

Research Report

MUNISH '12



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Forum: Special Political and Decolonization (GA4)

Issue: The question of the Falkland Islands

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Introduction:

¹The question of the Falkland Islands is a matter of who will claim its sovereignty. The dispute is between Argentina and the United Kingdom. The British claim to sovereignty goes all the way back to 1690 and has continued to exercise de facto sovereignty over the archipelago almost continuously since 1833. Argentina had been in control of the islands for a brief period before 1833. The dispute became more serious as in 1982; Argentina invaded the islands, which caused the Falklands War. Argentine forces invaded and occupied the Falkland Islands and South Georgia. The conflict lasted for about 74 days and ended on the 14th of June 1982, which returned the islands back to the control of the British. Argentina asserts that the Islands are Argentinian territory, and ever since the 19th century, all the way up to 2012, the Argentinians show no sign of backing down. Britain refuses to allow Argentina to claim the sovereignty of the Islands due to the fact that the Falkland Islanders would prefer to remain British. They had gained full British citizenship with the British Nationality Act 1983. (Falkland Islands)



Definition of Key Terms:

Arana – Southern Treaty

Otherwise known as the Convention of Settlement. A treaty signed between Britain and Argentina. The Convention of Settlement was signed on 24 November 1849 and ratified by both sides in Buenos Aires on 15 May 1850. This treaty was

¹ <http://buenosaires101.blogspot.nl/2010/07/las-malvinas-son-argentinas-aka.html>

drafted for the purpose that Argentina and the UK would settle all existing differences and Argentina would cease protesting.

British Nationality (Falkland Islands) Act 1983

This was an act passed by the parliament of the United Kingdom in 1983 in order to grant British Citizenship to residents of the Falkland Islands. The Act was passed mainly in response to the Falkland's war. The UK claimed it would stand by the principle of self-determination, by allowing the Falkland Islanders to decide their own nationality. The Islanders wished to remain British.

De facto

De facto is a Latin expression, which, in terms of ruling means, "in practice but not necessarily ordained by law". For example, when Britain was ruling the Falkland Islands de facto, it means that though it wasn't necessarily the legal ruler, Britain was ruling the Falklands, *in practice*.

United Nations Charter

The United Nations Charter is the foundational treaty of the UN. It was signed on the 26th of June 1945 in San Francisco. It is a constituent treaty and all members of the United Nations are bound by its articles. The Charter triumphs above all treaties drafted by the organization.

General Overview

The dispute over the sovereignty of the archipelago has existed between the Britain and Argentina ever since the 2nd of January 1833 when the British took over Puerto de la Soledad (or Port Louis). It's been 149 years of diplomatic efforts to negotiate and come to a conclusion regarding the sovereignty of the islands. The United States, the president of Peru and the Secretary General of the United Nations have all attempted to help the situation, but no solution has been found, which has raised concern in the international community. Britain is practicing its rights of self-determination, as the local inhabitants generally wish to remain a British colony. The British claim that it is up to the inhabitants to determine the future status of the islands, while Argentina chooses to ignore their rights and desires. After the Second

World War, Britain attempted multiple times to take the dispute to the International Court of Justice to resolve the dispute, but Argentina continuously refused. Argentina's invasion on June 2nd 1982 was a violation of the Charter of the United Nations, which prohibits threat or use of force which is directed "against the territorial integrity or political independence of any state". There has been political tension between Great Britain and Argentina since the war.

Major Parties Involved and their Views:

The European Union

The EU classes the islands as an overseas territory of the United Kingdom, which is eligible for some European funding initiatives.

The Commonwealth of Nations

The Commonwealth of Nations recognizes the islands as a British territory.

Brazil, Chile, Mexico, Peru

These countries officially support the Argentine claim over the islands, and have voiced their support at international organizations.

United States

In 2012, the United States stated that it maintained its neutral position over the Falklands/Malvinas Islands dispute. The US hopes for an agreed solution.

France

France was the first country to ever establish control (in practice) in the Falkland Islands in 1764. In 1766, France agreed to leave the islands to Spain, and Spain would compensate France for the cost of the settlement. France claimed that Spain should keep the colony in Port Louis and thus inhibit Britain from claiming the title to the Islands - Spain agreed. Despite this, as time has gone by, France has been particularly supportive of the British position.

Great Britain

“A British colonial administration was formed in 1842. In addition to South Georgia claimed in 1775, and the South Shetland Islands claimed in 1820, the United Kingdom declared sovereignty over even more Antarctic territory south of the Falklands, including the South Sandwich Islands the South Orkney Islands and Graham Land.”² These islands were all grouped to form the “Falkland Dependencies”. In 1850, the Arana-Southern Treaty otherwise known as the Convention of Settlement was signed by both Britain and Argentina. This agreement was suggested as a “peace treaty”. Argentina’s claim to the islands failed to be mentioned in the Convention. In 1976 the British Government ordered a study on the future of the Falklands, looking at the power of the Islands to support themselves, and the potential for economic development. The study was led by Lord Shackleton. Argentina was significantly angry at the study. In response Argentina undid diplomatic links with the UK. Opposing popular belief though, the Falkland Islands proved they were doing well economically and were not dependent on British aid to survive.

Argentina

When Argentina declared its independence from Spain in 1816, no major powers recognized it. Britain recognized Argentine independence on 15 December 1823, as the "province of Buenos Aires". The new state, was called the [United Provinces of the River Plate](#), and was assembled of province by the former [Viceroyalty of the River Plate](#), which then declared sovereignty over the Falklands. Argentina wishes to claim the sovereignty of the islands despite any preferences by the local inhabitants.

² http://medlibrary.org/medwiki/Sovereignty_of_the_Falkland_Islands?&lang=en_us&output=json

Timeline of Events:

Date

Control (de facto) over the Islands

February 1764 – April 1767	France
January 1765 – July 1770	Great Britain
April 1767 – February 1811	Spain
September 1771 – May 1776	Great Britain
February 1811 – August 1829	No control over the islands
August 1829 – December 1831	United Provinces
December 1831 – January 1832	United States of America
January - December 1832	No control over the islands
December 1832 – January 1833	Argentina
January – August 1833	United Kingdom
August 1833- January 1834	No control over the islands
January 1834 – April 1982	United Kingdom
April – June 1982	Argentina
June 1982 - present	United Kingdom

Date

Description of Events

1965	UN General Assembly calls for peace talks on the dispute
1968	United Kingdom begins secret negotiations to hand the islands over to Argentina – backed out at the last minute.
March 1 st 1982	Argentina rejects the outcomes of US talks.
April 2 nd 1982	Argentinean forces invade the Falkland Islands.
April 3 rd	Argentinian forces occupy South Georgia
April 12 th 1982	Britain announces a 200-mile exclusion zone around the Falkland islands.

April 26 th 1982	Argentineans formally surrender at South Georgia
April 30 th 1982	USA declares support for Britain
June 14 th 1982	Argentine forces on Falkland Islands surrender.

UN involvement, Relevant Resolutions, Treaties and Events

After the Second World War, the British Empire began to decline and its colonies in Asia, Africa, and the Caribbean began to gain their independence. Argentina saw this as a perfect chance to once again attempt to gain sovereignty over the Falkland Islands – and brought its case to the United Nations. Following this, the United Kingdom offered to settle the dispute as a case in the International Court of Justice in the Hague, Netherlands. This offer was suggested in 1947, 1948 and 1955, each time declined by Argentina.

In 1964, the UN passed a resolution urging the United Kingdom and Argentina to peacefully negotiate on the matter, "bearing in mind the provisions and objectives of the Charter of the United Nations and of General Assembly resolution 1514 (XV) and the interests of the population of the Falkland Islands (Malvinas)." Even though a set of peace talks were carried out all the way up until 1981 and have had some achievement in creating economic and transport associations between the Falklands and Argentina, no solution on the sovereignty of the islands was achieved. At one point, Britain considered withdrawing the sovereignty of the islands in order to improve relations with Argentina, but the British Government could only negotiate so much, as the Falkland Islands played a strong part in the House of Parliament. Not only so, but any suggestion of the change in sovereignty by the British infuriated the Islanders as they were determined to remain British. Thus, the British considered the will of the islanders paramount, and considering Argentina does not wish to recognize the will and rights of the islanders, the negotiations have come to no conclusion.

Possible Solutions:

Practically, this is a very difficult issue to solve.

A very important point to consider when debating this topic is that the Falkland Islands have natural resources like oil, which Britain is currently attempting to exploit. Theoretically, both countries could agree to some kind of condominium, or joint-sovereignty over the Islands. It is imperative to get Great Britain and Argentina to trust each other and start peace talks again, for both countries have been hostile since the war and seem to refuse to negotiate. Another option to consider is to discourage Argentina from using military action, as well as having the Islanders vote on the sovereignty of the Islands.

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