

# THE SARK/BRECQHOU DYAD

## Jurisdictional Geographies and Contested Histories

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### Abstract

Over the past few decades, the islands of Sark and Brecqhou have featured in much media and legal discourse. Such factors as jurisdictional contestation, tension and criticism have arisen either between the owners of the private island of Brecqhou and the jurisdiction in which it is located, or as a result of other factors that have an association with Brecqhou on the larger island of Sark. As a type of microstate with a contested history and distinct traditional ways of life, the jurisdictional geographies in the Sark/Brecqhou dyad are of particular interest to the field of Island Studies. I use the term ‘Sark/Brecqhou dyad’ as a way of emphasising the distinct physical, political and social binaries that exist between the islands of Sark and Brecqhou. It is argued that key to understanding some of the points of contestation within and between this island dyad is a comprehension of some of the ways jurisdictional geographies and contested histories have been (re)interpreted. This article is an extension of my earlier article on the subject (Johnson 2014), and one that offers clarification, or one interpretation, of several significant points that help in comprehending this particular case of inter- and intra-island dynamics.

Keywords: Sark, Brecqhou, politics, power, space

### Microstate/Micronation

*Barclay twins ‘seek UDI for Brecqhou’.* (Blackhurst, 1996a: online)

The comments offered by Dawes (2015) on Johnson (2014) are based on an interpretation of jurisdictional geographies and contested histories. In the following I use the term ‘Sark/Brecqhou dyad’ as a way of emphasising the distinct physical, political and social binaries that exist between the islands of Sark and Brecqhou. The former has the larger land mass and population, and a name that is also used to cover the jurisdiction of both islands, as well as some islets and rocks within Sark’s waters. Brecqhou (Figure 1), however, has been a “private island” since 1929 (passing through different owners), and has a history as part of the jurisdiction Sark that has been contested on various occasions, with the most recent points of contention and dispute emerging after 1993 (Rivett, 1999; 2002).

Dawes criticises the examples of micronations that were referred to (Johnson, 2014: 11). He notes that the examples are not “islands with ancient histories and real status, such as Sark and, separately, Brecqhou” (2015: 85). The representative examples of micronations were used within the discussion as a way of emphasising that they should

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not be compared to the islands of Sark or Brecqhou. While the term ‘micronation’ is usually used for the more recently declared territories that are not recognised as nation states, the terms ‘micronation’ and ‘private island’ are sometimes used in a similar way (Tædivm, 2015: online). What I referred to was the fact that “*unlike*” (emphasis added) some recent conceits of micronations, the jurisdiction of “Sark has a long history of being almost an island nation (or microstate – cf Dommen and Hein, 1985), . . . with long established political links to the Bailiwick of Guernsey, of which it is a part, and to the British Crown” (Johnson, 2014: 11; cf George, 2009: 50). Furthermore, I commented that the jurisdiction of:

*Sark is a British Crown Dependency, but could be described as a type of microstate [ie a type of nation] (cf Le Rendu, 1999; 2004), and its degree of political autonomy and traditional practice offers an example of island identity within a sphere of concentric and interconnected political affiliations and power relationships. (Johnson, 2014: 10)<sup>1</sup>*



Figure 1. Brecqhou, July 3rd 2008. (Photo by Chris Northey, used under Creative Commons license, source: [www.flickr.com/photos/afc16/2664541899](http://www.flickr.com/photos/afc16/2664541899) )

A similar point was made by the editor of *The Sark Newspaper*<sup>2</sup> (also Chief Executive Officer of Sark Estate Management [hereafter SEM], which is a company belonging to the owners of Brecqhou), whose thoughts on the power of Sark’s parliament were published in *The Guardian*. Having lived on Sark for seven years, the CEO’s commentary notes the importance of:

*Holding up a mirror to the actions of those who seek to control Sark, in the interests of transparency, openness, accountability and, most of all, in the public interest . . . Sark is what amounts to a micro state with the power to make primary legislation in all areas of Sark life. (in Morris, 2014b: online)*

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What is particularly important in the case of the islands of Sark and Brecqhou is that there is a further (and sometimes contested) relationship between the owners of the latter and jurisdiction of which it is a part (ie Sark). The dichotomy gives the impression that it is between two islands, when in fact it is between one private island and the legal system in which it exists, which has its parliamentary chamber and, since 2008, all members of its parliament based on the island of Sark. The Sark/Brecqhou dyad is therefore a binary of two islands, a jurisdictional binary and a binary of place and power. Moreover, the strained relations between the two has not only been on contested jurisdiction, but there has also been much criticism of the traditional form of Sark's governance, both pre-democracy (ie before 2008) and post-democracy. Thus:

*The geopolitical (dis)connection between Sark and Brecqhou is not one of nation-building per se, but, rather, a context where Sark's political practice has changed and continues to adjust as a result of recent internal and external influences. (Johnson, 2014: 11)*

It is here that there are very clear asymmetries relating to population size and power between this island dyad (cf Baldacchino, 2006: 853). As Royle notes in connection with the domination and dependency of islands on others, "islanders can be outvoted; island economies can be bought up. Whole islands can be purchased" (2001: 141). Such asymmetries between the islands of Sark and Brecqhou pertain to such factors as population base, fiscal influence and (negative) (inter)dependency. I use the latter notion here to refer to (i) Brecqhou being an island dependency within the jurisdiction of Sark; (ii) Brecqhou's dependency on its own and imported resources (not usually from the island of Sark); and (iii) the dependence on Sark's legal system by those who challenge it.

The challenge that was made in the late 1990s regarding the jurisdiction of Brecqhou might be related prima facie to the idea of 'micronation' (Ryan et al, 2006). While there are certainly many examples of intriguing island micronations around the globe, the process of challenging the government of Sark's jurisdiction over Brecqhou placed Brecqhou in a situation where its future territorial status would be challenging not only for itself, but also Sark's government, the Bailiwick of Guernsey (of which the jurisdiction of Sark is a part) and the British Crown. If Brecqhou were not part of the jurisdiction of Sark, then what was it a part of, if anything at all? While recognising that Brecqhou should be under some jurisdiction, the point of Brecqhou's challenge was to question whether that jurisdiction should be Sark (Walsh, 2005: online). I used the term "quasi-micronationalism" (Johnson, 2014: 9) to refer to the privileges and exemptions that Brecqhou is often given by, or requests from, Chief Pleas (Sark's parliament). Another term could equally be 'quasi-microstate'. For the residents of one island (Brecqhou has a population of about 30 – Baker, 2012) to have different rights to the residents of another island (the island of Sark has a population of about 600), and each falling within the jurisdiction of Sark, offers an example where the island geographies of place have helped define the laws of the land(s). Furthermore, the different layers of jurisdictional authority for each of the Channel Islands, and in particular the Bailiwick of Guernsey, could be considered microstates on several levels (Dommen and Hein, 1985; Le Rendu, 1999; 2004). In other words, each of these British Crown dependencies<sup>3</sup> exists as 'quasi-nations',<sup>4</sup> themselves having different levels of governance, but not being nation states in their own right. For example, within the Bailiwick of Guernsey there are various territorial island groupings and divisions: the government of Guernsey

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administers the islands of Guernsey, Lihou, Herm and Jethou; Alderney and Sark each has its own legislature; Alderney administers Burhou (unpopulated); and Brecqhou is part of the jurisdiction of Sark).<sup>5</sup>

Not only might the jurisdiction of Sark be seen as a type of microstate of two islands (a type of sub-national jurisdiction) but the emergence of contestation between the islands of Sark and Brecqhou over the past few decades has added a further level of quasi-micronationism to the equation. Furthermore, the term 'micronation' was particularly appropriate as a label for Brecqhou at the time when a legal case was made that questioned whether Brecqhou was within the jurisdiction of Sark, which made media news from the mid 1990s. For example, one report noted: "Barclay twins 'seek UDI<sup>6</sup> for Brecqhou'" (Blackhurst, 1996a: online). The context of this article was that the owners of Brecqhou were wishing to reclaim a property purchase tax (*treizième*)<sup>7</sup> paid to the 22<sup>nd</sup> Seigneur of Sark, Michael Beaumont OBE, although later it was noted that "the action on its own was not a declaration of independence" (Blackhurst, 1996a: online). A court case was opened in Guernsey and was described as follows:

*The Barclays are effectively declaring UDI for Brecqhou... they told Guernsey's Royal Court, the island's equivalent of the High Court in England, yesterday, that in their view Brecqhou forms no part of Sark, its larger neighbour, which traditionally has ruled over the island... In their declaration, made for them by Lloyd Strappini, one of the Channel Islands' leading lawyers, they declared that 'Brecqhou forms not part of the fief of Sark'; that a law of 1611 banning the break-up of Sark did not apply to their island; and 'that the Court of the Seneschal of Sark [the island's highest authority] has no jurisdiction over Brecqhou.'* (Blackhurst, 1996b: online)

One factor that makes this declaration of interest in Island Studies is that the Barclays were able to claim private ownership of Brecqhou, in a similar way to the case of the island of North Dumpling, the owner of which declared secession, albeit in a humorous way, as a result of a dispute with New York State (Butkus, 2014: 86, 88). Also, the Barclays were not visiting the island to claim ownership (cf Royle, 2014: 81), but were building on the historical (inter)independence of Brecqhou and, in a somewhat contradictory way, its contested status as a dependency of Sark. However, four years after initiating the court action, the owners:

*Withdrew from the case in June 2000, their lawyer stating that – 'They further accept that the Court of the Seneschal of Sark has jurisdiction over Brecqhou and that the law-making authority of Sark, Chief Pleas, extends to Brecqhou'.* (Baker and Dewe, 2014)

Various disputes followed (Baker and Dewe, 2014).

In a recent BBC television documentary about Sark, in connection with a previous comment about Brecqhou by the same reporter, he noted:

*I remember I received a writ to appear before the court in Guernsey to say that Brecqhou was not part of Sark. After a four-year battle, the Barclays dropped their case. Brecqhou is part of Sark. But their lawyers are still challenging the island's laws.* (Sweeney, 2012)

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In the same programme, while pointing out related apologies that several Sark residents have made, various legal cases have been reported, included two in Guernsey, one in the Appeal Court, one in the Supreme Court, three judicial reviews, two in the European Court of Human Rights, and seven petitions to the Queen. Regarding the investments made on the island of Sark by the owners of Brecqhou, one media report in a UK national newspaper noted that:

*The economic colonisation, which the Barclays have admitted is unlikely to generate a return for them, comes amid years of costly legal challenges that they have brought over the archaic constitutional relationships between Sark, Brecqhou and the British crown. (Bowers and Pidd, 2012)*

### Jurisdiction

*The island of Brecqhou is part of Sark. (Ministry of Justice [UK], nd: online)*

Dawes objects to the comment that “Sark and Brecqhou form one jurisdiction” (Johnson, 2014: 10, 22). The etymology of the words Sark and Brecqhou needs to be examined. The name ‘Brecqhou’ refers to the island of Brecqhou. The name ‘Sark’, however, refers to both the island of Sark, and to the islands of Sark and Brecqhou, as well as the other islets and rocks within Sark’s jurisdiction. Both the geography of the Sark/Brecqhou dyad and the fact that Brecqhou is a private island with just a tiny population in comparison with the island of Sark, offers a context where separation by water, and not only historical contestation, might help to complicate perceptions of jurisdiction. Even though jurisdiction over Brecqhou had been contested in earlier years, acknowledgement that the island (also called L’Ile des Marchands – with various spellings), along with some islets and rocks, was a part of the jurisdiction of Sark was noted in the sale of the Fief of Sark in 1852: “y compris l’Ile de Brechou autrement l’Ile des Marchands, l’islot appellé l’Etac de Serk et Les Moyes et rochers près de la dite Ile de Serk [including the island of Brecqhou otherwise known as L’Ile des Marchands, the islet L’Etac (de Sark), and all the rocks near the island of Sark]” (Ewen and De Carteret, 1969: 155; my translation; see also Chief Pleas, 2006). Without doubt, it was only in 1929 that Brecqhou’s status changed to one of a private island that had a seat in Sark’s parliament attached to it, which was recognised although not put into practice in person by subsequent owners of the island.

Brecqhou’s size, natural resources, environment and location have contributed to its relative isolation off the coast of the island of Sark, even though the distance between the two islands is just a few hundred metres. As a tiny island, and with the original (mostly) Jersey settlers living on the island of Sark in 1565 within its 40 tenements (land holdings), it seems logical that Brecqhou was not settled at that time because of its vulnerability. Because of the need to travel a short distance by boat between the two islands, it is possible that the very survival of early settlers would have been at risk had the original tenants not stayed together on one island, especially at a time when even life on the island of Sark was particularly harsh. Undoubtedly, the geography of an island often helps determine its degree of vulnerability, but when two islands such as Sark and Brecqhou are physically very close to one another, the dynamics between the two may contribute to contested jurisdictional geography. For example:

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*Islands, by their very nature, are limited in extent, in population, and resources. They sit surrounded by sea, exposed and vulnerable. All too often they are open to political and/or economic domination, sometimes even to military attack, by outside powers of larger size and/or greater resources who are usually able to marshal superior forces to overcome any insular resistance. This has led to all islands being dominated, at some if not at all times, by more powerful continental powers or, in some cases, by other more powerful islands. (Royle, 1989: 107)*

The four jurisdictions in the Channel Islands have a constitutional relationship to the UK through the Crown, with the Privy Council nurturing good governance, and the UK's Ministry of Justice managing the constitutional relationship (Ministry of Justice, nd: online). With regard to jurisdiction over Brecqhou, as noted by the Ministry of Justice, "the island of Brecqhou is part of Sark" (Foreign and Commonwealth Office, 2012: 15; Ministry of Justice, nd: online). Here, the name 'Sark' would refer to both the Fief of Sark and the territory's jurisdiction. Within the Bailiwick of Guernsey, of which the jurisdiction of Sark is a part, the States of Deliberation (Guernsey's parliament) legislates "for Sark in criminal matters without the agreement of Chief Pleas, but on any other matter with the agreement of the Chief Pleas" (States of Guernsey, 2015: online). As Guernsey's parliament notes, "the island of Brecqhou is part of Sark" (States of Guernsey, nd: 1: online).

### Tenement

*Dame Sibyl Hathaway illegally bestowed upon Brecqhou the status of a Sark Tenement together with the seat in Chief Pleas. (Rivett 2002: 279)*

Dawes suggests that Brecqhou is not a "tenement of Sark" (Johnson, 2014: 15, 22, 25). The comment seems to imply an historical positioning of the jurisdictional status of Brecqhou when its governance was earlier contested. The Sark/Brecqhou dyad offers an example where perceptions of jurisdiction and space may have changed historically and through the reinterpretation and possible distortion of historical knowledge. That is, "historiography does not represent facts neutrally and objectively" (Cavallaro, 2001: 188).

Brecqhou was advertised for sale in 1929 with complete possession, with one notice mentioning that the owner is entitled "to a seat in the Parliament of Sark" (Unattributed, 1929: 22). According to Sark property law, the term "'tenement' means real property having the right to a seat in the Chief Pleas" (Chief Pleas, 1999). Based on this law, if the tenant of Brecqhou had a seat in Chief Pleas, then Brecqhou was a tenement. In 1929, Brecqhou was sold as a perpetual tenancy by Dame Sibyl, then Seigneur of Sark, to Angelo Clarke, who was thus given the right (an obligation) to take up the vacant tenement seat in Chief Pleas, joining the owners (tenants) of the other tenements. The island of Sark was originally divided into forty tenements (Brecqhou was not one of these), and until 2008 with the introduction of a democratically elected parliament, each of the tenants was privileged by having a seat in Chief Pleas under the feudal system. With the sale of Brecqhou in 1929, the seat in Chief Pleas attached to the Sark tenement of La Moinerie de Haut, which was purchased by Seigneur Pierre Le Pelley in

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1835, was transferred to the tenant of the island of Brecqhou, so that tenant automatically held the same parliamentary obligation as the other tenants on mainland Sark (Ewen and De Carteret, 1969: 120-121). In 1835, the land of La Moinerie de Haut was joined to existing Seigneurial land, thus reducing the number of seats in Chief Pleas. Rivett refers to Brecqhou as a “bogus Tenement” and “fictitious Tenement” (1999: 217), further commenting that Dame Sibyl may have created the tenement as a way of avoiding getting permission to sell the island, although he stresses that she could have simply sold Brecqhou without getting permission because “it was hers to sell . . . for the simple reason that it was not [in his opinion] part of the Fief of Sark” (1999: 217). Later, Rivett remarks that “Dame Sibyl Hathaway illegally bestowed upon Brecqhou the status of a Sark Tenement together with the seat in Chief Pleas” (2002: 279).

Brecqhou and Moinerie de Haut are sometimes referred to synonymously. For example, some *conseillers* (members of Sark’s parliament) have noted the following: “the Tenants of Moinerie de Haut (otherwise known as Brecqhou)” (Chief Pleas, 2012: 2); and that “the Regulation of Health Professions Projet de Loi [Bill] must include the tenement known as La Moinerie de Haut (otherwise known as Bre[c]qhou) as it is part of Sark” (2012: 18). Also, Sark’s land registry, which is called the Cadastre, has an online interactive map with the island of Brecqhou (Moinerie de Haut) indicated along with other tenements (Sark Electricity, 2013: online). Thus, the tenement of Moinerie de Haut became synonymous with Brecqhou, and its tenant had an obligation to sit and vote in Chief Pleas. However, in one media commentary, Seneschal (judge/magistrate and President of Chief Pleas – before 2008) Reg Guille noted that, “as tenant of Brecqhou, Sir David [Barclay] had a seat in Chief Pleas, but chose not to attend” (Unattributed, 2005: online).

The ownership of land in Sark/Brecqhou is sometimes confusing with regard to terminology. For example, in 1936, Brecqhou was again put on the open market with the advertisement noting: “The Romantic Sun-bathed Island (the only Freehold in the Channel Islands)” (Unattributed, 1936: 3). The point in question here is the term ‘freehold’. The same term was used in the 1965, 1966 and 1983 adverts when Brecqhou was also on the market (Unattributed, 1983; Unattributed, 1965: 22; Unattributed, 1966: 20). According to Sark’s property law, ‘freehold’ is property that is not a tenement (Chief Pleas, 1999; Law Officers of the Crown, 2010), but ‘freeholds’ did not have a seat in Chief Pleas. When the Brecqhou tenant acquired such a seat in Chief Pleas in 1929 as the result of a tenement being joined to another, the island became a de facto tenement (a new and distinct freehold tenement). When Dawes comments that “Sir David Barclay was named as the individual with the right to take the seat of the Moinerie tenement in Chief Pleas” (2015: 87), it is important to note that the seat of the ‘Moinerie tenement’ was transferred to the tenant of Brecqhou.

Also, the Seigneur’s feudal right (until 2007) to *treizieme* (one thirteenth of the sale price) was not applicable on a lease. As the current Seigneur has noted in his book on Sark:

*The Island was originally divided into forty landholdings known as Tenements and the owner or Tenant has, by right, a seat in Chief Pleas. Over the years further Seigneurial land has been leased in small parcels in perpetuity in similar manner to the Tenements but usually without the obligation to hold arms . . . and without a seat in Chief Pleas. These*

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*properties are frequently but erroneously referred to as “freeholds” to distinguish them from the Tenements. (Beaumont, 1993: 16)<sup>8</sup>*

As noted by the advocate looking after the sale of Brecqhou in 1949: “Strictly speaking, the owner of the above Island is called tenant, but in effect, he enjoys a freehold holding, although legally speaking, he has but a manorial freehold” (Lovell & Co. Ltd, 1949). At the time, Guernsey advocates, Carey & Son, offered legal advice to Plymouth estate agents, Messrs Viner, Carew & Co, which helps show the view that Brecqhou was both a (perceived) tenement of Sark and an island with its own distinct characteristics:

*The laws of the Island of Sark, of which Brecqhou is a dependency, are an important point to be considered by prospective purchasers.*

*The tenure of Brecqhou is similar to that of the other tenements in Sark, that is to say that the owner is the tenant in perpetuity from the Seigneur (Lord of the Manor) of the Island of Sark.*

*If the Island were put to a use which might be harmful to the general interests of the Island of Sark, then it is possible that legislation might be introduced to prevent the same.*

*The owner of a Sark tenement cannot dispose by Will of such tenement. (Carey & Son, 1949)*

The year 1983 was a particularly active one for the sale of islands in the Channel Islands. Brecqhou was advertised in *Country Life* as “Ile de Brecqhou” on a “125 year lease” and that the “Sale of the Freehold could be considered” (Unattributed, July 14th, 1983); Jethou was advertised on a 24-year lease (Unattributed, *Country Life*, September 1st, 1983), and Lihou was promoted for sale with a “causeway passable at low spring tides” (Unattributed, *Country Life*, July 28th, 1983). At that time, Brecqhou was not sold, and it was 10 years later that it was again offered for sale with the advert in *Country Life* noting the island’s “Tax Free Status” (Unattributed, *Country Life*, August 26th, 1993).

The sale of Brecqhou in 1993 included the following confirmation of the island’s jurisdiction: “The island of Brecqhou forms part of Sark and remains under the jurisdiction of Sark and the laws and usages and customs of Sark extend and apply there as of right” (Rivett, 1999: 232). While Rivett notes that “such a condition was wholly unprecedented and has never been used in the transfer of any other Sark Tenement” (1999: 232), it is perhaps the fact that the island was only relatively recently established as a private island (as opposed to one of the original sixteenth century tenements), and along with its special privileges (see later), that such a notice should have been included in the purchase deed. Another point is that unlike the tenements on the island of Sark, Brecqhou is an island, and owners may have reason to consider the island’s location as more than only its physical separateness from its mainland. Having purchased Brecqhou for 2.3 million pounds and spending about 25 million building a mock gothic castle (Figure 1) (Pierce, 1994), the new residents soon established business interests on the island of Sark, which include four hotels and several vineyards.

(Inter)dependence and Power



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*As many as 140 (estimates differ) of the 600 inhabitants were out of work until the Barclays reopened most of their businesses a few weeks later.*  
(House of Commons Justice Committee, 2010: 19).

Dawes does not accept the comment that “the smaller island of Brechqou . . . has an historical interdependence with its larger neighbour” (Johnson, 2014: 12-13). While acknowledging Brecqhou’s self-sufficiency to the extent that it uses its own natural resource or imports directly from Guernsey, either to Brecqhou or the island of Sark to service Brecqhou-owned businesses,<sup>9</sup> the “interdependence” I refer to is one of its political frame of reference. From 1929 until 2008, the tenant of Brecqhou had an obligation to sit in Chief Pleas, and while no Brecqhou tenant actually took up that seat in person (to the best of my knowledge), the interdependence between the two islands has more to do with politics, travel and governance. As Royle comments, “islands now range across the spectrum from total dependence to complete independence” (2001: 146). Dawes also contests my comment, “Barclays offer numerous petitions challenging various Sark laws and system of government” (Johnson, 2014: 13), noting that the number would be less than ten in total. In the history of the islands of Sark and Brecqhou over the past 400 years, such a number might be seen as numerous considering the short timeframe in which they were made. Furthermore, as noted above by Sweeney (2012), the examples are varied.

Dawes expresses that “Brecqhou is certainly not a part of Sark... jurisdiction is itself contentious... the jurisdiction is rarely exercised and, when it is, dispute generally follows” (2015: 85). Each of these points further illustrates the extent of self-assertion being exerted by Brecqhou, which exists in a setting that is physically and socially separated from the island of Sark, yet, has sometimes been associated with a denunciatory stance towards the type of jurisdiction in which it exists.

Dawes disagrees that the Seigneur has recently “lost many powers” (Johnson, 2014: 15). Losing the right to *treizieme* and of veto are surely significant losses of the traditional feudal rights once held by the Seigneur. But the notion of ‘power’ might be viewed from other perspectives, which was one of the key themes of my article: “the spatiality of power” (Johnson, 2014: 25). That is, power of the jurisdiction of Sark over Brecqhou (along with all other areas of Sark); Guernsey’s States of Deliberation within the Bailiwick of Guernsey of which the jurisdiction of Sark is a part; and the Crown over each of the Crown Dependencies. Influence is sometimes a related notion to power, and when there are imbalances of fiscal power not only within one island, but between two, as in the case of the islands of Sark and Brecqhou, tensions might arise. Brecqhou has a minority population within this island dyad, yet has much economic and other influence on the island of Sark (eg hotels and vineyards; charitable donations; court cases against Sark’s government, etc.). The Seigneur may hold Sark as a Fief, but others may wield other types of power that can influence the economy, politics and general well-being of this tiny jurisdiction. Such influence was experienced the day after Sark’s first fully democratic parliamentary election in 2008, when there was a massive rebuff of anti-establishment candidates, which was followed by the closing of all SEM businesses on the island of Sark: “As many as 140 (estimates differ) of the 600 inhabitants were out of work until the Barclays reopened most of their businesses a few weeks later” (House of Commons Justice Committee, 2010: 19). More recently, at the end of 2014, it was announced that even though tourism figures on the island of Sark

were buoyant, each of the four hotels operated by SEM on the island of Sark were to close in 2015 (BBC News, 2014: online).

Regarding the disapplication of some laws on Brecqhou as passed by Sark's government (Johnson, 2014: 22, 25), and Dawes' comment that "Lt Col Guille has no legal qualification of any kind and is hostile to the owners of Brecqhou" (2015: 87), I can only reiterate here that Brecqhou's position under the jurisdiction of the government of Sark is recognised by Brecqhou by its acceptance of the laws as applied and disappplied to the island by Chief Pleas.

Dawes suggest that I should have offered a perspective on the "Brecqhou counter-opinion" (Johnson, 2014: 27). In my article, I did not offer an opinion on one side or the other regarding the disputes between Brecqhou and its jurisdiction. What I did was to state the facts that were pertinent to my study of the Sark/Brecqhou dyad and its relevance for the field of Island Studies. However, much of the discussion does indeed illustrate the Brecqhou counter-opinion in that the facts under study often relate to the contested nature of Brecqhou as an island dependency of the jurisdiction of Sark. Dawes may also be referring to a counter-opinion on the island of Sark itself and oriented towards the government of Sark and the fact that it is a Fief of the Crown. The current situation with the Sark/Brecqhou dyad is that even though the jurisdiction changed to a democratic form of government in 2008, partly as a result of court cases against Sark's government, and with the approval of the Crown, the new type of government is still sometimes criticised as being undemocratic (Morris, 2014a: online). There is also a group on Sark called 'Sark First', which is campaigning for the current political system to be changed. Still, however one defines the notion of "democracy", interestingly, when the 40 tenement system of Chief Pleas was established over four hundred years ago, it was actually in the interests of democracy and fare representation of islanders, and based on land ownership (Beaumont, 1993: 10). Some changes to Sark's parliament were made in 1922 to offer more representation (40 tenants as land owners and 12 elected deputies), and most recently in 2008 when tenement landowners lost all automatic rights to a seat in parliament (now with 28 members), which included the parliamentary seat held by the tenant of Brecqhou.

## Discussion

Small islands have increasingly been the focus of international attention in territorial disputes, and historical and more recent events in many locations around the world have helped illustrate the contested nature of some islands (eg Senkaku/Diaoyu, Falkland Islands/Islas Malvinas or Ilha Brasileira/Isla Brasileira). While some cases have a context of securing natural resources in an era of challenging economic growth, what makes them particularly interesting in the field of Island Studies is their geopolitical frame of reference in island/mainland, island/archipelagic or island/aquapelagic contexts. Territorial claims are often made with historical, political or geographic reference, although location is not always a major point supporting the claim. With the very small islands of Sark and Brecqhou, contestation emerged in the 1990s that challenged the smaller island's (Brecqhou) jurisdiction within the system of governance in an archipelagic dyad with Sark. Unlike some of the international examples of island territorial claims where larger nations are claiming the smaller islands, the context

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includes contested histories and jurisdictional geographies, as well a questioning of the dyad's political system and fiefdom.

With the Sark/Brecqhou dyad, notions of space and place help construct social fissures. As Lefebvre has commented, "space implies, contains and dissimulates social relationships" (1991: 82-83). Furthermore, "the relationships established by *boundaries* are certainly of the greatest importance here, along with the relationship between boundaries and named places" (1991: 193). Also, the notions of isolation and boundedness are often distinct and influencing features of island cultures (Royle, 2001: 11). While Brecqhou might have been in relative isolation to the island of Sark in terms of access, as well as having a small area of arable land, that isolation became a commodity for Sark in the twentieth century when island locations were often seen as retreats and exclusive locations for the wealthy. It is here that there is a certain irony: Brecqhou is meant to be a retreat for the Barclays, yet contestation with the government of Sark has brought about much media attention that seems to contradict any idea that Brecqhou be secluded, as are many private islands around the world. While Dame Sibyl's intentions in 1929 are not clear, the contested nature of Brecqhou has raised much discussion at many levels of everyday, political and legal discourse. In the study of small islands, such complicated spheres of contestation raise questions about spatial, social, political and power relations, especially when two islands are so close geographically. It is with the geographic and political aspects of the islands of Sark and Brecqhou that I have been most interested and have drawn much from secondary sources with the aim of highlighting different perspectives. With two distinct sides, and sometimes differing (re)interpretations of the same historical information and points of contestation, it is important to offer a balance of facts and to discuss them on a scholarly level of critical analysis. The comments from an insider to some of the legal concerns regarding some of the inter- and intra-island tensions offer contextual information that contributes further to the intriguing history of the two islands (see also Ewen and de Carteret, 1969).

The government of Sark uses a coat of arms with the wording 'Island of Sark'. One wonders whether such a linguistic point of location complicates the area of jurisdiction that Chief Pleas has. Wording such as 'Islands of Sark and Brecqhou' might clarify the extent of the jurisdiction. Similar confusion is found in some other island archipelagos, such as the Republic of Malta, the main name of which also refers to the largest island in the group. Likewise, the word 'Sark' refers to the island of Sark and to Sark and Brecqhou as a jurisdiction. Chief Pleas has noted in law that the term "Island of Sark" includes its dependencies" (Chief Pleas, 1999), which consist not only of Brecqhou but also of a number of islets and rocks that are further away from the island of Sark than Brecqhou (eg L'Etac). Also, Sark's territorial waters are those around the islands of Sark, Brecqhou and L'Etac (Chief Pleas, 2011), and, as noted in the conditions for the sale of Brecqhou in 1949, the boundary of the island is the high water mark during an "ordinary spring tide" (Lovell & Co. Ltd, 1949). As Dame Sibyl noted in her autobiography, "Sark" has three parts:

*On the west of Sark is Brecqhou, a small sliver of land parted from the mainland by a narrow strip of sea and a nine-knot tide. Great Sark is joined to Little Sark by a unique causeway called the Coupée.* (Hathaway, 1961: 3)

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Based on media coverage, there has clearly been a degree of antagonism generated within the inter- and intra-island Sark/Brecqhou dyad. It is antagonism that has constructed two clear dichotomies: between the islands of Sark and Brecqhou; and those for and those against Sark's system of governance. One UK national newspaper described the situation on Sark as "a 'poisonous' paradise" (Brown, 2014: online). This is especially evident in an anti-Barclay petition, which has attracted 12,000 signatures (ITV News, 2014: online), or the Lord de Chanson blog (Lord de Chanson, 2015). Moreover, it is hardly surprising that for such small islands with high profile court cases that tensions should occur. The owner and editor of *The Sark Newspaper*, who is also the Chief Executive Officer of SEM, often challenges Sark's government and feudal traditions and brings issues into the public sphere. Antagonism towards SEM has been expressed in such forms as protests and vandalism (Unattributed, 2012b: online), and in 2012 a £10,000 reward was offered from anonymous sources for information leading to the arrest of those responsible for detonating an explosive device outside the CEO's offices (Unattributed, 2012a: online).

Because of the unique status of Brecqhou with regard to its position as a private island within the jurisdiction of Sark, as well as its geographic dislocation from Sark, it has been granted some special rights by Chief Pleas. With around 30 people currently living and employed on Brecqhou (Baker, 2012), Chief Pleas sometimes includes a disapplication to Brecqhou for some laws. For example, Brecqhou uses a helicopter and cars are allowed, whereas on the island of Sark they are not (since 1993, the owners of Brecqhou have made several tracks around the island, which are suitable for small vehicles, as depicted in Figure 1). Sometimes such disapplication is requested by Brecqhou, such as for the Health Professions Law. In Chief Pleas it was noted at the time that:

*If the tenants of Brecqhou wish to request that certain exceptions are included in any Ordinance to be made in future under the Enabling Law, they are welcome to raise their concerns and engage in discussions with the Committee, when the Ordinance(s) are being prepared and drafted.*  
(Baker, 2012)

With such (dis)located (inter-)dependence, a previous owner of Brecqhou, Leonard Matchan, who bought the island in 1967, even issued his own island stamps (actually carriage labels) in 1969, with the current owners continuing the tradition from 1999 with almost annual issues that have received much philatelic interest (Brecqhou Stamps, 2013: online). Matchan also made a Brecqhou flag with his coat of arms on it, and there are even Brecqhou 'coins' – albeit not in circulation. Matchan's issue was a one-off venture that coincided with the last day before the Guernsey Post Office took over responsibility of all stamps in the Bailiwick of Guernsey, and thereafter restricted independent stamp issues within its jurisdiction. Also, it was in 1999 that the next owners of Brecqhou started to issue carriage labels again for mail sent by boat to Guernsey and by helicopter to the UK; this being at the time when the Barclays were involved in a legal case that claimed Brecqhou did not form part the jurisdiction of Sark. The Brecqhou stamps offer professional quality with high-quality designs that usually featuring local emblems (eg, flora, fauna and locations). Indeed, as I noted earlier, "such emblems of identity are typical when expressing a sense of separateness and even independence, as with the birth of a nation state" (Johnson, 2014: 22).

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After the 1993 purchase of Brecqhou, a series of substantial investments by the owners were made on mainland Sark. With four hotels, shops, vineyards and land, the investments challenged the traditional way of life for some Sark residents. Lowenthal (2014: 106) refers to the overarching tensions between the islands as plutocracy posing as democracy. After winning a case in the European Court of Human Rights on Sark's feudal form of government:

*When Sark's newly democratized electorate in 2008 rejected Barclay backed candidates, the mortified Barclays closed down their Sark affairs and laid off 140 employees—a pre-Christmas public relations fiasco soon rescinded. But the damage was done. Any remaining doubts about Barclay motives were dissipated by incessant legal challenges to the Seigneur and Chief Pleas and unremitting personal abuse from the weekly Sark Newsletter (SNL), published by the Barclays' estate manager. The SNL repeatedly vilifies every Sark conseiller and official as Taliban-like feudal fundamentalists, likening "autocratic" Sark to 1930s Nazi Germany. (Lowenthal, 2014: 106)*

Following the election to vote democratically for a total of 28 candidates (the Seigneur retained a seat with the right to speak but not to vote), the first time each member of Sark's parliament had been voted in, the action by the Barclay company on the island of Sark was reported in *The Telegraph*, which noted that, out of 57 candidates, voters had "largely rejected the candidates who supported the Barclays" (Rayner, 2008: online). Quoting the Barclays' legal representative, the article notes that "the issues were very clear in this election. It was a vote either for or against the Barclays' investment on Sark. The people have expressed their view and the Barclays have responded to that" (Rayner, 2008: online). Several high profile anti-establishment candidates were not elected, and two propagandists for change were elected (Rayner, 2008: online). Offering a sense of inter-island or inter-policy tension, "Sark News [now defunct], published by Brecqhou Developments [a Barclay owned company], urged people not to vote for 12 candidates it branded 'dangerous to Sark's future'" (Unattributed, 2008: online). *Sark News* featured the following views:

*Yes, to democracy  
Yes to transparency  
Yes to proper governance  
No to feudalism  
No to secrecy  
No to cronyism. (Sark News, 2009: online)*

The subject of democracy in the Sark/Brecqhou context further illustrates inter-/intra-island tension. As one commentator pointed out:

*It would be tempting to compare the Barclays to medieval rulers raging against the insolence of their ungrateful subjects were it not for the fact that the brothers are no tyrants. Ironically, perhaps, it is they who want to introduce democracy to Sark and the islanders who are opposed to it. (Robinson, 2008: online)*

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While the influence of new population structures on islands has been noted by Royle (2001: 106), with the islands of Sark and Brecqhou it seems that antagonism towards Sark's system of governance is possibly rooted in inter-island and inter-policy points of contestation, with other tensions arising from both anti-Seneurial and anti-outside interference positions.

By 2012, the UK's Justice Minister, Lord McNally, stated that:

*He told the billionaire Barclay brothers that the UK would not let them turn the tiny Channel island of Sark into a 'company town' as a poisonous row between the tycoon twins and local people threatens to break the island's antiquated system of government. (Bowers and Pidd, 2012: online)*

A full response was published in *The Guardian*, which noted that "the Barclay family will continue to seek the de-feudalisation of Sark" (Dawes, 2012: online). It is in this context that the very fabric of the islands' heritage is being challenged in various ways, from legal proceedings to media reports. This raises questions about the ethics of such challenges, particularly in a context where the opponents to the indigenous small island system of governance—although recently changed and developing—might display economic power and receive much public media attention. In terms of size and power, significant topics for the field of Island Studies are the internal and external dynamics and influences on island life, especially at a time of inward migration. In this context, the UK's House of Commons Justice Committee has commented on the Sark/Brecqhou case by noting that:

*As a matter of general principle, we note that, in a very small jurisdiction, there must always be the possibility that individuals wielding very significant economic, legal and political power may skew the operation of democratic government there. (House of Commons Justice Committee, 2010)*

Such are the concerns towards some articles in the *The Sark Newspaper* that in November 2014 more than 50 residents on the island of Sark made a complaint to Guernsey police with claims of harassment (Morris, 2014b: online). While *The Sark Newspaper* argues that Sark is governed by one ruling party (Unattributed., 2014: online; see also Henry, 2012 and Morris, 2014b on such reporting), party politics is not part of Sark's electoral system. There are 28 democratically elected members of parliament, each acting as an individual and not following any particular "party" line. For a population of around 600, what compounds the issue is that *The Sark Newspaper*, which may be reporting freely and acting as a critic of local politics, is owned by the CEO of SEM. While acknowledging some of the issues regarding free expression and possible circumstances where such expression might cross the line of what is acceptable or not. The context of tension in every day life amongst some living on the small island of Sark is expressed by the following:

*In the eyes of bemused locals, the stocky young men who stand guard outside the hairdressers when Kevin Delaney [of SEM] is having a trim are his 'bodyguards'. Delaney doesn't give interviews these days but his bosses, the identical Barclay twins, confirmed he had indeed 'taken steps to protect himself'. (Pidd, 2012: online)*

## Conclusion

After over four hundred years of survival as a type of microstate with a contested history and distinct traditional ways of life, the jurisdictional geographies in the Sark/Brecqhou dyad are of particular interest to the field of Island Studies. While political and economic change continues to occupy Sark's internal politics, Island Studies can learn from the Sark/Brecqhou example in terms of the influences on the (contested) jurisdiction through factors such as history, tradition, geography, politics and power. With regard to Brecqhou's place within the jurisdiction of Sark, or the status of Brecqhou as a (perceived or new) tenement, or the (re)interpretation of historical events and documents (or sometimes a lack of), the historical facts, fiction and interpretations will undoubtedly continue to be of interest to many on and beyond the islands of Sark and Brecqhou, and also for the field of Island Studies in terms of the (inter)connections and island dynamics in this/these location(s). There is much more analysis that could be done on the historical and more recent documents and other sources regarding the histories of the islands of Sark and Brecqhou. What I have provided here is an extension to my earlier article, and one that offers clarification or one interpretation of several important points that help in understanding inter- and intra-island dynamics that are connected to notions of space, politics and power. Future scholarly work in the field of Island Studies will undoubtedly offer further historical and contemporary interpretations on the jurisdictional geographies and contested histories that are at present inseparable characteristics of the Sark/Brecqhou dyad.

## Endnotes

<sup>1</sup> George (2009: 49) refers to the islands of Jersey and Guernsey as "semi-independent microstates". In other words, they are recognised as legitimate and defined as microstates according to their size.

<sup>2</sup> This publication was earlier called *Sark Estate Management Newsletter*, later *The Sark Newsletter*, and currently *The Sark Newspaper*. A similar type of publication was *Sark News* (now defunct).

<sup>3</sup> The Bailiwick of Jersey; Guernsey, Alderney and Sark (each part of the Bailiwick of Guernsey); and the Isle of Man.

<sup>4</sup> There are various similar concepts used in different locations (Royle, 1989: 108).

<sup>5</sup> There are many other islets, reefs and rocks in the Bailiwick.

<sup>6</sup> Unilateral declaration of independence.

<sup>7</sup> This tax was abolished in 2007.

<sup>8</sup> See also Sark Estate Agents, which notes that "there are also a few Freeholds that were separated from Tenements many years ago" (2015: online).

<sup>9</sup> The Guernsey-based company, Brecqhou Marine and Diving Operations (part of Brecqhou Developments, which dates from 1993), operates a fleet of three boats that

primarily function to service Brecqhou (Island of Brecqhou Marine & Diving Operations, 2015).

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