

REVIEW ESSAY

The scourging of Sark

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ABSTRACT: The Channel Island of Sark (5.5 km²; population 500), Europe's sole surviving feudal entity, was forced into democracy in 2008 following an appeal to the European Court of Human Rights by billionaire twins Sir David and Sir Frederick Barclay, tenants of the subsidiary island of Brecqhou. Unhappy with subsequent Sark election results that rejected most of their chosen candidates, backers of Barclay interests have now brought suit to revise the 2008 electoral reform act. The applicants contend that the current system discriminates against those favouring needed development and that Sark still remains essentially under the feudal control of the Seigneur and his cronies. This essay discounts these complaints as spurious and as obnoxious, for threatening the traditional values that sustain Sark's legendary tranquillity. The Sark saga is an object lesson in steadfast small-island resistance to unwanted 'improvement' by outside agency, however motivated.

Keywords: Barclay Brothers, Brecqhou, democracy, feudal rule, Sark, small island governance

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Introduction

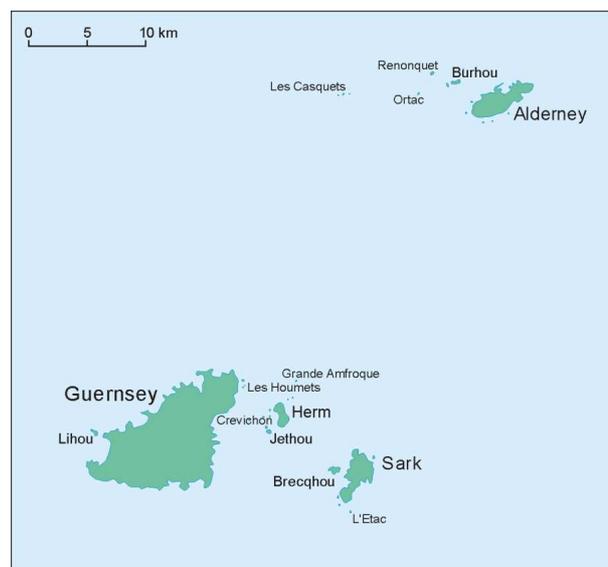
A group of Sark residents has applied to the European Court of Human Rights to repeal the Sark Reform (Sark) Law of 2008 (ECHR, 2015; Guernsey Press, 2015). The 2008 reform brought democracy to the island of Sark after almost four and half centuries of feudal rule.

Sark is a British Crown Dependency, one of the Bailiwicks that comprise the Channel Islands that is not part of the United Kingdom but have their own laws, customs, courts, and legislatures (see [Figure 1](#)). Though belonging to the Bailiwick of larger Guernsey, Sark has its own unpaid unicameral legislature, Chief Pleas, whose 28 Conseillers are elected by resident adult suffrage to four-year terms, half standing every two years. Sark is proud of its resilient, neighbourly, and highly cooperative community and its unique tranquillity. Its two square miles have no cars, no paved roads, no public street lights, no airport, and no mass tourism. The world's first Dark Sky Island, Sark is a renowned astronomical haven (Sample, 2011).

Sark First

The three named plaintiffs profess to represent the views of some 25 per cent of Sark’s eligible voters, claiming to be a “permanently disenfranchised and oppressed minority” whose concerns are disregarded (ECHR, 2015, Statement of Facts, paras 27 & 28). These other plaintiffs remain anonymous for alleged fear of unspecified “repercussions”. Under the aegis of an association called “Sark First”, they contend that Sark’s present constitution violates Article 3 of Protocol No. 1 to the Convention on Human Rights, mandating free elections that “ensure the free expression of the people in the choice of the legislature”; and Article 6, requiring “a fair and public hearing by an independent and impartial tribunal” for anyone charged with a criminal offence. Bringing suit against the United Kingdom, the complainants seek to replace the present all-vote-for-all-seats electoral system with one that in their view would better reflect islanders’ range of conflicting viewpoints (ECHR, 2015, Statement of alleged violations of the Convention and/or Protocols).

Figure 1: Guernsey and its dependencies, including Sark and Brecqhou.



Source: <https://upload.wikimedia.org/wikipedia/commons/2/28/Guernsey-islands.png>

The complainants contend that Sark is controlled by a close-knit oligarchy entrenched by a semi-feudal, first-past-the-post voting system that shuts out “minority opinions” from Chief Pleas. They claim that those in power are animated by a fixed anti-development bias, against which their own “progressive” proposals to “de-feudalise”, “professionalise”, and “liberalise” Sark are routinely thwarted (ECHR, 2015, Statement of Facts, para 12).

Discussion and critique

These complaints misstate the actual facts and circumstances of Sark in several ways. One is the groundless contention that ‘feudal’ party Conseillers on the one hand represent “a single vested interest group”, and on the other hand that they are motivated largely by self-interest (ECHR, 2015, Statement of Facts, paras 20, 25 & 29). On the contrary, Conseillers are in no sense an organized party. They hold diverse views on issues of local concern. And, far from being motivated by self-interest, they give up precious time and energy without remuneration for the general good of the Sark community.

Despite accepting that Sark, like Guernsey and Alderney, has “no formal political parties as such”, the complainants repeatedly refer to Sark as “a single party state”, and to the “feudalist party’s ... ability to organise a block vote” (ECHR, 2015, Statement of Facts, paras 1, 11, 13 & 23). This is invidious. Sark has no ‘block’ vote or ‘feudal’ party. To assert that “Conseillers represent their own viewpoint only” and “administer laws partially and according to their own vested interests” (ECHR, 2015, Statement of Facts, paras 10 & 20) is a malicious calumny for which no evidence is offered.

The charge that the electoral system militates against the complainant “minority” is entirely hypothetical. The 2008, 2010, and 2012 elections chose several candidates reflecting diverse ‘minority’ views in what an eminent Channel islander terms “one of the most democratic systems of government imaginable” (Roffey, 2015, n.p.) . The complainants chose at the last minute in 2014 not to stand for office in the island’s biennial election. Had they contested in 2014, instead of being too “discouraged by their prospects ... to do so”, they would likely have gained seats (ECHR, 2015, Statement of Facts, para 24).¹ The charge that under the present “majoritarian” system “one grouping” of 45 per cent of the electorate *could* entirely block the will of the rest is without merit, since it has never happened (Statement of the Facts, para. 13; Statement of Alleged Violations, paras 3 & 4). And the same notional miscarriage of representation could occur under other electoral systems. To cite a hypothetical injustice as an actuality is disingenuous.

The complainants’ unsupported contention that the “feudalist party opposes an active economy of Sark” (ECHR, 2015, Statement of Facts, para 11) ignores the widely perceived threat to Sark’s environment, institutions, and way of life posed by the overwhelming financial clout of Sir David and Sir Frederick Barclay, tenants of the subordinate islet of Brecqhou (Dawes, 2015). After suing unsuccessfully in 1996 to make Brecqhou independent of Sark, they bought up much of Sark itself: half its shops, four of its six hotels, and a quarter of its arable land, presaging massive redevelopment. Initially welcomed for boosting employment, Barclay investment met growing resistance as subversive of traditional modes of life and landscape. The Barclays’ denigrations of and fraught relations with the Sark community, the volatile hire-and-fire, develop-and-abandon approach to their Sark properties, and the menacing series of burdensome and costly though largely unsuccessful or subsequently withdrawn lawsuits against Sark governance, lead many to fear that the Barclays aim to take over the island or, failing that, to bankrupt it and destroy its governance. When most of their approved candidates lost in the 2008 election, the Barclays retaliated by temporarily closing all their Sark enterprises and throwing all their 140 employees out of work, also temporarily (Pidd, 2012).

¹ Tony Le Lievre, Chair of Sark First and one of the three named applicants, came within 5, 20, and 9 votes of being elected in 2008, 2010, and 2012 respectively.

And, in 2015, all four Barclay hotels on Sark were summarily closed; customers who had already booked were rescued by the kindness of Sark residents who housed them gratis (Baker & Dewe, 2014).

What has sabotaged Sark's economy in recent years is not Chief Pleas. It is the incongruous start-and-stop Barclay development programme, together with their former managing director's obstructive and vindictive responses to Chief Pleas' legitimate environmental and other concerns, and his persistent vilification of Sark, in 'newspapers' circulated world-wide, as a Nazi- and Taliban-like fascist state. What entrepreneur would be so rash as to partner an island repeatedly likened to Nazi Germany by the manager of its major property owner?

The charge that justice cannot be done on Sark because the island's Seigneur, Seneschal and one of two constables are closely related ignores small island demographic reality: most people in a historic community of 500 are bound to be interrelated (ECHR, 2015, Statement of Facts, para 22).² Indeed, some supporters of Sark First are close kin of those persons whose dominance Sark First deplures.

The complainants contend that "the dominance of one vested interest group in [Chief Pleas] has produced a culture of bullying and intimidation on Sark" (ECHR, 2015, Statement of Facts, para 27). Those familiar with Sark are well aware that bullying and intimidation became a problem only with repeated assaults on the personal integrity of numerous residents, including every Conseiller, by the Barclays' former manager and Sark First supporter Kevin Delaney, in his scurrilous *Sark Newsletter/ Newspaper*. Bullying and intimidation come not from the Chief Pleas, but from those who back Barclay interests. "No voters" in Sark's 2012 "impeccable, scrupulously transparent and unbiased" election felt "subject to harassment", reported the UK Ministry of Justice's Election Observer. He rebuked Delaney's petition to void the election as "an unjustified personal attack on the character of the Seneschal" (BBC News, 2013).

The present application to the European Court is felt to be a vexatious ploy to undermine the legitimacy of Sark governance. The three named petitioners are locally seen as supporters of Barclay interests on the island. Having succeeded in forcing unwanted constitutional changes on Sark, but failing to coerce the newly enfranchised Sark electorate to do their bidding, Barclay-connected complainants now seek to rescind the very electoral reforms the Barclays sought and gained in 2008. Sark accepted democracy with justifiable reluctance, given its notorious one-size-fits-all incongruity for a very small interrelated community. But newly democratic Sark rejected threatened plutocratic takeover, electing candidates they were told not to vote for and rejecting most backed by the Barclays.

Current complaints of feudal autocracy, block voting, disenfranchisement, discrimination, and bullying and intimidation are backed by no evidence whatsoever. Many islanders feel that these accusations are part of a concerted effort to sabotage cherished traditions and institutions that have long sustained Sark. Several advocated 'reforms' turn out, on inspection, to require expensive and onerous infrastructure aimed at transforming what the Barclays now revile as "a decayed lump of rock, neglected over centuries" into a billionaire's glitzy playground.³

² To support their case, the applicants note that the Seneschal's former dual role was successfully challenged as in breach of the Convention (para. 8); they omit to add that this ruling was subsequently reversed (Harper, 2014).

³ Sir David Barclay (Isle of Brecqhou) to Sir Barry Cunliffe (Institute of Archaeology, Oxford, UK), 7 October 2014, (Sark Government Archives, World Heritage Site files.).

Conclusion

The Sark I first knew a quarter-century ago owed its enviable tranquillity to a stable population neither too small for viability nor too large for intimacy, to a terrain that promoted customary rural enterprise and precluded mass tourism, and to a tenurial system and constitutional regime that secured autonomy and privileged Sark's special ways (Lowenthal, 1995). That Sark is no more. Gone is the easy interchange once evident; guarded and tight-lipped responses today cloak dismaying discomfiture. Gone is the general sense of mutual trust and accord. What was friendly has turned surly and even menacing, as with Brecqhou's 'private island' minatory warnings and mock-military flourishes.

Not since the Lord of the Isles, Viscount Leverhulme, sought to 'improve' Lewis and Harris and the Outer Hebrides in the wake of the First World War (Nicolson, 1960) have islanders been so mercilessly beleaguered by their professed saviours as is Sark today. The assault on Sark is the most savage and sordid I have seen in sixty years of studying islands. Tasmanians endured centuries of mainlander stereotypes of innate criminality and inbred backwardness, Newfoundlanders suffered similar gibes about Irish fecklessness and subservience to codfish ways, Gibraltarians were derided as 'cosmopolite dagoes', Sardinians as 'primitive degenerates', and Maltese as 'eternal serfs' (Lowenthal, 2014). But such slurs are slight next to incessant accusations of 'lawless' Sark's "crimes against humanity", its hapless serfs currying favour with or cowering in fear under a "21st-century fascist state".⁴ The impact of this barrage of calumnies – attrition by infamy – on community solidarity, on faith among friends and families, on the very fabric of Sark society, some term worse than German wartime occupation. And ongoing threats of unsavoury development undermine the core of Sark's identity and imperil the survival of its community.

References

- Baker, E. & Dewe, R. (2014). Legal action by the Barclay Brothers and their representations -- 1996 to 2013. Island of Sark, Chief Pleas agenda, January 22, item 29. Retrieved from http://www.gov.sark.gg/Downloads/agendas_and_minutes/2014_agendas_minutes/140122_MInutes.pdf
- BBC News (2013, January 11). Sark election process was 'open and transparent'. Retrieved from <http://www.bbc.com/news/world-europe-guernsey-20986593>
- Dawes, G. (2015). Brecqhou's autonomy'. *Shima: The International Journal of Research into Island Cultures*, 9(1), 85-88.
- ECHR (2015, July 20). *Le Lievre v. United Kingdom*. Application no. 36522/15, European Court of Human Rights.
- Guernsey Press (2015, July 17). Sark group goes to European Court over 'feudocracy'. Retrieved from <http://guernseypress.com/news/2015/07/17/sark-group-goes-to-european-court-over-feudocracy/>
- Harper, T. (2014, October 22). Barclay Brothers lose legal fight over the future of Sark. *The Independent (UK)*. Retrieved from <http://www.independent.co.uk/news/uk/politics/barclay-brothers-lose-legal-fight-over-sark-s-governance-9811862.html>

⁴ *Sark Newsletter*, No. 260, 15 November 2013; *Sark Bulletin*, 18 September 2012.

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- Lowenthal, D. (2014). Albion's other islets: off-shore, overseas, and out of sorts. *Geographical Review*, 104(1), 101-108.
- Lowenthal, D. (1995). The resistant rock. *Geographical Magazine*, 67(5), 44-45.
- Nicolson, N. (1960). *The Lord of the Isles*. London: Weidenfeld & Nicolson.
- Pidd, H. (2012, June 27). Barclay Brothers accused of trying to silence dissent on Sark. *The Guardian (UK)*. Retrieved from <http://www.theguardian.com/uk/2012/jun/27/barclays-sark-newsletter>
- Roffey, P. (2015, June 11). Sark's problem is beyond European court. *Guernsey Press*. Retrieved from <http://guernseypress.com/news/comment/peter-roffey/2015/06/11/sarks-problem-is-beyond-european-court/>
- Sample, I. (2011, January 31). Sark is world's first 'dark sky' island. *The Guardian (UK)*. Retrieved from <http://www.theguardian.com/uk/2011/jan/31/sark-first-dark-sky-island>