

DIEGO GARCIA - BRITAIN IN THE DOCK

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RECENT EVENTS

On 3 March 1999, Louis Bancoult, formerly of the Chagos Archipelago (a British dependency) won the right to bring a High Court case against the British government for expelling him and thousands of others from the islands during the 1970s. Five generations of Chagos islands inhabitants (known as the Ilois), totalling around 3-4,000 exiles and their descendants now live on Mauritius (a former British dependency), 1,200 miles from home. Many of the Ilois live in poverty, with the judge commenting in his ruling that the inhabitants, who left their homes between 1967 and 1973 suffered “*extreme destitution and malnutrition.*”¹

The Ilois hold dual British citizenship having been born in a British dependent territory, and their lawyers are challenging their removal as a breach of both English and international law. The British government argued that the High Court had no jurisdiction over the matter, and that it should go before a British Indian Ocean Territory colonial court. Mr Justice Scott Baker dismissed these arguments and granted leave to seek a judicial review, saying that “*in my judgement, the case required careful consideration of a difficult area of constitutional law.*”² The case will be heard in full over the next few months.

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This case is embarrassing for the British government because it dredges up issues surrounding the island of Diego Garcia which it thought had long been put to rest. Bancoult's lawsuit is a reminder of one of the more unsavoury aspects of Britain's colonial policy in the 1960s and 1970s, when the Chagos Archipelago was declared uninhabited, its population having been removed in preparation for the lease of the island of Diego Garcia to the US government for use as a military base.

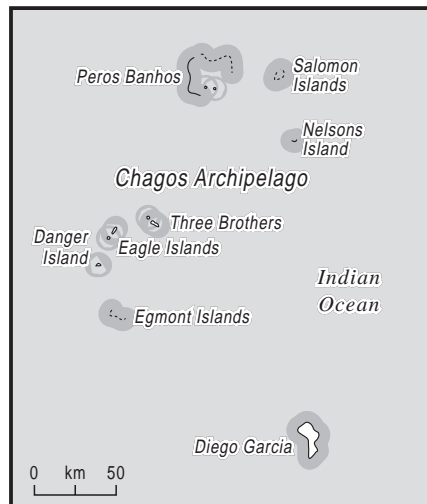
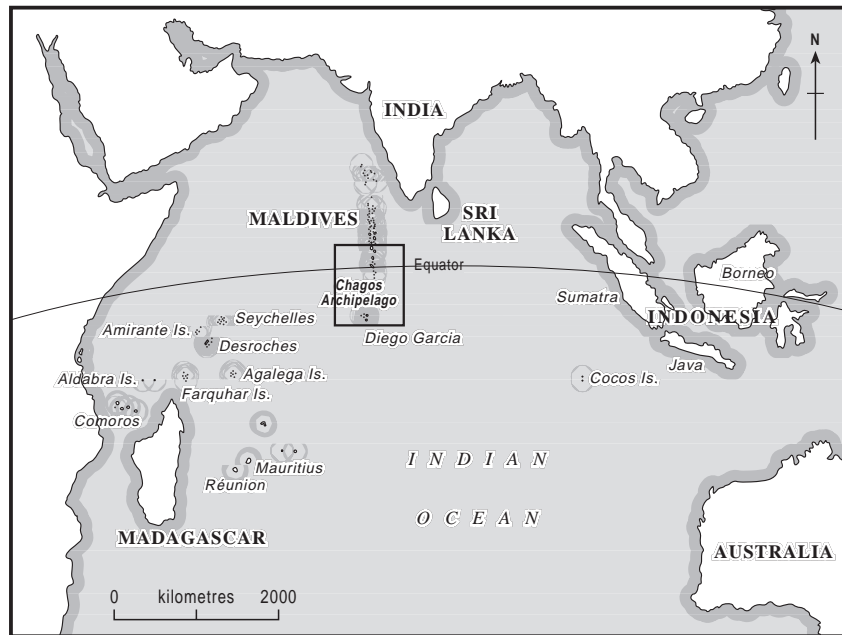
Mr Bancoult, the Chairman of the Chagos Refugee Group, serves as a good example of the plight of those exiled from Diego Garcia and the surrounding islands of the Chagos Archipelago. His family found themselves banned from their home on the island of Peros Banhos in 1967, having travelled to Mauritius because his sister needed medical treatment. They then discovered that they were not allowed to go home – the British authorities told them that ships were no longer calling at the Chagos islands. Now, thirty years later, he and other Ilois wish to return to some of the outlying islands of the Chagos group, to return to a self-sufficient life of farming, fishing and labouring. Any such move is likely to prove unpopular with the US, whose lease on Diego Garcia runs until the year 2016.

The resurfacing of the Diego Garcia issue is also extremely embarrassing in the context of Britain's relationship with its Overseas Territories. The British government is currently attempting to improve 'colonial' relations – it launched its White Paper, *Britain and the Overseas Territories: A Modern Partnership* in March 1999, which details the granting of full British citizenship to some 150,000 colonial subjects. Previously only residents of the Falkland Islands and Gibraltar had full British citizenship – residents of other dependencies held dependent territories passports which did not entitle them to work or live in Britain. Now, residents of the Cayman Islands, Bermuda, Anguilla, St Helena and dependencies, Turks and Caicos Islands, British Virgin Islands, Montserrat, and the Pitcairn islands will benefit.³ Unfortunately, this is hard luck on those people who formerly lived in the Chagos Archipelago – their islands are now classified as uninhabited – and another reminder that they have been considered second-class citizens throughout the whole sorry affair.

Finally, with the Ilois claims to resettlement on the Chagos islands and compensation, also rises the ghost of the Mauritian claim to sovereignty over Diego Garcia. The former British Crown Colony administered Diego Garcia until the formation of the British Indian Ocean Territory in 1965, and has in recent years demanded its return. This, and the background to the dispute will be explored in more depth in the following sections.

GEOGRAPHY OF THE CHAGOS ARCHIPELAGO

Diego Garcia is a coral atoll, the largest and the southernmost island of the Chagos Archipelago in the southern Indian Ocean. The island consists of a V-shaped, sand-fringed cay, with a large deep-water lagoon at the north end. It occupies 44km² of land, and is a 24km-long home for a wide variety of flora and fauna, including several endangered species of crabs and turtles despite now being the site of a major naval base. The other islands in the Archipelago consist of the Salomon Islands, Peros Banhos, Three Brothers, Eagle and Danger Islands, and the Egmont Islands.



HISTORY OF THE CHAGOS ARCHIPELAGO

Diego Garcia was discovered by the Portuguese in the early 16th century – the name is thought to have come either from the ship’s captain or navigator who discovered it – and held strategic rather than commercial importance from this period. In an era when the Indian Ocean was an area of rivalry between British, French and Dutch companies seeking dominance in the spice trade and routes to the Far East, the Chagos Archipelago had little economic relevance – the production of copra from

coconut palms for use as fuel in European lamps and as fine machine oil was the only economic activity. France claimed the island of Mauritius in 1715, and took possession of the Seychelles and the Chagos Archipelago soon after. The Chagos islands were strategically situated at the centre of the Indian Ocean region, and lay out of the path of cyclonic storms - a useful resting point for ships.

The Ilois began to arrive in 1776, when Vicomte de Souillac, a Frenchman living on Mauritius, sent a ship to Diego Garcia after hearing that the English might be attempting to settle there. A fishing company was established, and under a 'Concessionnaires Act', early settlers were allowed to use the facilities of the islands in return for accepting lepers from Mauritius. In addition to copra, seabirds, salted fish, wood and tortoise were exported to Mauritius and other islands, including Madagascar. By the end of the 18th century, the leper colony consisted of about 800 people.

France ceded Mauritius and its dependencies of the Seychelles and Chagos islands to Britain in the 1814 Treaty of Paris, following the Napoleonic Wars. The inhabitants became British citizens, and their numbers gradually increased, bolstered by migrants from India and Africa (although the exile of lepers was abolished in 1838). By 1900, it was estimated that the population of Diego Garcia alone had risen to over 500 people, who worked mainly in the three "flourishing"⁴ copra factories.

**a connection of
"administrative
convenience"...**

The Seychelles and Chagos Archipelago were administered from Mauritius until 1903 when the Seychelles became a separate crown colony. Chagos stayed with Mauritius, although British officials called this connection "one of administrative convenience"⁵, there being such a large distance between the islands, and few economic benefits.

A British Colonial Office film of the 1950s portrays the Chagos islands as "surroundings of wonderful natural beauty...tranquil and benign", and states that they are inhabited "mostly by men and women born and brought up in the islands."⁶ The population was estimated at about 1,800 across all the islands, all following a marginal way of life, with work in the copra factories supplemented by fishing, gardening, and a barter economy. It is hard to see how the British government could then in later years portray the Ilois as contract workers from Mauritius and the Seychelles.

**...a 'gentleman's
agreement'...**

In 1965, the British Indian Ocean Territory (BIOT) was established, consisting of the Chagos Archipelago and the islands of Aldabra, Farquhar and Des Roches, formerly administered by the Seychelles. While Britain was concerned to demonstrate that it was following a democratic path towards decolonisation, it was secretive about the formation of the BIOT, and the transfer of the Chagos islands was achieved by a "gentleman's agreement." The creation of BIOT was announced in the House of Commons on 10 November 1965. It was explained that it was created in agreement with the Mauritius and Seychelles governments, to whom appropriate compensation would be paid (approximately £3,000,000 for the resettlement of Chagos islands inhabitants) and that the territory would be made available for "for the construction of defence facilities by the British and US governments."⁷ However, no document was ever signed between the crown colony of Mauritius and Britain, and the residents of the islands and in particular Diego Garcia were not consulted. Mauritius achieved independence in 1968 – many have questioned whether the formation of BIOT was indeed a condition of independence. The UN General Assembly censured Britain for dividing up a colony before independence, but no other action was taken.

**MILITARISATION
OF THE ISLANDS**

Why were the Chagos islands so important to Britain that they were worth risking the ire of the United Nations? The strategic importance of the archipelago has never been lost, even in an era of technological advancement when islands may have been

expected to lose their sailing ship staging-post relevance. For the Chagos Archipelago it was a question of location – Diego Garcia was to become the key to Britain and the US protecting their interests during the 1960s and 1970s in a region where colonial influence was declining, and in which the Soviet Union and China had ambitions. China cultivated ties with Pakistan, and fought a successful border war with India, whilst the Soviet Union held influence in Nasser's Egypt, controlling the Suez Canal, and in Southeast Asia. From the UK and US perspective, countries in Africa were moving dangerously towards non-alignment. From the islands, Africa, the Middle East and Asia could be easily reached. In later years, the Soviet invasion of Afghanistan, nuclearisation of India, and access to Gulf oil were important concerns.

The clue lay in the words "*construction of defence facilities.*" An agreement was finalised between the UK and the US on 30 December 1966, which meant that BIOT would remain under British sovereignty, but would be available for the defence needs of both states. Effectively, the US was taking out a lease on the island for 50 years, until the year 2016. The head of BIOT administration would be a Royal Navy Commander, and as a British territory, all US civilian and military personnel residing on the island would be governed by BIOT law. In 1975 the UK Secretary of State for Defence confirmed that under the 1966 agreement the US had contributed half the set-up costs of BIOT (via an offset arrangement for the UK purchase of the US Polaris missile system).

The construction of an ostensibly 'UK-US' naval communications facility – communications and minimum support facilities, including an airstrip – began in 1971 for the purpose of controlling the movements of US submarines, surface vessels and aircraft in the area. The facility became fully operational in 1973, with the US proposing shortly after to expand to a naval operations support base, as the reopening of the Suez canal was expected to lead to increased Soviet activity in the Indian Ocean. The 1966 agreement was amended by an exchange of notes in June 1976, allowing the Diego Garcia facilities to be expanded to accommodate aircraft carriers and refuelling tanker planes for B52 bombers. A 12,000 foot runway and refuelling facilities were constructed, and US military personnel increased from 430 to 600 men.

Following the crises in Afghanistan and Iran in the early 1980s, the US government announced that it wished to maintain a permanent US naval presence on Diego Garcia, and reinforce its military facilities. This reinforcement was completed in 1986, following a US\$500 million construction programme. Diego Garcia now provides oil storage tanks and shelters for US naval supplies, accommodates surveillance planes, jet fighters and military transport aircraft, and acts as a staging area for ground troops. Many may have thought that with the end of the Cold War the need for bases such as Diego Garcia would decline. However, the US facility was used in active conflict during the Gulf War in 1991, and was also used in the UN's military intervention in Somalia in December 1992.

The countries surrounding the Indian Ocean have vociferously complained about the militarisation of the area. The General Assembly of the United Nations adopted A *Declaration of the Indian Ocean as a Zone of Peace* (Resolution 2832/XXVI) as early as 1971, calling on all states to "*eliminate from the Indian Ocean all bases, military installations, logistical supply facilities...conceived in the context of great power rivalry.*"⁸ A 44-member UN Ad Hoc Committee on the Indian Ocean was set up in 1972, but no initiatives to achieve the implementation of the resolution have yet succeeded.⁹ The key western members of the Committee withdrew in 1989, arguing that superpower rivalry in the Indian Ocean had diminished with the end of the Cold War, and there was therefore no justification for a zone of peace.

Other initiatives included the 21st Commonwealth Parliamentary Conference in 1975 adopting a resolution calling for the dismantling of the military installations on the island. Littoral states' wishes were made clear again in 1980, when the 17th summit of the Organization for African Unity (OAU) called for the demilitarisation of the area so that the Indian Ocean could be kept as a zone of peace. The OAU also demanded that Diego Garcia be unconditionally returned to Mauritius. In recent years, the island has again become a focus for anti-American feeling in the region, particularly during the Gulf War when bombers from Diego Garcia supported US ground troops.

THE ILOIS

But how could the British government countenance the lease and militarisation of Diego Garcia, given that it and its surrounding islands were inhabited by British citizens? The answer was simple – remove them. Having bought out the sole employer of labour on the islands, Chagos Agalega, Britain began to run down Diego Garcia's copra production from 1968 to 1973, using declining profits as an excuse to end the habitation of the island – after all, according to the Foreign and Commonwealth Office, the Ilois were only migrant workers.

“...the population had no legal right to remain and had no property...”

The Chagos Islands were exploited for copra from the late 18th century onwards. After emancipation in the 19th century, some of the former slaves on the islands became contract employees, most of them coming from Mauritius. Some of the contract workers chose to remain on the islands in the Chagos Archipelago and had children who stayed. In 1965, therefore, there were several generations of people born in the Archipelago, mainly on Diego Garcia. Because the islands and the copra plantations were owned by a private company, the population had no legal right to remain and had no property; they were employees with permission to reside there at the discretion of the owners on whom they depended for their livelihood.

(Foreign and Commonwealth Office, British Indian Ocean Territory: The Chagos Archipelago, 1993).

With no jobs, and no food imports, many Ilois left for Mauritius “willingly.”¹⁰ In addition, from 1965 onwards, islanders who visited Mauritius found mysteriously that there were no ships available to take them home. The Foreign Office claimed in 1971 that there were about 830 people on the Chagos islands, with an estimated 251 families (some 800-900 people) having left since 1965. In 1971, the Ilois were forcibly removed from Diego Garcia, and resettled on Peros Banhos and Solomon. Two years later, they were again moved on to Mauritius, together with all the other Chagos islands inhabitants. They arrived with few possessions on an island where unemployment was high, and there was no scheme in place for resettlement and reintegration. Their cause was taken up by the Organisation Fraternelle and the opposition Mauritian Militant Movement (MMM), which organised public campaigns about their plight during the 1970s, and brought them to the attention of the world. This lobbying was largely responsible for the doubling of compensation money that Britain was prepared to pay them.

In 1973, the British government agreed to pay £650,000 to the Mauritian government for the relief and resettlement of the islanders (which they were not to receive until 1978, when each adult was given compensation of approximately £650), which was described in 1976 as Britain's “full and final” discharge of its obligations.¹¹ Following international publicity, in publications such as the *Sunday Times* and the *Washington Post*, the Mauritian government came under pressure to ask Britain for increased compensation. The British government made another ‘full and final offer’ in 1979 of £1.25 million but insisted that this money would only be paid if the Ilois agreed to a ‘no return’ clause. The draft document stated that

“we abandon all our claims and rights (if any) of whatever nature to return to the BIOT...”

I am an Ilois who left that part of BIOT...never to return...we accept the money already paid and to be paid and we abandon all our claims and rights (if any) of whatever nature to return to the BIOT.¹²

Some Ilois signed, but most refused. Talks followed in 1981 between nine Mauritian negotiators (including three Ilois) and the British government. The Ilois asked for £8 million in compensation, enough for each family to receive £8,000 and a community programme to be set up. The British offered £1.25 million and another £300,000 in technical aid, as yet another ‘full and final’ settlement, but this was again declined.

Eventually, a final ‘full and final’ settlement was made in 1982, after two Ilois began proceedings against the British government. The Ilois were to receive £4 million (in addition to the £650,000 already paid), and the Mauritian government offered land to the value of £1 million, on the understanding that the Ilois were precluded from returning to the Chagos islands. The money received was administered by a trust established by the Mauritian government, and slowly released to the Ilois, many of them still in a state of destitution. Any claims have since lain dormant until Louis Bancoult’s case in 1999.

THE MAURITIAN CLAIM TO DIEGO GARCIA

Britain granted independence to the Seychelles in 1976, and returned the islands of Aldabra, Desroches and Farquhar it had detached in 1965 to form BIOT. Mauritius was strangely silent on the issue of Diego Garcia and the Chagos Archipelago until the late 1970s, when its claims on the island became more vocal. Mauritius stated that Diego Garcia should be returned and that it should not have had to bargain in 1965 for the independence to which it was entitled under the United Nations Charter. The Mauritian government also complained that £3 million was inadequate compensation for the loss of the island, and as we have seen above, complained that the islanders were not consulted and forcibly relocated, and that Diego Garcia was leased to US for military purposes – despite the wishes of the surrounding nations. According to the Mauritian government, the UK gave an undertaking in 1967 to the effect that Diego Garcia would not be used as a base for military purposes - this however, has been comprehensively denied by the UK.

One wonders why Mauritian claims only emerged during this period. Perhaps it was due to a realisation that Mauritius rather than the UK could gain rental from the US for the lease of the island. Or the fact that the Law of the Sea debate during the 1970s may have brought home to Mauritius the unsuspected importance of underwater mineral resources (including possibly oil deposits) and natural resources such as fish in the vast area of ocean occupied by the Chagos Archipelago.

Whatever the reasons, the issue of the sovereignty of Diego Garcia was officially raised for the first time in a speech by Mauritian Prime Minister Seewoosagur Ramgoolam to the 25th General Assembly of the UN, in October 1980.

“it will revert to Mauritius when it is no more required for the global defence of the west...”

It is necessary for me to emphasise that Mauritius, being in the middle of the Indian Ocean, has already at the last meeting of the Organisation of African Unity reaffirmed its claim on Diego Garcia and the Prime Minister of Great Britain in a parliamentary statement has made it known that it will revert to Mauritius when it is no more required for global defence of the west. Our sovereignty having been accepted, we should go farther than that and disband the British Indian Ocean Territory and allow Mauritius to come into its natural heritage as before its independence. The United States should make arrangements directly with Mauritius for its continued use for defence purposes. And then there are the inhabitants of Diego Garcia who are domiciled in Mauritius and for whom better arrangements should be made. It must be the duty of both the United States and Great Britain to discuss with the

*Mauritius Government how best to give satisfaction to all concerned and at the same time provide better prospects to the islanders.*¹³

However, this was immediately followed by a statement from the British Ambassador to the United Nations, Sir Anthony Parsons, who stated that that Britain had “*not accepted*”¹⁴ that Mauritius held sovereignty over Diego Garcia, but might be willing to consider ceding sovereignty to Mauritius in the event that Diego Garcia was no longer needed for Anglo-American defence purposes.

The agreement signed by Prime Minister Ramgoolam in March 1982, which gave £4 million in compensation to the Ilois only went ahead after Britain agreed to remove clauses which would have involved Mauritian recognition of British sovereignty over Diego Garcia. However, Mauritius failed to gain recognition of its sovereignty over the island, and agreed to provide land to the dispossessed Ilois.

CONCLUSION

Diego Garcia was and is a political football, with the Ilois remaining victims of one of the the last remnants of colonialism and the Cold War. It is unlikely that the US will relinquish the lease on Diego Garcia prior to 2016, and in the light of its continued usage as a major naval base during the 1990s, seems unlikely that the US would not wish to renew the lease when it expires, despite the protests of the Indian Ocean littoral states. In requesting to return to the outlying islands of the Chagos Archipelago rather than Diego Garcia itself, the Ilois have recognised the current state of play. However, Bancoult’s court case has the potential to embarrass the British government further, if questions are asked as to the morality of Britain’s detachment of the Chagos islands from Mauritius before granting its independence in 1968. Mauritius may find that it can then rally Commonwealth and public support towards claiming back Diego Garcia. However, if Mauritius is waiting for Diego Garcia to be ‘no longer needed’ for UK-US defence purposes, before claiming sovereignty, it may have to wait for a long time.

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 - 3 ‘UK citizenship for island outposts’, *The Guardian*, 18 March 1999
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 - 5 Foreign & Commonwealth Office (1993) *British Indian Ocean Territory: The Chagos Archipelago*, London: HMSO
 - 6 Madeley, 1985: 4
 - 7 Day, A.J., (1984) (ed.) *Border and Territorial Disputes*, 3rd edition, Harlow: Longman Current Affairs: 278
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 - 11 Madeley, 1985: 5
 - 12 Deed of acceptance & power of attorney, reprinted in Madeley, 1985: 15
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