties to enter into the negotiations...with a view to achieving a mutually satisfactory arrangement for protecting the marine environment, to the extent necessary under a “sovereignty umbrella””.

**Former Prime Minister's Press Statement of 21 March 2015**

Mr. Navin Ramgoolam, the former Prime Minister of Mauritius (and the present Leader of the Opposition on leave of absence), held a Press Conference soon after the International Tribunal declared its Award, hailing it as a major victory for his previous government's policy decision to invoke the international court procedures for the purpose of obtaining the possession of the Chagos Islands. In his self-congratulatory mood, the former Prime Minister even advised the present government of Mauritius to *"not to waste time establishing any party committee to act quickly by contacting the legal team that enabled this victory to counter any British attempts to annihilate judgment and **not to consider any solution other than the return of the archipelago to Mauritian sovereignty, while giving guarantees to the United States to maintain its military base on Diego Garcia.**"* (See the link: <http://www.lemauricien.com/article/apres-jugement-du-tribunal-arbitral-permanent-sur-les-chagos-ramgoolam-affirme-sa-grande-sat>)

Notwithstanding the euphoria of the former Prime Minister, return of the Chagos Archipelago to Mauritian sovereignty is unlikely to materialize any time soon. Though the UK suffered a moral and legal defeat on the unilateral imposition of the MPA in and around the



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Chagos, the Award does not have any implications for the administrative control of the country over the Islands as the UK has been legally permitted to continue with its old policy undertaking “to return the Chagos Archipelago to Mauritius when no longer needed for defense purposes”. The Award also reveals that while agreeing to this undertaking in the context of the Mauritius Parliamentary questions in November 1965, the UK has also made it clear that a “*decision about the need to retain the islands must rest entirely with the United Kingdom Government and that it would not (repeat not) be open to the Government of Mauritius to raise the matter, or press for the return of the islands on its own initiative*”. (Para 84 of the Main Award, pp. 30-31)

The Arbitration Award also contains an account of the political, diplomatic and legal predicament the nation (Mauritius) faces in relation to its policy of regaining the Chagos Islands. We reproduce below a revealing paragraph:

157. *On 9 September 2010, the new British High Commissioner in Mauritius, Mr Nicholas Leake, met with the then President of Mauritius, the Rt. Hon. Sir Anerood Jugnauth KCMG QC GCSK PC, 202 Prime Minister Ramgoolam, and Foreign Minister Boolell while presenting his credentials. The High Commissioner’s account of that conversation is as follows:*

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[...] The talks were wide-ranging, and other bilateral points will be reported separately to Africa Directorate. However, they all took the opportunity to raise Chagos/BIOT, which remains an irritant following the decision to establish a Marine Protection Area (MPA) in BIOT.

2. [President] Jugnauth said that he understood that **the UK position was that sovereignty would be ceded to Mauritius once Diego Garcia was no longer needed for military purposes. But Mauritius had always understood that this meant the Cold War. The Cold War was now over, so was Diego Garcia still needed for military purposes? And if so, would there not always be a reason why the island was still needed?** Jugnauth later added that the UK should just hand back the Territory; Mauritius had no problem with the US continuing to use the base, but they should pay rent to Mauritius.

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5. Boolell recognised that the US base was here to stay, but Mauritius wanted to exercise its “legitimate rights” over the territory. They wanted to be part of any discussions, and were unhappy **that the US refused to engage with them and kept telling them to discuss all BIOT issues with us.** Boolell drew attention to the Chagossian case in the ECHR, and said that this was a rare case where the Mauritian government and opposition were united. He also hinted at “mobilising world opinion”, an ICJ case, and seeking “compensation for lost revenue” since independence. **(Para 157 of the Main Award, pp. 66-67; see also United Kingdom record of meeting between British High Commission in Port Louis and President, Prime Minister and Foreign Minister of Mauritius on 9 September 2010 (Annex UKCM-119).)**

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Even the former Prime Minister Mr. Navin Ramgoolam is on record, revealing his actual experience of discussing the Chagos Issue with the United States in the following words in the Award:

***“Ramgoolam said that when the Mauritians tried to talk to the United States about BIOT the Americans took the line that Mauritius needed to settle the sovereignty issue with the UK first. The Foreign Secretary said that our position was clear. We would cede the Territory to Mauritius when we no longer required the base”.***

(Para 153 of the Main Award, pp. 64; *see also* Notes of telephone call from Foreign Secretary to Mauritius’ Prime Minister of 1 April 2010 in e-mail of 1 April 2010 from Global Response Centre (**Annex UKR-67**).

It would be a leap of imagination and highly misleading to consider that these core facts of the ground situation has altered any which way as a consequence of the new Arbitration Award. As the Khalifatullah (atba) presciently stated and predicted in the special Sermon of May 17, 2012 despite the plans made by the then Prime Minister to restore back the Chagos Islands to the possession of Mauritius, the Islands continue to remain under the administrative control of the United Kingdom. Despite the former Prime Minister’s wish to declare the continued presence of the UK in the Chagos

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Islands as unlawful, the Arbitration Award has virtually endorsed the British rights of continued possession and administrative control of the Islands till into a future when it would no longer be needed for their “defence purposes”, a scenario highly unlikely to materialize anytime soon in the near future.

## Conclusion

The detachment of the Chagos Islands by the United Kingdom took place prior to the granting of independence to the colony of Mauritius in 1968, a fact that was recognized and not disputed by the UK as well during the Arbitral proceedings. In the prelude to the national independence, there were a series of Constitutional Conferences in the UK in which the leaders of the Mauritius national movement from the different political parties and interest groups participated. It was during these political negotiations that the British administration raised the issue of detachment of the Islands for the purpose of establishing a defence base for the US in order to sub-serve the then larger causes of the “free world” in a Cold War milieu.

The Mauritius delegation, under the leadership of **Sir Seewoosagur Ramgoolam** initially objected to the proposal on the ground that it would be “unacceptable to public opinion in Mauritius” and proposed the alternative idea of a long term Lease of the territory. Since that leasing arrangement was not acceptable to the US, based on the suggestion of the Mauritius leader Mr. Bissoondoyal, the UK Secretary of State agreed to the return of the Islands if the need for the defence facilities disappeared. Crucially, the negotiations did not prescribe

any limitation period for the reverting of the Islands. The national leadership was anxious for political independence and wished to go back from the UK Constitutional Conference with a full confirmation on the advent of freedom at the earliest opportunity. They did value the economic support and continued beneficial relations with the UK and the US and wanted to play a role in being a partner in the defence of the “free world” and some of them even recognized the significance of defence facilities then being proposed to be established in the Chagos Islands. Under the circumstances, Sir Ramgoolam and a number of other colleagues agreed upon the detachment of the Islands even as his colleague and fellow participant in the negotiations, Mr. Paturau considered it a poor bargain for Mauritius and even went on to register his dissent in the final meeting. In return for the political agreement for the detachment by the Mauritius leaders, the UK administration agreed upon the payment of certain, enhanced compensation for Mauritius on account of the detachment. Likewise, in what has come to be named as the **Lancaster House Undertakings** of 23 September 1965, the UK also gave an undertaking to respect certain other privileges and entitlements.

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These include the following: (1) if the need for the facilities on the islands disappeared the islands should be returned to Mauritius and that (2) the benefit of any minerals or oil discovered in or near the Chagos Archipelago should revert to the Mauritius Government and that (3) as far as practicable fishing rights shall be permitted in the Chagos Archipelago.

The present claims of Mauritius point to the unequal bargain inherent in the colonial context in which these negotiations and understandings took place. It thereby makes the inferential argument that the enormous power difference and political pressure on the national leadership along with other relevant principles of international law, including on right to national self-determination and the principle of territorial inviolability of nations under colonial rule would invariably mean that the detachment agreement over the Chagos Archipelago was vitiated and *void ab initio*. The purported establishment of the MPA by the UK through a unilateral declaration that almost disregarded the due and legitimate rights of the Mauritius gave it an opportunity to challenge the legality of the measure under the Law of the Sea Convention. It also hoped that the sovereignty question could be finally settled through the Arbitration.

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One would have personally liked to see Mauritius re-gaining sovereignty over the Islands. But, as is known, because of the political agreements/understandings that the Mauritius leaders, including most notably and definitely, Sir Seewoosagar Ramgoolam has had with the British government in the prelude to the national independence, the Chagos had moved into British-American control for geo-strategic reasons, with Britain gaining legal rights of administrative control over the BIOT till a time far into future when they will on their own hopefully transfer the territory as no longer needed-a proposition which is highly unlikely to materialize in our own times.

The Award graphically documents as to how the Prime Minister was heavily influenced by considerations of electoral politics and the prospects for return to power in taking this unprecedented position of a legal war on the UK over the Chagos Islands issue. While the national discourse on the Chagos Arbitration, shaped by the Prime Minister's narrative, focussed on the sovereignty challenge, the Award clearly establishes that despite the national/domestic political posturing by the Prime Minister, the Mauritius position at the Court on the case was based on legal strategies. In any case, the Tribunal



found that it does not have the juridical competence/ legal jurisdiction to look into the sovereignty dispute between the countries, as the legal challenge was on other issues such as certain measures Britain unilaterally took to protect the marine environment around the Islands under its control.

**One final thought:** Had the people of Mauritius been fully aware of the enormous costs the Arbitration proceedings entailed and the limited outcomes it would eventually produce for the nation, would they have allowed the leaders to go on with their plans? It is instructive to note that through his succinct remarks on the Chagos Arbitration on May 17, 2012, the Khalifatullah (atba) was speaking exactly like a true patriot and son of his soil, a true and committed Mauritian who was aware of what machinations and plans the wily politicians are capable of playing in their power-games, all in the name of the people. Viewed in its entirety, it is apparent that the former Prime Minister's international court procedure route for re-establishing the national sovereignty over the Chagos Islands, did not attain with the success he was hoping for, an outcome that was clearly foretold in the Speech of May 17, 2012 by the Khalifatullah (atba). One can only marvel at the extraordinary insights- be it on

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spiritual and religious matters or on secular and world affairs- that Allah (swt) continues to bestow on His chosen servant of this era, the *Khalifatullah* Hazrat Munir Ahmad Azim Sahib (atba) of Mauritius, *Alhamdulillah, Soumma Alhamdulillah.*