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### **Fortress, Safe Haven or Home? The Chagos MPA in Political Context**

On July 8, 2013 the UK Foreign and Commonwealth Office (FCO) announced a new study into the feasibility of resettling the Chagos Archipelago, a controversial British Overseas Territory governed from Whitehall as the British Indian Ocean Territory (BIOT).<sup>1</sup> The study is expected to be launched around March 2014 and to take over a year to complete. The background to the study is as follows. BIOT was created as a colony in 1965, six years before construction began for a US military installation on Diego Garcia, the southernmost and largest island in the Chagos Archipelago. The archipelago's native people, the Chagossians, were expelled from the territory between 1968 and 1973.<sup>2</sup> Thousands of US military personnel and support workers now live on Diego Garcia while the Chagossians press for their right to return. In 2010, Whitehall designated a Marine Protected Area (MPA) in BIOT (excluding Diego Garcia) to widespread acclamation from the scientific community.<sup>3-4</sup> What will the decision to revisit the issue of resettlement mean for the future of the territory and for the recently designated MPA in particular?

#### Revisiting resettlement

The UK government consistently has opposed the Chagossians' resettlement of BIOT. Explaining the government's position in the wake of a 2008 legal decision, then Foreign Secretary David Miliband pointed to "issues of defence [and] security of the archipelago and the fact that an independent study had come down heavily against the feasibility of lasting resettlement of the outer islands of BIOT."<sup>5</sup> The precise repercussions of resettlement for the defence and security of Chagos never have been elaborated upon, although the US has produced letters for use in the UK's legal tangles with the exiled Chagossians to the effect that resettlement of any part of Chagos would hinder the operability of the base on Diego Garcia.<sup>6</sup> It is unclear whether such letters have been produced at the behest of FCO officials, as WikiLeaks revelations seem to indicate,<sup>7</sup> or whether they reflect the independent assessment of the Pentagon. Nevertheless, it strains credulity that a community of islanders on one of the Outer Chagos Islands (the islands other than Diego Garcia) would jeopardize security on Diego Garcia: Diego Garcia is over 100 miles away from the outer islands and civilian yachties long have been frequent visitors to these atolls. Indeed, it is hard to understand how a Chagossian settlement on Diego Garcia itself could be anathema to the defence and security of the archipelago given the

permanent presence of civilian contractors on Diego Garcia and the fact that civilian populations live adjacent to US military bases the world over. One potential explanation is that a permanent, settled human population would require a de-militarization of the politics of BIOT—institutions of representative government, human rights legislation, and so forth—which, in turn, would compromise the unique flexibility that BIOT currently offers from a military-security standpoint.<sup>8-9</sup>

Beyond these objections, the feasibility of long-term resettlement is also the subject of debate—not least of all because feasibility is a questionable standard to apply in this circumstance. For example, the only previous FCO-commissioned study into the matter (since discredited by accusations of bias and manipulation)<sup>10</sup> concluded in 2002 that the long-term resettlement of the Outer Chagos Islands was not feasible because prohibitively expensive, partly due to environmental risk factors such as rises in sea-levels (even though climate change has not prevented massive US military investment in Diego Garcia). Yet controversial policies never are easy or convenient (the literal meaning of feasible) to implement. It does not follow that such policies should be avoided—especially when human rights are at stake. BIOT as a jurisdiction demonstrably is capable of supporting a permanent human population: Diego Garcia currently supports thousands of inhabitants on a long-term (and indefinite) basis and the territory's other islands did so for centuries before 1965. Resettlement by Chagossians would not be without financial and political barriers, but these are hurdles to be dealt with after an unbiased judgment has been reached on the strict practicability of resettlement *per se*.

There are also conservationist grounds for opposing the resettlement of BIOT, however. Several scientists (including some of those most intimately acquainted with the Chagos Archipelago) suggest that resettlement of BIOT is too costly to countenance when viewed from the perspective of environmental science—their chief argument being that human habitation of Chagos would deprive scientists of a unique benchmark against which to measure the health of coral reefs elsewhere.<sup>11</sup> Such scientists have over recent years become unlikely allies in the FCO's bid to oppose the Chagossians' right of return. This axis was tightest with Labour's David Miliband as Foreign Secretary, a politician reputed to have valued the Chagos Islands as a way to obtain a "green" legacy for himself.<sup>12</sup> A coalition of respected environmental and conservation groups known as the Chagos Environment Network (CEN) campaigned for the no-take MPA in Chagos that was ultimately created in April 2010, over the opposition of most Chagossian groups and their supporters<sup>13</sup> and in the face of concerns that this MPA represents a neo-colonial return to "fortress conservation."<sup>14</sup>

The Chagossians have been unsuccessful at securing a right to resettle their homeland through the courts. In 2008, the Law Lords upheld the government's right to exile the islanders from BIOT. In 2012, the European Court of Human Rights declined to hear the islanders' case on jurisdictional grounds. In 2013, the High Court dismissed the Chagossians' Judicial Review claim, in which they had argued that the Chagos MPA was unlawful because it

was intended as a barrier to resettlement. Nevertheless, the announcement of a new feasibility study means that a *political* equilibrium in favour of the Chagossians' claims may yet emerge. Numerous MPs and peers are already organized in support of the Chagossians, dozens as part of the All-Party Parliamentary Group on the Chagos Islands headed by Jeremy Corbyn MP and coordinated by David Snoxell, a former High Commissioner to Mauritius and BIOT Commissioner. Critics abound of the way that the UK and US currently run BIOT, not only because of the Chagossians' ongoing exile but because also owing to allegations that Diego Garcia has been used as a CIA black site and because the base is a significant polluter (thus undermining the point of an MPA in Chagos).<sup>15</sup> Mauritius's longstanding claims to sovereignty over the Chagos Archipelago (which was integral to the Colony of Mauritius until its 1965 excision to form BIOT) will be heard in 2014 by a tribunal organized by the Permanent Court of Arbitration and according to the UN Convention on the Law of the Sea. If the upcoming feasibility study finds that resettlement of BIOT is practically possible even if politically sensitive, this could catalyze political support for an overhaul of what is currently a troubled Overseas Territory.

Whether it serves as a prelude to resettlement or as another nail in the coffin for the Chagossians' hopes of return, the new feasibility study represents a potential milestone in the political history of the Chagos Archipelago. So far, marine scientists have fallen on either side of the debate regarding resettlement and the continued seclusion of Chagos.<sup>14, 16</sup> Whatever their stance, however, scientists and conservationists all of stripes should understand the potential implications of the impending study.

### Implications of the feasibility study

The question for those interested in the conservation of the Chagos marine environment is this: does the feasibility study threaten either the current MPA framework or the general goal of environmental protection? Partly, the answer depends upon how the feasibility study is carried out. Beyond that, it depends upon how resettlement—if allowed—would take place.

The scope of the feasibility study largely will determine its findings. Does the feasibility of resettlement pertain to the relative ease with which the Chagos Islands can support human habitation? Will the entire archipelago be subject to serious analysis or just the outer islands? Is the feasibility of permanent human habitation to be determined prior to consideration of the desirability of methods of finance? Will the feasibility of resettlement be determined with reference to what stakeholders such as the US military and environmental groups will countenance? In short, there are numerous ways in which the feasibility study might be biased against resettlement before it has even begun. The major point to highlight is that of course resettlement is not feasible if the political status quo is taken as a given because the political status quo has been constructed with the continued exile of the Chagossians firmly in

mind. On the other hand, if the feasibility study is conducted in a way that focuses on the less political and more objective questions regarding the sustainability of life, then there is a greater chance that the study will portray resettlement as something achievable. Ideally, the study will present a range of hypothetical options under which resettlement could successfully be implemented, with elected officials then being left with their rightful task of deciding which of the alternatives to implement.

William Hague is the first Foreign Secretary since Robin Cook to evince, at least outwardly, a somewhat open mind to the idea of a new political settlement with the Chagossians.<sup>17</sup> Although Hague has stopped short of backing the right to return, if ministers do decide to proceed with resettlement then there will be implications for the currently designated MPA framework. This was recognized in the FCO's consultation document regarding the initial MPA proposal<sup>18</sup> and reiterated in the draft terms of reference for the new feasibility study.<sup>19</sup> The no-take framework would have to be revised to accommodate Chagossians living on the outer islands, whose livelihoods would probably depend to some extent on small-scale fishing.<sup>14</sup> If the US military would accommodate a Chagossian settlement on Diego Garcia—a potential outcome that is explicitly included in the draft terms of reference published by the FCO<sup>19</sup>—then the current MPA arrangement could be left more-or-less intact given that Diego Garcia already is exempt from the no-take framework and US personnel are known to fish in substantial quantities. Either way, however, formal integration of the Chagossians into the management of the MPA will be something to address: although environmental scientists have made efforts to involve individual Chagossians (mostly domiciled in the UK) in the conservation of Chagos on a very small scale, a permanent population anywhere in BIOT would need to be given a much more meaningful role.<sup>14</sup>

In terms of the wider goal of protecting the Chagos marine environment, resettlement need not pose a risk. Local populations have been integrated into the management of MPAs the world over.<sup>14</sup> Indeed, some scientists argue that the participation of local groups is essential to the long-term success of such arrangements. In any event, only a small number of Chagossians are likely to wish to resettle BIOT, whether Diego Garcia or the Outer Islands.<sup>20</sup> Moreover, resettlement need not diminish the sweeping political control that London wields over the jurisdiction; neither deregulation of the environment or mass immigration into BIOT is on the agenda. Scientists would retain the ear of an FCO that professes its commitment to the oceans. Even the fears of those scientists most closely associated with the no-take MPA partly could be assuaged if resettlement was confined to the already populated Diego Garcia and if the Outer Chagos Islands were kept off-limits. Of course, the goal of keeping the outer islands uninhabited is immutably incompatible with resettlement beyond Diego Garcia. Nevertheless, there is a sizable contingent of conservationists with an interest in Chagos—including numerous groups who are on record as supporting the Chagossians' right to return as part of the FCO's consultation in

2009-2010—who will find it possible to take heart, not horror, from the notion of resettlement in any guise.

### Conclusion

In hindsight, it might have been better for the long-term interests of the MPA in Chagos if the issues of environmental protection and human rights had been dealt with at the same time, rather than decisions related to the former eclipsing concerns related to the latter.<sup>14</sup> It must be noted that it was a deliberate decision by the FCO (unchallenged by the CEN) for the question of establishing a no-take reserve in Chagos to be divorced so comprehensively from the rights of the Chagossians. For those opposed to resettlement, this strategy may be vindicated if the Chagossians are kept in exile in perpetuity. But if resettlement proceeds, it will mean that the Chagossians' return to their homeland will have been unnecessarily delayed and the MPA framework, still in its infancy, will have to be amended. Nothing is yet for sure regarding the new feasibility study but political contestation over the future of BIOT shows no sign of abating. Unavoidably, the MPA is part of—and is contingent upon—how this political contest unfolds. All stakeholders in this complex political quagmire may yet be forced to come to terms with each other's interests.

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### Notes

<sup>1</sup> HM Government. Written statement to Parliament: British Indian Ocean Territory policy review, 8 July 2013.

<<https://www.gov.uk/government/speeches/british-indian-ocean-territory-policy-review>> (accessed 31 August 2013).

<sup>2</sup> Vine D. *Island of shame: The secret history of the U.S. military base on Diego Garcia*, Princeton: Princeton University Press, 2009.

<sup>3</sup> Sheppard C.R.C. et al. Reefs and islands of the Chagos Archipelago, Indian Ocean: Why it is the world's largest no-take marine protected area. *Aquatic Conservation* 2012;22(2):232-261.

<sup>4</sup> Koldewey H.J., Curnick, D., Harding, S., Harrison, L.R. and Gollock, M. Potential benefits to fisheries and biodiversity of the Chagos Archipelago/British Indian Ocean Territory as a no-take marine reserve. *Marine Pollution Bulletin* 2010;60(11):1906-1915.

<sup>5</sup> Miliband D. quoted in Campbell D. and Weaver M. Chagos islanders lose battle to return. *The Guardian*, 22 October 2008.

<<http://www.theguardian.com/politics/2008/oct/22/chagos-islanders-lose>> (accessed 31 August 2013).

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<sup>6</sup> Snoxell D. Anglo/American complicity in the removal of the inhabitants of the Chagos Islands. *Journal of Imperial and Commonwealth History* 2009;37(1):127-134.

<sup>7</sup> US embassy cables: Foreign Office does not regret evicting Chagos islanders. *The Guardian*, 2 December 2010. <<http://www.theguardian.com/world/us-embassy-cables-documents/207149>> (accessed 31 August 2013).

<sup>8</sup> Sand P.H. Diego Garcia: British-American legal back hole in the Indian Ocean? *Journal of Environmental Law* 2009;21(1):113-137.

<sup>9</sup> Sand P.H. *United States and Britain in Diego Garcia: The future of a controversial base*. London: Palgrave Macmillan, 2009.

<sup>10</sup> Philip C. and Kennedy D. Study into return of the Chagos islanders was manipulated, consultant claims. *The Times*, 22 April 2010. <<http://www.thetimes.co.uk/tto/news/world/asia/article2485263.ece>> (accessed 25 August 2013).

<sup>11</sup> Sheppard C.R.C. British Indian Ocean Territory (Chagos Archipelago): Our global opportunity. *Science in Parliament* 2009;66(4):30-31.

<sup>12</sup> Kennedy D. David Miliband imposed marine zone on Chagos against official advice. *The Times*, 12 June 2013. <<http://www.thetimes.co.uk/tto/environment/article3788366.ece>> (accessed 31 August 2013).

<sup>13</sup> Jeffery L. 'We are the true guardians of the environment': human-environment relations and debates about the future of the Chagos Archipelago. *Journal of the Royal Anthropological Institute* 2013;19(2):300-318.

<sup>14</sup> De Santo E.M., Jones P.J.S. and Miller A. Fortress conservation at sea: A commentary on the Chagos marine protected area. *Marine Policy* 2011;35(2):258-260.

<sup>15</sup> Sand P.H. Diego Garcia legal black hole—a response to Sheppard et al. *Journal of Environmental Law* 2009;21(2):295-298.

<sup>16</sup> Gammell A. More a safe haven than a fortress. *Marine Policy* 2011;35(5):728.

<sup>17</sup> UK Chagos Support Association. William Hague. <<http://www.chagossupport.org.uk/category/william-hague>> (accessed 31 August 2013).

<sup>18</sup> HM Government. FCO consultation document: Consultation on whether to establish a marine protected area in the British Indian Ocean Territory. <<http://www.ukotcf.org/pdf/news/Marine%20Protected%20Area%20Consultation%20101109.pdf>> (accessed 31 August 2013).

<sup>19</sup> HM Government. Draft terms of reference for a new feasibility study into the resettlement of the British Indian Ocean Territory (BIOT) <[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/259663/BIOT\\_FEASIBILITY\\_STUDY\\_TERMS\\_OF\\_REFERENCE\\_FOR\\_PUBLICATION\\_19\\_\\_11\\_13.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/259663/BIOT_FEASIBILITY_STUDY_TERMS_OF_REFERENCE_FOR_PUBLICATION_19__11_13.pdf)> (accessed 3 January 2014).

<sup>20</sup> Jeffery L. *Chagos Islanders in Mauritius and the UK: Forced displacement and onward migration*. Manchester: Manchester University Press, 2011.