

**Compensating a People for the Loss of Their Homeland:
Diego Garcia, the Chagossians, and the Human Rights Standards Damages Model**

David Vine, Philip Harvey, and S. Wojciech Sokolowski

Northwestern Journal of International Human Rights

Vol. 11, no. 1 (2012 [2013]),* pp. 152-185

- The aim of the Human Rights Standards Damages Model is to calculate damages Chagossians have suffered as a result of their expulsion from their homeland by the US and UK governments.
- The Chagossians were forcibly displaced from their homes in the Chagos Archipelago between 1968 and 1973 during construction of the US military base on the Chagossians' largest island, Diego Garcia. They have now remained in exile for more than 40 years.
- Although money cannot measure or fully compensate for the losses Chagossians have experienced, we believe it is important to provide a damages estimate so that Chagossians (and other groups) can seek proper compensation and some measure of justice.
- Our model offers a framework that allows an objective and transparent way to measure tangible and intangible damages suffered by the Chagossians and other peoples who have been dispossessed or who have experienced other human rights violations.
- The basis for our model is a 2005 United Nations resolution that reaffirmed the right of victims of gross human rights violations to reparations. Both direct victims and indirect victims, like children and other family members, are entitled to reparations.
- To calculate lost land and property, our model estimates the value of the Chagossians' land through comparisons with 1) annual rental payments made by the United States for the military use of the Kwajalein Atoll, Republic of the Marshall Islands; and 2) Japan's 2006 agreement to pay the United States \$6.09 billion to reclaim land occupied by U.S. military bases on Okinawa and help move U.S. troops to Guam.
- To calculate lost income, we looked for small, isolated comparison populations living next to a military base like Diego Garcia who were able to enjoy the economic benefits of living next to a base. Our model holds, however, that a population that has suffered its own social and economic human rights violations (e.g., Kwajalein, Guam) is not an appropriate comparison group because properly measuring compensation demands assuming that governing sovereigns uphold the highest human rights standards, rather than assuming additional rights violations. Our model, thus, compares Chagossians' earnings since their expulsion to the earnings of three comparison populations (France's Indian Ocean island Réunion; the UK Overseas Territories; and the UK) representing three levels of attainment in securing economic and social rights.
- To calculate other consequential damages, including injuries to health, educational opportunities, and psychological well being, among others, our model employs a commonly used methodology mandated by the U.S. Fair Labor Standards Act to compensate workers for consequential damages stemming from minimum wage violations. This methodology allows an additional award of "liquidated damages" equal to back pay owed, although this doubling multiplication factor likely understates the true extent of Chagossians' damages.

- Accounting for Chagossians' lost land and property, lost income, and consequential damages, we estimate that total damages fall between \$5.4 billion (€4.3 billion) and \$13.2 billion (€10.5 billion) (expressed in international \$ and purchasing power parity €).
- For reasons that we explain in the article, we believe that actual damages probably fall toward the higher end of this range.
- Because the US and UK governments have barred us (and other researchers) from Diego Garcia, our calculation does not include an estimate of what appear to be significant environmental damages caused by the US military base.
- The size of our damages estimate is a function of 1) the severity of Chagossians' losses connected to being exiled; 2) the fact that these harms include not only losses suffered individually by each Chagossian, but also losses suffered collectively as an indigenous people dispossessed of their homeland; 3) the fact that both of these categories of loss have continued to accumulate as a result of the Chagossians' continuing exile; and 4) the length of time the exile has continued.

*Note: This article was published in September 2013, although the publication date is 2012.