



Chagossian
Voices

BRIEFING

RESPONSE

To the proposed *Nationality and Borders Bill*
2021

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Chagossian Voices

Introducing Chagossian Voices

Chagossian Voices is a grassroots Chagossian community platform which promotes the varied voices of the Chagossian community through conferences, webinars and direct communication with official bodies and the general public.

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Summary of Chagossian Voices Response to the *Nationality and Borders Bill 2021*

Do these reforms adequately address any remaining areas of unjustified discrimination in British nationality law?

1. *We would like clearer and more definite guarantees for the Chagossian community, which remains divided, traumatised and impoverished by its experiences resulting from their enforced exile by the UK Government. This could come as an amendment to the Bill or as guarantees from government as to how this Bill will be applied to the benefit of the Chagossians.*
2. **We believe that all native born Chagossians and their direct descendants should be guaranteed a simple and cheap access to UK citizenship. Citizenship should not depend on the gender or marital status of the Chagossian ancestor. Spouses of Chagossians should not need to qualify in terms of income or the *Life in the UK* test. Chagossians need support, to help them adapt, integrate and succeed in the UK.**

With such a guarantee, Chagossians would be able to flourish in UK society both as individuals and as a community. They would be released from the financial burdens and stress of immigration requirements and fees. Undocumented Chagossians would be able to work, get educated, marry and fully participate in society. Family life would be restored and the vibrant character and culture of Chagossians would be a fully functioning part of UK society.

Background Information

Who are the Chagossians?

The Chagossians, sometimes known as the *Ilois*, are the forcibly exiled inhabitants of the Chagos Archipelago and their descendants. Between 1965 and 1973 the islanders were removed against their will from the islands by the UK government and prevented from returning, to make way for a US airbase on Diego Garcia. The Chagossians were a settled population on the islands and can trace their origins on the islands back to slaves first brought by the French to Chagos in 1793. The Chagossians were removed by the UK to Mauritius and the Seychelles, and the population is now divided between the UK, Mauritius and the Seychelles. Some Chagossians describe themselves as BIOT (British Indian Ocean Territory) people/citizens. The Chagossians experienced poverty, marginalisation and ethnic discrimination in Mauritius both as Chagossians and as Afro-creoles. Chagossians mainly speak Kreol. As a community long denied educational opportunities, they often struggle with written and spoken English.

How many Chagossians are there?

Exact numbers are difficult to estimate as the involuntary exodus from the islands took place over time, in addition to the final forced removal in 1973. Mauritian government figures from 1978 counted 557 families and 2,323 Chagossians¹. However, there were also at least 200 Chagossians in the Seychelles at this time. It is estimated that the total population of the Chagossian diaspora is currently no more than 10,000. The UK population is mainly in Crawley West Sussex (at least 3,000) and in Manchester (about 300)

Where is the Chagos Archipelago?

The Chagos archipelago is a group of more than 56 low lying coral atolls, of which the island of Diego Garcia is the largest. Until 1965, when the British Indian Ocean Territory (BIOT) was created, the islands were administered as a 'lesser dependency' of the British colony of Mauritius. Other major island groupings include Salomon and Peros Banhos.

Chagossians and British Citizenship

The Treaty of Paris (1814) passed control of Mauritius and its 'lesser dependencies' (Chagos, Seychelles, Rodrigues, Agalega etc) to Britain. Native born Chagossians have, since this time been Citizens of the United Kingdom and Colonies, and latterly, British overseas territories citizens as well as British citizens (from 1 May 2002) by way of the British Overseas Territories Act, section 3(1)).

¹ HQ02X01287; Judgement In the High Court of Justice, Queens Bench Division; The Honourable Mr. Justice Ouseley. 9 October 2003

1. Why are Chagossians British citizens?

(i) The Chagossians are the exiled citizens of a British Overseas Territory (BOT) and their descendants.

(ii) Unlike other BOT citizens, the Chagossians were all forcibly removed from their islands by the UK government and were moved to foreign territories without consent or consultation.

(iii) They have been forbidden to return to their islands and until 2002 were forced to raise families outside Crown territories against their will. The severance of links with the UK was forced on them.

(iv) They are British citizens who have been denied their rights of abode on their territory, their rights to raise a family there, and denied any right to self-determination for themselves or their islands.

(v) Since 2002 Chagossians born on the islands have, like other BOT citizens, been able, at their own expense, to claim right of abode in the UK and British citizenship. In theory this right also passed to their children, but many Chagossians of this generation have struggled to obtain citizenship. They have often been declined citizenship due to discriminatory interpretations of immigration law, particularly for those born before 1969 and after 1983. Citizenship has not automatically passed to their grandchildren – even if they have migrated to the UK with their (British) parents as very young children. This is unfair; the reason that such a person was absent from British territory is due to their exclusion by the UK government, and not a voluntary severing of links.

(vii) Article 15 of the Universal Declaration of Human Rights states that “No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.” Surely Britain’s treatment of the Chagossians violates this most fundamental human right.²

² <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

2. What are the problems with the current citizenship/immigration status of Chagossians?

(i) Only native born Chagossians with incontestable documentation and 2nd generation Chagossians (their children) born between 1969 and 1983 have had a relatively straightforward pathway to UK citizenship.

(ii) 2nd generation (the children of native-born islanders) born outside the dates in (i) have often been denied citizenship, despite being entitled to UK citizenship

(iii) 3rd generation – many of whom have been in the UK since early childhood – often become an undocumented presence in the UK once they reach the age of 18. Family life, as well as the freedoms and potential of the undocumented Chagossian are profoundly damaged by this status which denies them access to jobs, housing and healthcare.

(iv) Most Chagossian families, already financially ruined by their enforced exile, are paying, and have for many years paid, huge and increasing visa, immigration and citizenship fees, health surcharges and legal expenses for spouses and children with pending or rejected applications. This limits their lives and damages their health and wellbeing through stress and impoverishment.

(v) Broken and divided families are another consequence of this expensive, complicated and constantly changing immigration process. Due to high costs and legal complications, a Chagossian family taking as many as 15 years to fully migrate to the UK. Many never complete and remain divided. 60 years of Chagossian exile, dispersal, poverty and separation have severely limited their life chances and damaged their health and wellbeing.

(vi) Many spouses of Chagossians do not qualify for permanent residence on grounds of income, further dividing families. Since spouses of Chagossians are often the partner in a long-established family, the family division created by this requirement is inhumane. Chagossian family members were living most of their lives in enforced exile and consequently also struggle with the 'Life in the UK' test. This should be waived in the case of Chagossians.

(vii) Chagossians have had citizenship denied for the following reasons:

- Native born parents were unmarried or had incomplete documentation. However, no permanent civil or religious registration existed on the islands and the gender imbalance and mobile workforce on the islands meant that traditional nuclear families were rare. Rejection on this basis is unacceptable.
- Citizenship has been sometimes declined due to the gender of native ancestor
- Sometimes applications are rejected due to error or ignorance at the passport or Home Office
- The applicant was born before 1969 or after 1983

Additional information about the Chagossians

A. Chagossians in Mauritius

Chagossians encountered numerous problems in their removal to Mauritius by the UK Government, **which to most was an unfamiliar and distant territory with a way of life very different to their own.**

I. Marginalisation and discrimination

Mauritius is a majority Hindu country with 60% of the population of South Asian origin. The Chagossians are mainly of Afro-Creole origin and Christian (mainly Roman Catholic). Most Chagossians experienced structural and personal discrimination due to their race, origins, appearance, accent and ethnicity throughout their time in Mauritius, putting them on the margins of society economically and socially.³

II. Inability to find and sustain employment

Chagossians arrived from a remote plantation economy with a skill set which did not match the employment market in Mauritius. They also arrived in Mauritius at a time of very high unemployment and without formal education or certification. There was no provision for their integration or training provided for them to adapt to Mauritian society. The money allocated by the UK for their support was withheld by the Mauritian government until 1978 and allocated haphazardly and unfairly.

III. Lack of housing, social and financial capital

Chagossians were dumped on the quayside in Port Louis. They had no homes, no social or support network and no money. Many Chagossians remained marginalised and in poverty throughout their time in Mauritius

IV. Stress, trauma and broken families

Many Chagossians have suffered extreme trauma through this enforced displacement, separation from their homes and homeland and many families were divided and damaged. This trauma remains with individuals and families.

B. Chagossians in the Seychelles

Chagossians were also deposited in the Seychelles without their consent. These Chagossians have never benefited from any of the compensations paid by the UK government, as the funds were administered by the Mauritian government. Seychellois Chagossians are often overlooked and forgotten by public authorities, international organisations and governments. They too experienced discrimination, exclusion and marginalisation.

C. Chagossians in the UK

Despite being British Overseas Territories citizens, Chagossians were unable to reside in the UK until the 2002 British Territories Act was passed. As the only BOT citizens banned from their own territory, most Chagossians saw right of abode in the UK as their absolute right and something which should have been granted at the time of enforced exile.

³ See also: Jeffery, L., & Vine, D. (2011). Sorrow, sadness, and impoverishment: The lives of Chagossians in Mauritius. In *Eviction from the Chagos Islands* (pp. 83-102). Brill.

- *Arrival in the UK*

The migration of Chagossians and their families to the UK was not assisted in any way by the UK government. The Chagossians financed every aspect of their migration and settlement in the UK, themselves and were not offered any integration or welcome package by the UK government. There was no plan or funding for their integration, education or wellbeing and they were left entirely to fend for themselves.

- *Problems integrating and succeeding in the UK*

Since no support or integration programme was set up for Chagossians, many have had problems navigating the systems and opportunities of their new homeland. Many Chagossians struggle with English and the community have had to fight to be properly noticed and supported.

- *Housing*

Chagossians have often been regarded as 'voluntary homeless' and have had difficulty accessing and affording decent housing. Many live in crowded conditions, with extended families sharing a single home.

- *Broken families*

Due to the expense of migrating to the UK, families have come in stages, sometimes over many years. Due to the complexity of immigration legislation some family members have been unable to come to the UK or have had to go back. Families remain divided since exile and the community and individuals are living under enormous stresses.

- *Constant uncertainty*

The last 15 years have seen constant changes in rules and laws concerning immigration to the UK. There have been dramatic changes to earning thresholds, requirements to take a test (Life in the UK), huge rises in registration and application fees for visas and a menacing tightening of the system, now identified as the 'hostile environment'.⁴

In addition, the Chagossians feel they have been misled by the UK Government over the possibility of returning to their islands. For a number of years, the prospect of return to the islands was presented to the community as a real possibility and a feasibility study was undertaken by KPMG on behalf of the government (2015). Despite the report's finding, this option was finally closed by the government in September 2016.

- *Financial problems*

Most Chagossian families, already rendered destitute from their lives in Mauritius, have to spend thousands of pounds on travel, legal fees, visas, health charges. This leaves many of the community in debt and without the appropriate documentation.

- *Transgenerational trauma and the cumulative effect of chronic stress and life events*

The Chagossian community is at a crisis point. Community members have become overloaded with losses, changes, challenges, burdens and life events – all created by government decisions in which they have had no say or choice. Enforced exile has created a sense of loss and alienation; broken families have created misery and despair; they have been worn down by discrimination and unfairness. Families are destroyed financially and

⁴ See: Jones, H., Gunaratnam, Y., Bhattacharyya, G., Davies, W., Dhaliwal, S., Forkert, K., ... & Saltus, R. (2017). *Go home?: The politics of immigration controversies* (p. 208). Manchester University Press.

emotionally by a system which **heartlessly rejects them** and repeatedly takes money from families who just want to be reunited.

- *Undocumented Chagossians*

There is an increasing number of undocumented Chagossians in the UK. The causes are usually either the cost of the documentation or constant and inexplicable rejection by authorities. These are mainly:

- The grandchildren of native islanders who came to the UK with their (British) parents as young children and who, as adults, have been unable to obtain the necessary status, despite having grown up in the UK with British parents.
- The longstanding spouses of British Chagossians, often in their 60s and 70s, who are constantly refused leave to remain in the UK despite many generations of their family living here.
- An individual whose siblings, parents and grandparents now live in the UK as British citizens, yet due to their date of birth are constantly denied citizenship.
- Anomalies, such as people whose siblings were all born on the islands but were themselves born on an island (like Agalega) which is no longer connected to BIOT.

Undocumented individuals cannot progress with their lives and create multiple problems for themselves and their families. They can fall prey to despair, even substance abuse and crime.

Summary of damaging effects on Chagossians of the current immigration policy

- Ongoing financial pressure, debt and high interest loans
- Poverty and resulting poor physical and mental health
- Stress through displacement, loss and separation;
- Undocumented Chagossians cannot work or claim benefits and become marginalized and isolated as well as creating a burden for other family members.
- Chagossians find it difficult to progress in society lacking opportunities to develop financial and social capital.
- Families are divided across continents.
- Most Chagossians in the UK live in a state of financial and emotional precarity.

Evidence and Case Studies

These are the stories, as recounted to us, by Chagossian community members

A. Anomalies from the generation of native-born islanders (1st generation)

A1. Generic problem Problems have been created for the generation of native born islanders due to incomplete paperwork, parents being unmarried and due to the temporary migration of parents to islands which, at the time were connected to Chagos, but are now part of Mauritius or the Seychelles. Gender imbalance, frequent temporary migrations of workers, and absence of civil or religious administration on the islands meant that cohabitation and polyandry were unexceptional.

A2. Case Study

ME is the member of a Chagossian family who were removed by the UK government from the Diego Garcia in 1973 when she was 17 and had lived there for 13 years. She herself has haunting memories of the traumatic deportation and can be seen on the islands with her family in archive footage included in John Pilger's documentary *Stealing a nation*. Through a quirk of fate, she and one sister were the only members of the family to be born in Agalega - then part of the same territory but a dependency of Mauritius, whilst there was a temporary relocation to the island for work reasons. This means the rest of her family, siblings, parents, cousins have been able to claim their citizenship and come to the UK – but she had been denied this pathway. She was also married to a Chagossian native (and British citizen) for more than 40 years and she came to with England with him three years ago. She has four children, and grandchildren who all live in the UK with British passports. Tragically her Chagossian/British husband died last year and she has been left without documentation and with no means of support or income. She was recently misled by a lawyer and lost a great deal of money through him, without actually achieving naturalisation for herself. She has no family in Mauritius, was herself evicted from the Chagos islands on the Nordvaer, lived on the islands for 13 years, was married to a Chagos islander and yet cruelly, can not see a clear pathway to regularise her status in the UK. She has all the necessary documents and paperwork.

B. Children of native-born islanders (2nd generation)

B1. Generic Problem

There is some confusion concerning the children of native-born islanders. According to the Home Office we have been told "Any children they [native born Chagossians] have in the UK or overseas will also be British citizens"⁵. However, this has often not been the case. In many cases citizenship and right of abode have been limited to those born between 26 April 1969 and before 1 January 1983 (referencing Section 6 of the 2002 British Overseas Territories Act). There has been an INCONSISTENT application of these unfair rules causing much confusion, stress and expense and dividing families. Applications have also been declined in error or through lack of knowledge by those processing applications.

⁵ Letter from Home Office Passport and Nationality Policy Unit. 11 December 2020

B2. Case Study

RM was born on the 1st March 1968 in Mauritius, and both her (unmarried) parents were born on Diego Garcia. In 2013 she came to the UK from Mauritius and filled in a registration UKM for citizenship and was declined. In 2014 she sought the assistance of immigration lawyers and her application was once again rejected by the Home Office, even with all the correct documentation and a covering letter from the lawyers. In 2019 she came to the UK again and her application was rejected again. After this third unsuccessful attempt, and having spent a large sum of money, RM returned to Mauritius. However, her brother, who was born after 1969 was granted citizenship and now lives in the UK, as was her mother who has also moved to England. She now lives, separated from her siblings, parent and cousins through the arbitrary application of an arbitrary date in an unfair administrative process.

B3. Case study

R I, born in 1960 in Mauritius, who is 95% disabled from a workplace accident in Mauritius, is the son of 2 Chagossian parents (both born on Diego Garcia). He initially applied for British citizenship in 2010 from Mauritius but was declined because he had no proof of civil marriage for his parents. He came to the UK in 2011, having found a church marriage certificate for his parents and managed to make a successful passport application. R.I's wife joined him in 2017. However, her application to stay in the UK was initially rejected, even though she came to the UK as his wife and his carer. Following an appeal she was granted a 2 ½ year visa in 2019. The combined legal fees, administration fees and health surcharge have amounted to more than £5000. His only income is a disability pension and his wife has no recourse to public funds. He has also for many years been battling at great expense to help his son renew his visas, pay legal fees and healthcare bills. His son, who came to the UK before his mother and now works as a chef, became an undocumented presence once he passed the age of 18 and has since then had to pay the increasing visa fees and health surcharge which need renewing at great expense.

C. Grandchildren of native-born islanders (3rd generation)

Chagossians have only had right of abode in the UK since 2002. This has meant that many "third generation" Chagossians were born in Mauritius or the Seychelles but have come to the UK as children or young adults with their parents and extended families. These are the three main problems.

C1. Generic problem

Third generation Chagossians have come to the UK with their parents who are British citizens by descent. They have attended primary and secondary school in the UK. Due to the cost and complexities of residence and citizenship, parents have been unable to obtain citizenship or leave to remain for their children, who then become an "undocumented" presence in the UK, despite having grown up here and having all their social, family and support networks in this country.

C2. Case Study

E.N was born in 1998 in Mauritius to a British citizen by descent. He attended primary and secondary school in the UK and has lived in Crawley for 15 years. His single mother was

unable to afford the increasingly expensive fees for indefinite leave to remain and naturalisation. He has reached the age of 22 and is now in the UK without the papers which will allow him to work, get accommodation or get training, education or access to public support of any kind. He is forced to live on the margins of society and cannot raise the money to improve his immigration status.

C3. Generic problem

Third generation Chagossians have been left in Mauritius, often with grandparents, while parents establish themselves in the UK and start saving for the passage of the rest of their family. By the time the individual arrives in the UK they are approaching or are over the age of 18. Obtaining the appropriate documentation becomes expensive and complex and the individual chooses to stay in the UK despite the lack of documentation, as all their support networks and family have moved to the UK.

C4 Case Study

JJGB was born in Mauritius in 1997. His grandfather and grandmother were both born on Peros Banhos and were British citizens at birth. All his father's siblings were also born on the Chagos islands, but by the time his father was born (1969), enforced exile meant his father was born in Mauritius. The B family were therefore in Mauritius through no choice of their own. The entire extended family of siblings, aunts, uncles and cousins have moved to the UK following the correction to immigration law in 2002. This has been done at the personal expense of each individual and families have only been able to move as they can afford it. JJGB's mother was born on the island of Rodrigues, now a self-governing dependency of Mauritius, 500 miles distant. This is significant as both the mother and father of JJGB come from Afro-Creole island communities, who were subjected to marginalisation and discrimination on ethnic grounds in Mauritius. It has also meant that as the whole extended family moved to the UK as soon as they could and JJGB was left without family or community support in Mauritius, and was subjected to discrimination, marginalisation and social isolation.

For this reason, JJGB moved to the UK in 2015, when he was 18, with his mother and has lived here with his British father and British family ever since. He has no family or support network in Mauritius and wants to progress as a fully integrated part of UK society. At the age of 18 his parents lacked the fees and knowledge required for him to progress along the pathways to residence and citizenship. JJGB now wishes to claim British citizenship, denied to him through no fault of his own so he can live a successful life in the UK with his loved ones around him. He has extensive documentation to prove every part of this story.

C5. Generic problem

A third generation Chagossian requiring care and support has remained in Mauritius with family members, while their British (by descent) parents establish themselves in the UK. Gradually the whole family and support network has come to the UK so the third generation individual comes to the UK as a vulnerable young adult in need of support. They find themselves in the UK as an undocumented presence.

C6 -Case Study

TSL, who is unmarried with no dependents, is a third generation Chagossian, whose (unmarried) mother is a British citizen by descent, living in Crawley West Sussex. He came to

the UK five years ago from Mauritius, when she moved here permanently and remained for the following reasons

- (i) dependency on his mother and wider family who also live in the UK
- (ii) a developing mental health problem
- (iii) the widely publicised bill going through parliament sponsored by Henry Smith, which would have restored UK citizenship rights to all generations of Chagossians

T has no home or family to return to in Mauritius. The majority of his Chagossian family and friends are British citizens living in the UK. T lives with his mother, who is a cleaner, and depends on her for food, shelter, financial and emotional support. He has a mental health condition for which he needs treatment. He is unable to live independently. His wider network of support, aunts uncles, cousins and friends, also live in Crawley

He depends on his mother and extended family for survival and wellbeing.

He is unable to progress in life and move to independence and self-sufficiency due to his undocumented immigration status. He cannot currently obtain training, education employment or support from public authorities in the UK.

C7. Third generation Chagossians with Indefinite Leave to Remain

Many Chagossian parents have obtained Indefinite Leave to Remain for their children as a less expensive route to right of abode than citizenship, assuming this would give them indefinite leave to remain. They have Mauritian or Seychellois passports but have lived most of their life in the UK. We have many examples of young adults who are being challenged in employment, housing and health scenarios when they cannot produce the new Biometric Residence Permit (which costs £229) and which is an additional surcharge on their residence in the UK. We also have heard of a Chagossian with ILR who lost their job due to not having the new card.

D. Spouses

D1. Generic problem

The spouses of Chagossians were often born in Mauritius or the Seychelles. The option of marrying in Chagos was closed to them and they were unable to come to the UK until 2002. There have numerous expensive and protracted problems for spouses of Chagossians. As a result of financial constraints, the pattern of chain migration of Chagossians has sometimes sent the “2nd generation” first to establish a home and get work, followed by the third generation. The native islanders (“first generation” and British by birth) have sometimes followed on as the family become established. Unforeseen obstacles in immigration and huge financial burdens have been created for the spouses of native-born islanders in their attempts to stay with their families in the UK.

D2. Case Study

Mrs ML was born in 1946 in Mauritius and has been married since 5th January 1970 (in Mauritius) to Mr ML, who was born in Diego Garcia in 1944 and is a British citizen by birth. Like all Chagossians he was removed from his homeland by the UK government, told he could never return and dumped in Mauritius. They have 2 British children living in the UK

(since 2003) and one on Réunion island. They have 8 grandchildren in the UK and one great grandchild in the UK. They have no remaining family in Mauritius. Following the pattern of chain migration (outlined above) due to constrained finances, they followed their family to the UK in 2013. Mrs ML suffers from high blood pressure, failing eyesight, diabetes and has back and feet pain creating problems with walking. She has previously had a diagnosis for stomach cancer but is now in remission. Her husband, a British citizen since birth, has prostate cancer and Mrs ML is his carer.

Despite paying in excess of £3000 in legal expenses, £500 for NHS charges and hundreds of pounds in administrative fees to the Home Office Mrs ML has on three occasions had her requests in the courts for leave to remain in the UK rejected along with traumatising demands for deportation. She has all the correct paperwork and she appears to be rejected on a very technical interpretation of selected clauses in the law. She is currently in the UK in a bedsit with her husband having paid bail but is still under threat of deportation. She has no income and is not allowed to work. She has been married for 52 years.

