



THE UNIVERSITY *of* EDINBURGH

Edinburgh Research Explorer

'Unusual Immigrants', or, Chagos Islanders and their Confrontations with British Citizenship

Citation for published version:

Jeffery, L 2011, "Unusual Immigrants', or, Chagos Islanders and their Confrontations with British Citizenship' *Anthropology in Action*, vol. 18, no. 2, pp. 33-44. DOI: 10.3167/aia.2011.180205

Digital Object Identifier (DOI):

[10.3167/aia.2011.180205](https://doi.org/10.3167/aia.2011.180205)

Link:

[Link to publication record in Edinburgh Research Explorer](#)

Document Version:

Peer reviewed version

Published In:

Anthropology in Action

General rights

Copyright for the publications made accessible via the Edinburgh Research Explorer is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

Take down policy

The University of Edinburgh has made every reasonable effort to ensure that Edinburgh Research Explorer content complies with UK legislation. If you believe that the public display of this file breaches copyright please contact openaccess@ed.ac.uk providing details, and we will remove access to the work immediately and investigate your claim.



'Unusual immigrants', or, Chagos islanders and their confrontations with British citizenship

Laura Jeffery

Publication details

Jeffery, L. 2011. 'Unusual immigrants', or, Chagos islanders and their confrontations with British citizenship. *Anthropology in Action* 18, 2: 33-44.

<http://www.ingentaconnect.com/content/berghahn/antiac/2011/00000018/00000002/art00005>

Abstract

This article explores conflicting approaches to British citizenship through claims to universalism and difference respectively. It focuses on displaced Chagos islanders in the U.K. to show how an evidently unique case was confronted by the universalizing policies of the U.K. government. First, most displaced Chagos islanders and their second-generation descendants have been awarded U.K. citizenship, but three key limitations – concerning discrimination against 'illegitimacy', one's date of departure from Chagos, and restrictions on the transmission of nationality to subsequent generations – exclude other people who are also considered to be members of the extended Chagossian community. Second, those Chagossians who decide to migrate to the U.K. face significant hurdles in their attempts to establish habitual residence and integrate into the welfare system. The article reveals how Chagossian pleas for preferential treatment – in recognition of their particular history of forced displacement, dispossession and suffering in exile – have been thwarted by the U.K. government's purported commitment to the equal rights of all British citizens.

Keywords: British Overseas Territories Act, Chagos islanders, Habitual Residence Test.

'Unusual immigrants'

Prologue: Protesting Difference

In February 2007, displaced islanders from the Chagos Archipelago in the Indian Ocean gathered outside the Royal Courts of Justice on the Strand in London. Some had come especially from Mauritius or Seychelles; others from their new place of residence in Crawley or other commuter towns in West Sussex, Surrey and Greater London. For most, it was not the first time they had been there: Chagossian groups have held demonstrations outside the courts periodically since 2000, when they won their first High Court victory against the U.K. government in the form of a judicial review establishing that the deportation of the islanders from their homeland had been unlawful.

This time, they were there to attend the hearing of the U.K. government's appeal against a judicial review of the legislation which prevents Chagossians (and all other non-authorized persons) from entering the Chagos Archipelago. Outside the court, and later at a demonstration at Downing Street, Chagossians waved banners proclaiming, *inter alia*: 'We've the right to live in our homes', 'Give us a permanent home or send us back to our island', and 'We will return to Diego Garcia! It's our right!' British supporters of the Chagossian struggle also produced banners. One member of the U.K. Chagos Support Association (UKCSA) painted a banner that originally read: 'Send the Chagossians home'. Another UKCSA member half-jokingly confided to me that she hoped the banner would not make passersby associate the UKCSA with the National Front, whose website expounds such slogans as 'This is our country and we want it back'.¹ The poster was quietly amended to read 'Send the Chagossians home – that's what they want!'

British press coverage has routinely evoked the Chagossian struggle for the right to return to Chagos while representing the Chagossian story as an unusual case in U.K. immigration.² On his blog, UKCSA member and journalist Daniel Simpson described Allen Vincatassin, the leader of the Crawley-based Diego Garcian Society,³ as 'an immigrant with a difference: he wants to go back to where he came from but the British government won't let him. So he's importing his compatriots instead' (Simpson 2006). And in *The Times*, Martin Fletcher described a retired couple, whose daughter Hengride Permal founded the Crawley-

'Unusual immigrants'

based Chagos Island Community Association,⁴ as 'the polar opposite of most immigrants to Britain. They want to go home but the Government will not let them' (Fletcher 2007). As we shall see, conceptualizing the Chagossians as a special case brought them some success, but also met with opposition from the U.K. government, which denied that the case was sufficiently unusual to merit preferential treatment.

Ethnographic studies of Britain have paid considerable attention to what it means to identify, be identified, not identify or not be identified as British, particularly in the context of immigration, ethnic diversity and multiculturalism (e.g. Baumann 1996; Modood and Werbner 1997; Werbner and Modood 1997). While retaining a concern with processes of inclusion and exclusion, the ethnographic focus of this article is somewhat different: using a framework of citizenship and rights – instead of culture and identity – I show how recent British citizenship legislation and the Habitual Residence Test have given some recent immigrants the impression that they are not quite full British citizens and do not quite belong in the U.K.

I take my lead from Charles Taylor's contrast between what he calls the 'politics of universalism' and the 'politics of difference' (Taylor 1992: 37–44). The principle of universalism emphasizes the equal dignity of all individual citizens and therefore demands equal political, civil and socio-economic rights for all citizens. This principle assumes that non-discrimination is blind to difference and uniformly fair, and that therefore it should not be violated. The recognition of difference, on the other hand, focuses on community-level identity and demands that members of particular communities should not be forced to assimilate to the dominant identity. The recognition of difference indicates that the supposedly neutral difference-blindness of universalism amounts to an attempt to homogenize diverse cultures into a hegemonic mould. From the perspective of universalism, on the other hand, the emphasis on difference and particularity violates the principle of non-discrimination (even, and equally, when this is 'positive' discrimination intended to redress existing inequalities) and can therefore lead to separate development policies. Taylor's distinction is central to debates within and between groups about the relative benefits and drawbacks of non-discrimination versus positive discrimination and about whether rights inhere in the individual citizen or through group membership.

'Unusual immigrants'

On the one hand, anthropologists have long identified local challenges to supposedly universal values such as the concept of individual human rights (see Wilson 1997: 4–7). On the other hand, the concept of 'group-based' rights implies that a 'social group' is a stable and internally coherent entity with a single shared culture, whereas anthropologists have increasingly seen culture and identification as contested processes (see Turner 1993; Wilson 1997: 8–10; Cowan et al. 2001: 17). Anthropological studies of human rights have often focused ethnographically on the struggles surrounding minority group claims for group-based rights on the basis of cultural difference (see Eriksen 1997; Cowan et al. 2001: 4–11). My case study differs in the sense that Chagossian activists have campaigned for preferential rights on the basis not of their cultural distinctiveness per se but of their particular collective history of forced displacement, dispossession and suffering in exile. This article illuminates the tensions between universalism and particularism by exploring how the Chagossian community's campaigns for preferential treatment have been repeatedly thwarted by the U.K. government's purported intention to guarantee the equal treatment of all British citizens.

The Chagossian Case Study

From the late eighteenth century onwards, the Chagos Archipelago was administered by the French and later the British as a dependency of colonial Mauritius. The Chagos Archipelago was originally populated with enslaved labourers brought from coastal East Africa and Madagascar via Mauritius; later, the workforce was augmented with indentured labourers of African and South Asian origin, again brought via Mauritius. Most labourers in the colonial Chagos Archipelago worked on coconut plantations producing coconut oil and dried copra for export (for use in the production of electricity and soap); others were engaged in fishing and the extraction of guano (which was increasingly in demand for use as a fertilizer on the sugar estates on mainland Mauritius).

During the Cold War, the U.S. Government sought to establish an overseas military presence in the Indian Ocean, favouring the U-shaped Chagos island of Diego Garcia on account of its administration by British allies, its small and politically insignificant population, its central but isolated location, its natural harbour and its potential to build a runway along one side

'Unusual immigrants'

(Vine 2009: 61). In exchange for what was in effect a US\$14 million discount on the Polaris missile system, the U.K. Government agreed to make Diego Garcia available to the U.S. military (Vine 2009: 87–88). In 1965 – as part of negotiations leading to Mauritian independence in 1968 – the U.K. Government excised the Chagos Archipelago from colonial Mauritius and created a new colony called the new British Indian Ocean Territory (BIOT). At the U.S. government's request, the U.K. government agreed to depopulate the entire archipelago.

The residents of the Chagos Archipelago had been accustomed to making periodic voyages to Mauritius or Seychelles to renew work contracts, purchase supplies, receive medical treatment, give birth in a hospital, take holidays or visit family. From the mid-1960s onwards, Chagos islanders in Mauritius and Seychelles were refused return passages to Chagos, with representatives of the shipping companies telling them that the Chagos Archipelago had been 'sold' and the islands 'closed'. Meanwhile, proprietors of the coconut plantations on Chagos gradually reduced the importation of supplies, wound down copra production, and did not renew employment contracts once they had expired. There was a gradual exodus from the islands. Eventually, the remaining inhabitants were forcibly removed from the Chagos Archipelago between 1971 and 1973. Of the former inhabitants of the Chagos Archipelago, about 1,500 ended up in Mauritius, and about 500 in Seychelles.

Successive Chagossian groups in Mauritius have campaigned for compensation and the right to return to Chagos. Chagos islanders in Mauritius won limited financial compensation from the U.K. government in 1978 and 1982,⁵ but the sums they received were often insufficient to repay the debts they had incurred in the interim, let alone to enable them to make a new start in exile. In 2004 they lost a legal claim against the U.K. government for further compensation (see Jeffery 2006a).⁶ In 2000, a judicial review launched in the name of Olivier Bancoult, the leader of the Mauritius-based Chagos Refugees Group (CRG), concluded that the U.K. government's depopulation of Chagos had been unlawful since it was contrary to the laws of the territory.⁷ In 2004, the U.K. government controversially used the Orders in Council – approved by the Queen at a meeting of the Privy Council, thus bypassing parliament (see O'Connor 2009) – to impose new BIOT immigration legislation preventing Chagossians from entering the territory (see Jeffery 2009). The Chagossians' legal team won a judicial review of

‘Unusual immigrants’

this legislation in 2006, and the U.K. government lost its initial appeal of the judicial review in 2007, but in 2008 the U.K. government won its final appeal in the House of Lords.⁸ The CRG’s legal team appealed to the European Court of Human Rights, where the case is pending. In 2010, in a move apparently intended to prevent Chagossians from resettling Chagos, the U.K. Government designated the Chagos Archipelago as a Marine Protected Area (MPA). In response, the Mauritian Government has launched a challenge under the compulsory dispute settlement provisions of the 1982 UN Convention on the Law of the Sea on the grounds that the U.K. lacked the jurisdiction to create an MPA around Chagos.

Meanwhile, under the British Overseas Territories Act 2002, the U.K. government awarded U.K. citizenship to Chagos islanders and their second-generation descendants born since leaving Chagos. In the context of their difficult situation in exile, it is not surprising that hundreds of Chagossians have sought to emigrate from Mauritius and Seychelles. According to the Foreign and Commonwealth Office (FCO), a total of 1,406 U.K. passports were issued to members of the extended Chagossian communities in Mauritius and Seychelles between 2002 and 2006.⁹ Chagossian organizations in the U.K. estimate that in the first five years after being awarded U.K. citizenship, around one thousand people – comprising displaced islanders and their descendants alike – migrated to the U.K., mostly to Crawley in West Sussex.

‘Unusual Immigrants’

Chagossians in the U.K. could be identified as ‘unusual immigrants’ for two reasons hinted at above. Firstly, most Chagossians obtained U.K. passports before leaving Mauritius or Seychelles, so they arrived in the U.K. with the right to reside – an advantage when compared to others who arrive in the U.K. without U.K. passports. Secondly, Chagossian groups are still fighting for the right to return to Chagos – thus implying that immigration to the U.K. forms part of a longer-term strategy that may later entail emigration from the U.K. These features raise two key questions. First: is U.K. citizenship and the attendant right of abode in the U.K. necessary and/or sufficient for integration, bureaucratically speaking? Second: do Chagossians envisage themselves as short-term ‘sojourners’ or as long-term ‘settlers’ in the U.K.?

'Unusual immigrants'

This article addresses these questions by examining bureaucratic challenges faced by Chagossian migrants. Firstly, while native Chagos islanders and their second-generation descendants became eligible for U.K. citizenship under the British Overseas Territories Act 2002, any subsequent descendants and non-Chagossian spouses remained ineligible, and they therefore face the successive challenges of applying for visas and work permits and taking the Life in the U.K. Test for naturalization. Secondly, Chagossians lost a case seeking exemption from the controversial Habitual Residence Test (which was established to prevent so-called 'benefit tourism'), and therefore even those who have U.K. passports still have to acquire habitual residence in order to become eligible for the relevant benefits.

I understand the issues in terms of the anthropology of rights and difference. From the perspective of the U.K. government, granting U.K. citizenship to Chagossians was sufficient recompense for their unlawful forced displacement and their history of disadvantage and discrimination in exile. Indeed, during the hearing in the House of Lords appeal, counsel for the U.K. government, Jonathan Crow QC, implied that the fact that the Chagossians had been awarded U.K. citizenship with an attendant right of abode in the U.K. justified the decision to deny them the right of abode in Chagos.¹⁰ From the perspective of many in the extended Chagossian community, however, Chagossians should receive additional entitlements and exemptions in recognition of their community's specific mistreatment by successive U.K. governments.

The British Overseas Territories Act 2002

The British Overseas Territories Act 2002 reclassified the British Dependent Territories (BDTs) as British Overseas Territories (BOTs) and awarded full U.K. citizenship to citizens of such territories. People born on Chagos when it was a British colony, who were eligible for BDT citizenship under the British Nationality Act 1981, thus became eligible for full U.K. citizenship through their place of birth. According to the British Overseas Territories Act 2002, citizens of the BOTs can transmit the entitlement to U.K. citizenship to their children who are also born in a BOT. This provision would not initially have applied to the children born to Chagos islanders in

'Unusual immigrants'

exile, since they were born not in a BOT but in the independent republics of Mauritius and Seychelles.

In response to this situation, the CRG staged a sleep-in protest outside the British High Commission in the Mauritian capital Port Louis. Their campaign was supported in the U.K. by the Labour MPs Tam Dalyell (who was then Father of the House) and Jeremy Corbyn, who repeatedly put the Chagossian case on the parliamentary agenda. They emphasized that the Chagos islanders' residence outwith the Chagos Archipelago was a result of their forcible displacement from that territory rather than choice. Accepting this logic, the government introduced a supplementary section to provide for the transmission of U.K. citizenship to Chagos islanders' second-generation descendants born in exile. From the perspective of Chagossians, however, there have been three main problems with the limitations on eligibility for U.K. citizenship laid out in the British Overseas Territories Act 2002 (and the corresponding British Nationality Act 1981).

1. Privileging Marriage

According to the British Nationality Act 1981, whereas an unmarried British woman can pass her citizenship to her children, an unmarried British man cannot pass his citizenship to his children born outwith marriage (unless the parents subsequently marry). The problem for the extended Chagossian community is that – in common with other matrifocal post-slavery societies in the Indian Ocean and the Caribbean – the colonial Chagos Archipelago was characterized by female-headed households, a relative instability of sexual relationships and a low incidence of marriage (Botte 1980: 22–23; Walker 1986: 15–18). Although most of its inhabitants were nominally Roman Catholic, the Chagos Archipelago did not have a permanent Catholic priest during its period of colonial settlement from 1795 to 1973. An itinerant priest travelled around the Mauritius outer islands to perform important ceremonies such as baptisms, christenings and weddings; in between these visits, administrators apparently conducted weekly services (Dussercle 1934: 10; Dussercle 1935; Descroizilles and Mülnier 1999: 26). Chagos islanders told me that they did not necessarily get married to their partners, both because they were not encouraged to do so and because it was not expected that the union

'Unusual immigrants'

would be for life. Thus many Chagossians felt that the privileging of 'legitimate' children in U.K. citizenship legislation discriminated against those for whom marriage was not promoted by the British authorities. In particular, this rule affects the children born in exile to an unmarried Chagossian man and a non-Chagossian woman, who comprise a relatively common category as a result of the flows of people amongst all of the dependencies of colonial Mauritius.

2. Date of Forced Deportation

The supplementary section of the British Overseas Territories Act 2002 covers Chagossians' second-generation descendants only if they were born in exile after 26 April 1969. In 2001, Blair's Labour government selected this cut-off date as the start of what Ben Bradshaw (then a junior Foreign Office Minister) called the 1960s Wilson government's 'policy of exclusion' from the Chagos Archipelago.¹¹ Writing this start date into the 2002 legislation was a way to avoid awarding U.K. citizenship to the children of those islanders deemed by government officials to have left Chagos 'voluntarily' prior to the forced depopulation of the territory. This start date gives rise to several problems. Firstly, since there were limited medical facilities on Chagos, it was not uncommon in the early and mid-twentieth century for expectant mothers to give birth in Mauritius before returning to Chagos, so place of birth is not a reliable indicator of residence since the children of Chagos residents could be born in Mauritius. Secondly, Chagossians and their supporters contest the claimed date for the start of the forced deportations: regardless of when the forced deportations actually began, the BIOT was established in 1965, and islanders visiting Mauritius or Seychelles had been prevented from returning to Chagos from the mid-1960s onwards. As a result of these anomalies, there are numerous Chagossian families in which those siblings born in exile prior to 1969 remained ineligible for U.K. citizenship whilst those born in exile after 1969 became eligible for U.K. citizenship. In its briefing for a House of Lords Committee debate on the Borders, Citizenship and Immigration Bill in 2009, the Immigration Law Practitioners' Association (ILPA) recommended removing this cut-off date to 'ensure that Chagos Islanders ... born in exile before 26 April 1969 are British Citizens'.¹²

3. Subsequent Generations and Spouses

'Unusual immigrants'

Whilst the legislation provides for native Chagos islanders and their second-generation descendants born in exile, it does not include subsequent generations of descendants or non-Chagossian spouses. Ben Bradshaw told the standing committee concerned with the British Overseas Territories Bill that the government's rationale was that extending eligibility to subsequent generations would privilege Chagos islanders vis-à-vis other BOT citizens by descent, who could not pass their citizenship to future generations born outwith BOTs.¹³ In any case, he added tantalizingly, transmission of U.K. citizenship to subsequent generations would become unnecessary in the event of resettlement of Chagos as a BOT, since subsequent generations born in or resident on Chagos would become eligible in their own right.¹⁴ From the perspective of Chagossians themselves, however, the issue is that since the depopulation of Chagos took place from 1965 to 1973, a whole generation born in exile has had time to grow up and produce a subsequent generation of children, who are not eligible for U.K. citizenship. The House of Commons Foreign Affairs Committee took evidence from the leaders of three Chagossian organizations in 2008, agreed that the fact that the islanders were no longer living in a BOT was 'as a consequence of exile rather than their own choice', and recommended that citizenship 'should be extended to third generation descendants of exiled Chagossians'.¹⁵ Similarly, the ILPA noted that the fact that 'the children of Chagossians are born outside the U.K. or a qualifying territory is no fault of their own but the result of their enforced exile', and concluded that 'few can have as compelling a claim to British citizenship as those children'.¹⁶ In relation to spouses, the majority of Chagossians who have married since arriving in Mauritius or Seychelles have married non-Chagossian partners, who likewise are not automatically eligible for U.K. citizenship.

The effect of these three features – the privileging of marriage, the 1969 cut-off date and the non-inclusion of subsequent generations and of non-Chagossian spouses – is that all extended Chagossian families thus comprise individuals who are eligible and also individuals who are not eligible for U.K. citizenship. Those who are eligible for U.K. citizenship and decide to migrate to the U.K. are thereby separated from family members who are not eligible. The commonest practice is that family members who hold U.K. passports travel to the U.K. first to establish

'Unusual immigrants'

themselves before applying for visas for family members who do not hold U.K. passports. This process tends to take between six months and one year, during which time family separations can have a detrimental effect on marriage (in cases of spousal separation) and childrearing (when babies and young children are left with relatives in Mauritius or Seychelles while their parents emigrate first). Family members who do not hold U.K. citizenship but who wish to settle in the U.K. and apply for naturalization or indefinite leave to remain must now take the Life in the U.K. Test, which was introduced for naturalization in 2005 and settlement in 2007.¹⁷

The Habitual Residence Test¹⁸

The Habitual Residence Test was first introduced in 1994 to prevent so-called 'benefits tourism' by determining the eligibility of people recently arrived in the U.K. from abroad (including returning British citizens) for income-related benefits.¹⁹ It now covers Council Tax Benefit, Housing Benefit, Income Support, income-based Jobseeker's Allowance, income-related Employment and Support Allowance and State Pension Credits. Eligibility is determined by a combination of factors including whether the applicant has worked in the U.K., length of overseas habitation, reasons for coming to the U.K., plans for self-sufficiency in the U.K. and planned length of stay in the U.K. In practice, Habitual Residence seems to be acquired in around three to six months. Categories of people specifically exempted from the requirement to demonstrate Habitual Residence include asylum seekers, British citizens habitually resident in the Republic of Ireland (established in honour of the economic, residential and migratory ties between the U.K. and the Republic of Ireland), and those habitually resident in the British Overseas Territory of Montserrat who left the island following the volcanic eruption in 1995. Exemptions were not made for British citizens evacuated from farms in Zimbabwe since 2000 or from the Ivory Coast to Ghana in 2004.²⁰

In 2003, Bill Rammell, then Parliamentary Under-Secretary of State for the Foreign and Commonwealth Office (FCO), responded to a written question on the nationality and residence rights of the Chagossians as follows: 'As regards their entitlement to state services the Chagossians who have come to the U.K. have the same rights, and are treated in the same way, as other British citizens coming here from overseas'.²¹ Thus Rammell refused to consider that

'Unusual immigrants'

Chagossians might have a case for special treatment. In 2004, as previously mentioned, the U.K. government used the Orders in Council to introduce new immigration legislation that prevented all non-authorized persons (including Chagossians) from entering BIOT. The Labour MP Jeremy Corbyn responded with an Early Day Motion noting that Chagossians had been denied their right to return to Chagos. He called for the exemption of the Chagos islanders from the Habitual Residence Test since, having had their right of return to Chagos denied, 'they deserve to be decently treated by the U.K. if they exercise their right to travel to this country'.²² In contrast to Rammell, then, Corbyn made a plea for special treatment.

Chagossians from the earliest groups to arrive in the U.K. sought housing assistance from Crawley Borough Council, but were denied because they were deemed not to be habitually resident in the U.K. They won leave to apply for judicial review of this decision with the argument that the Habitual Residence Test contravened the Race Relations Act 1976 by discriminating against them as a distinct ethnic group, as compared to British citizens habitually resident in the Republic of Ireland, who are exempt from the Test (BBC 2005). The Chagossians lost their case in the High Court in 2006 and in the Court of Appeal in 2007. Turning the Chagossian case about discrimination on its head, the judges ruled that the Habitual Residence Test neither contravenes the Race Relations Act 1976 nor discriminates specifically against Chagossians. Rather, it implies equal treatment of all British citizens habitually resident abroad, with the exception of those in the Republic of Ireland, who are exempted to their advantage.

The appellants also argued that the judges should take into account two special features of the case. Firstly, they emphasized that the U.K. government had previously unlawfully expelled the Chagossians from their homeland and sent them to Mauritius and Seychelles (whereas if they had been sent directly to the U.K. the issue would not have arisen at all since they would now be habitually resident in the U.K.). Secondly, they made a case for consideration of the Chagossians' resultant suffering (which would resonate with the way in which British citizens fleeing the 1995 volcanic eruption in Montserrat were exempted from the Habitual Residence Test). The plea for special treatment, however, was dismissed by the High Court judge Bennett J on the grounds that:

'Unusual immigrants'

So far as the comparison with Montserrat is concerned, the conditions faced by the Chagossians in Mauritius are nowhere near comparable with those faced by the people of Montserrat. They are not exposed to physical danger and are not compelled to leave their homes in Mauritius. British citizens in Zimbabwe and the Ivory Coast faced far more immediate physical danger than the Chagossians but that was not considered sufficient to justify their exemption from the habitual residence test.²³

In the Court of Appeal, the judge Wall LJ agreed, remarking that:

The British government did not require the appellants (or even encourage them) to come to the United Kingdom, although Parliament plainly facilitated their right of entry and abode by the grant of citizenship. But once again, in my judgment, they are in the same position as any other British citizen resident abroad, who becomes destitute and decides to return to the United Kingdom. For every such citizen, there will be a period of time in which he or she is not habitually resident in the United Kingdom ... It would not, I think, be considered irrational for the Secretary of State to refuse to alter the habitual residence rule for any such citizen. In my judgment, therefore, the fact that the British government has acted unlawfully in refusing to allow the Chagossians to return to the Chagos Islands does not mean that the Secretary of State is required to take the unlawful actions of the British government into account when declining to alter the habitual residence rules to accommodate their particular situation.²⁴

Despite the Chagossians' history of discrimination and disadvantage at the hands of successive U.K. governments, then, they were nonetheless unsuccessful in this attempt to secure compensatory preferential treatment. As Allen Vincatassin, leader of the Crawley-based Diego Garcian Society, put it:

‘Unusual immigrants’

My people have to pass the habitual residence test. They can't claim state benefits for three months ... This may not seem like a very long waiting period to most people. But for many Chagossians, who arrive in the U.K. with next to nothing, it can mean the difference between life and death. The government says that the residency rule applies to all British citizens. It was on these grounds that the High Court dismissed our claims. But we believe that we should be exceptions to that rule. After all, we have had to give up our homes in the name of British national interest. They owe us at least this much. But even in this regard, the U.K. government has so far failed us. (Quoted in Biswas 2007)

Discussion: Denying Difference

I began this article by suggesting that Chagossians could be conceptualized as ‘unusual immigrants’ because they are already eligible for U.K. citizenship and because their political leadership views migration to the U.K. as a short-term solution that should not distract from the larger project and long-term goal of resettling the Chagos Archipelago. Many Chagossians thought that the U.K. government had offered U.K. citizenship as a form of recompense for the displacement, and believed it would offer a solution to their problems of discrimination, unemployment and poverty in Mauritius and Seychelles. Some anticipated that this would be a temporary solution en route to the more permanent solution of resettling Chagos, whilst others anticipated settling permanently in the U.K. (see Jeffery 2010).

During my fieldwork with Chagossian migrants in the U.K., I was struck by the degree to which many Chagossians were taken aback by the administrative hurdles that remained, even after having been awarded U.K. citizenship, with regard to immigration to the U.K. and integration into British bureaucracy. Most Chagossian families have experienced separation when an initial migrant migrates alone. This initial migrant faces challenges such as loneliness as well as having to support oneself financially on arrival in the U.K. It then takes several months to get a National Insurance number, employment, accommodation and a bank account before having to apply for visas to bring family members who do not hold U.K. passports. An additional concern for younger migrants wanting to start further or higher education is that

'Unusual immigrants'

despite holding U.K. citizenship and living in the U.K., they do not become eligible for home fees until they have lived in the U.K. for three years, which delays their entry into post-school education as they cannot afford thousands of pounds in overseas fees. For many, U.K. citizenship thus turned out not to be the kind of recompense that they had hoped for: hence the plea 'Give us a permanent home or send us back to our island'.

In this article I have not compared Chagossian experiences of immigration with those of asylum seekers, refugees and other immigrants who do not hold U.K. citizenship, against whom the Chagossians' eligibility for U.K. citizenship and access to resources in the U.K. would presumably appear relatively positive. Instead I have revealed ways in which Chagossians' actual experiences of U.K. citizenship did not match up to their expectations formulated in the context of their earlier displacement from Chagos. Chagos islanders were awarded the same rights as citizens of all of the BOTs, and were not additionally awarded extra entitlements (unlike the specific privilege awarded to Montserratians fleeing the volcano, who were exempted from the Habitual Residence Test). Thus many Chagossians concluded that they had been fobbed off once again as the U.K. government awarded them U.K. citizenship – which does not, for the reasons explored above, feel quite like 'full' U.K. citizenship – but offered neither financial compensation nor the right to return to Chagos.

This case study reveals a disjuncture between the Chagossians' own understandings of their experiences in terms of victimhood and the U.K. government's attempts to avoid framing the case in moral terms (see also Jeffery 2006a, 2006b). From a Chagossian perspective, the community's experiences of displacement and suffering in exile should justify special treatment. From the perspective of the U.K. government, however, the likely small costs of conceding to the Chagossians' wishes have been balanced against the potentially high costs of setting a precedent that could lead to similar cases being launched in other BOTs or former British colonies. Instead, the U.K. government has denied that the Chagossians' experiences have been sufficiently different to deserve special treatment.

This disjuncture adds difficult questions to anthropological discussions about claims to rights in terms of the 'politics of difference': how different is different enough? How bad does mistreatment have to be in order to be worthy of special consideration and preferential

‘Unusual immigrants’

treatment, especially when different political stakeholders will have wildly divergent opinions? Chagossians have deployed their particular experiences of displacement, victimhood, suffering, impoverishment, discrimination and their distinction from other Mauritian or Seychellois citizens to considerable effect in Mauritius and Seychelles, bringing them significant support from external groups (see Jeffery 2006b). But on arrival in the U.K. they were confronted by the fact that the U.K. government, deploying instead the ‘politics of universalism’ of equal treatment, considered that the Chagossians’ experiences were insufficient to merit preferential treatment, and was confident that the Chagossians’ political status is never likely to be powerful enough that their demands must be met in full. This is despite the fact that several senior members of the Labour government (including the late Robin Cook) sought to distance themselves from – rather than justifying – the uprooting undertaken by Harold Wilson’s Labour government.²⁵ The amendment of the British Overseas Territories Act to incorporate the children born to Chagos islanders in exile was claimed by the government as a positive recognition of the rights of Chagossians as British citizens, yet it was seen by many Chagossians as a cynical attempt to distract attention away from the possibilities for what would be seen as more appropriate redress in the form of financial compensation and the right to return to their homeland.

Acknowledgements

This article is based on research with Chagossian migrants in Crawley (West Sussex) in 2006–2007, supported by a Leverhulme Early Career Fellowship (ECF/2006/0122) at the University of Edinburgh. An earlier draft was presented at the ASA’s Anthropology of Britain network meeting at the University of Aberdeen in 2008. I am grateful for comments from Steve Allen, Arnar Árnason, Andrew Clements, James Oliver, Alex Smith and Iain Walker.

Biographical Note

Dr Laura Jeffery is Lecturer in Social Anthropology at the University of Edinburgh. She has worked with the Chagossian community since 2002, and is author of the book *Chagos Islanders in Mauritius and the UK: Forced Displacement and Onward Migration* (MUP 2011). She

'Unusual immigrants'

currently holds an ESRC Research Fellowship to explore debates about environmental knowledge in the context of the Chagos Marine Protected Area (MPA) designated by the U.K. Government in 2010, which is being challenged by the Mauritian Government under the United Nations Convention on the Law of the Sea (UNCLOS).

Email: Laura.Jeffery@ed.ac.uk

References

- Baumann, G. (1996), *Contesting Culture: Discourses of Identity in Multi-ethnic Britain* (Cambridge: Cambridge University Press).
- BBC (2005), 'Islanders win Right for Legal Bid', *BBC News*, 18 April, http://news.bbc.co.uk/1/hi/england/southern_counties/4458037.stm (accessed 26 January 2011).
- Biswas, V. (2007), 'The Story of the Chagossians', *New Statesman*, 4 October, <http://www.newstatesman.com/world-affairs/2007/10/british-government-chagossians> (accessed 26 January 2011).
- Botte, F. (1980), 'The "Ilois" Community and the "Ilois" Women.' Unpublished report.
- Cowan, J.K., Dembour, M.-B. and Wilson, R.A. (2001), 'Introduction', in *Culture and Rights: Anthropological Perspectives*, (eds.) J. Cowan, M.-B. Dembour and R. A. Wilson. (Cambridge: Cambridge University Press), 1–25.
- de Genova, N. (2002), 'Migrant "Illegality" and Deportability in Everyday Life', *Annual Review of Anthropology* 31: 419–447.
- Descroizilles, M. and Mülnier, A. (1999), *Bor'endan Bor'déhor*. Stanley, Rose Hill, Mauritius: Editions de l'Océan Indien.
- Dussercle, R. P. R. (1934), *Archipel de Chagos en Mission 10 Novembre 1933–11 Janvier 1934* (Port Louis, Mauritius: The General Printing and Stationery Company).
- (1935), *Naufrage de la Barque Diégo à L'Ile d'Aigle 20 juin 1935* (Port Louis, Mauritius: Editions du Hecquet).

'Unusual immigrants'

- Eriksen, T. H. (1997), 'Multiculturalism, Individualism and Human Rights: Romanticism, the Enlightenment and Lessons from Mauritius', in *Human Rights, Culture and Context: Anthropological Perspectives*, (ed.) R. A. Wilson (London: Pluto), 49–69.
- Fletcher, M. (2007), 'Islanders Who Wait in Vain for Justice and a Paradise Lost', *The Times*, 9 November, <http://www.timesonline.co.uk/tol/news/world/africa/article2835903.ece> (accessed 26 January 2011).
- Jeffery, L. (2006a), 'Historical Narrative and Legal Evidence: Judging Chagossians' High Court Testimonies', *PoLAR: Political and Legal Anthropology Review* 29, no. 2: 228–253.
- (2006b), 'Victims and Patrons: Strategic Alliances and the Anti-politics of Victimhood among Displaced Chagossians and Their Supporters', *History and Anthropology* 17, no. 4: 297–312.
- (2009), 'Chagossians Refused Right to Return Home', *Anthropology Today* 25, no. 1: 24–26.
- (2010), 'Forced Displacement, Onward Migration, and Reformulations of 'Home' by Chagossians in Crawley, West Sussex', *Journal of Ethnic and Migration Studies* 36, no. 7: 1099–1117.
- Modood, T. and Werbner, P. (eds.) (1997), *The Politics of Multiculturalism in the New Europe: Racism, Identity and Community* (London: Zed).
- O'Connor, P. (2009). *The Constitutional Role of the Privy Council and the Prerogative. A Justice Report*. London: Justice.
- Simpson, D. (2006), 'Diego Garcia and the Special Relationship's Dirty Secret', 14 March, <http://danielsimpson.blogspot.com/2006/03/diego-garcia-and-special-relationships.html> (accessed 26 January 2011).
- Taylor, C. (1992), 'The Politics of Recognition', in *Multiculturalism and 'The Politics of Recognition'*, (ed.) A. Gutmann (Princeton: Princeton University Press), 25–75.
- Turner, T. (1993), 'Anthropology and Multiculturalism: What Is Anthropology That Multiculturalists Should Be Mindful of It?', *Cultural Anthropology* 8, no. 4: 411–429.
- Vine, D. (2009), *Island of Shame: The Secret History of the U.S. Military Base on Diego Garcia* (Princeton, NJ: Princeton University Press).

'Unusual immigrants'

Walker, I. (1986), *Zaffer Pe Sanze: Ethnic Identity and Social Change among the Ilois in Mauritius* (Mauritius Indian Ocean Committee, KMLI).

Werbner, P. and Modood, T. (eds.) (1997), *Debating Cultural Hybridity: Multi-cultural Identities and the Politics of Anti-racism* (London: Zed).

Wilson, R. A. (1997), 'Human Rights, Culture and Context: An Introduction', in *Human Rights, Culture and Context*, (ed.) R. A. Wilson (London: Pluto), 1–27.

Notes

¹ See the National Front website: <http://www.natfront.com/nfsop.html>

² I endorse Nicholas de Genova's critique of the pejorative connotations, implied unidirectional nature, and receiving-state perspective of the terms 'immigrant' and 'immigration', and his consequent preference of terms such as 'migrant' and 'migration' instead (de Genova 2002: 420–421), but use the former terms here to draw attention to their deployment by British supporters of the Chagossians.

³ Diego Garcian Society website: <http://diegogarciansociety.org/visithomeland.aspx>

⁴ Chagos Island Community Association website: <http://chagos.wordpress.com>

⁵ Displaced Chagos islanders in Seychelles have never yet received any financial compensation.

⁶ *Chagos Islanders v Attorney General and HM BIOT Commissioner* [2003] EWHC QB 2222 and *Chagos Islanders v Attorney General and HM BIOT Commissioner* [2004] EWCA Civ 997.

⁷ *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2001] QB 1067.

⁸ *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2006] EWHC 1038, *Secretary of State for Foreign and Commonwealth Affairs v R (Bancoult)* [2007] EWCA Civ 498, and *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs* [2008] UKHL 61.

⁹ Of these, 1,225 were issued in Mauritius and 181 in Seychelles. According to the FCO, a further 485 U.K. passports had been issued to members of the Chagossian community in Mauritius by the end of April 2010; no details were available for the number of U.K. passports issued to members of the Chagossian community in Seychelles after 2006.

¹⁰ Case for the Appellant page 149, paragraph 336.1.

‘Unusual immigrants’

¹¹ House of Commons Standing Committee D, 6 December 2001 (pt 1), online at: <http://www.publications.parliament.uk/pa/cm200102/cmstand/d/st011206/am/11206s05.htm>

¹² Immigration Law Practitioners’ Association briefings for the House of Lords Committee debate (2 March 2009) on the Borders Immigration and Citizenship Bill Part 2 (Citizenship): page 1. Online at:

<http://www.ilpa.org.uk/briefings/BCI%20HL%20Comm/09.02.23%20ILPA%20HL%20Comm%20Chagos.pdf>

¹³ House of Commons Standing Committee D, 6 December 2001 (pt 1), online at: <http://www.publications.parliament.uk/pa/cm200102/cmstand/d/st011206/am/11206s04.htm>

¹⁴ House of Commons Standing Committee D, 6 December 2001 (pt 1), online at: <http://www.publications.parliament.uk/pa/cm200102/cmstand/d/st011206/am/11206s05.htm>

¹⁵ House of Commons Foreign Affairs Committee (2008) Overseas Territories: Seventh Report of Session 2007–08. HC 147-1 (Report, together with final minutes): page 35 paragraph 74. Online at: <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaaff/147/147i.pdf>

¹⁶ Immigration Law Practitioners’ Association briefings for the House of Lords Committee debate (2 March 2009) on the Borders Immigration and Citizenship Bill Part 2 (Citizenship): page 1, 8. Online at:

<http://www.ilpa.org.uk/briefings/BCI%20HL%20Comm/09.02.23%20ILPA%20HL%20Comm%20Chagos.pdf>

¹⁷ For more information, go to: <http://www.lifeintheuktest.gov.uk>

¹⁸ See the House of Commons Library Standard Note SN/SP/416, online at: <http://www.parliament.uk/briefingpapers/commons/lib/research/briefings/snsp-00416.pdf>

¹⁹ In 2004 an amendment added to the Habitual Residence Test was the requirement that applicants must also demonstrate that they also have the right to reside (e.g. birth certificate, EU passport or ID card). This is not a problem for Chagossians (who hold U.K. passports), and so I do not dwell on it here.

²⁰ However, an amendment exempts those ‘vulnerable British Nationals’ arriving in the U.K. between 28 February 2009 and 18 March 2011 who had previously been resident in Zimbabwe.

'Unusual immigrants'

²¹ House of Commons Hansard Written Answers for 3 November 2003 (pt 6), online at: <http://www.publications.parliament.uk/pa/cm200203/cmhansrd/vo031103/text/31103w06.htm>

²² EDM 1759, Habitual Residence Test and the British Indian Ocean Territories, 18 October 2004, see: <http://www.epolitix.com/Resources/epolitix/MPWebsites/Images/i-l/Jeremy-Corbyn%20OctParlInterv.pdf>

²³ *R (Couronne) v Crawley Borough Council* [2006] EWHC 1514 (Admin), paragraph 89: <http://alpha.bailii.org/ew/cases/EWHC/Admin/2006/1514.html>

²⁴ *R (Couronne) v Crawley Borough Council* [2007] EWCA Civ 1086, paragraph 49: <http://alpha.bailii.org/ew/cases/EWCA/Civ/2007/1086.html>

²⁵ House of Commons Foreign Affairs Committee (2008) Overseas Territories: Seventh Report of Session 2007–08. HC 147-2 (Oral and Written Evidence): page 106 paragraph 6. Online at: <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmfaaff/147/147ii.pdf>