Introduction

The Falkland Islands, Islas Malvinas in Spanish, is the anglophone term for the archipelago of islands in the South Atlantic, off the coast from Argentine controlled Patagonia. It lies approximately 300 km from South America, and 700km from the tip of the Antarctic peninsula. The Falkland Islands are around 1,900 km from Buenos Aires, the capital of Argentina, and they are over 12,500 km from London, the capital of the United Kingdom.

The Falkland Islands are disputed between the United Kingdom, and Argentina. The British claim on the islands stems from its continuous administration of the islands since the 1800s, with a brief occupation by Argentine military forces during the 1980s. Furthermore, a plebiscite in 2013 has further reaffirmed the British claims with over 95% of the votes supporting continued British Overseas Territory status for the archipelago.

Argentina’s claims to the Islas Malvinas is based on the transfer of Spanish claims to Argentina upon Argentina’s independence from Spain. Argentina achieved independence in 1816, and since then it has maintained its claim to the archipelago, claiming that original Argentine settlers were expelled from the Islands when the British claimed the territory in 1833.

This overlap of claims led to the 1982 invasion of the Falklands by Argentine special forces. This invasion was repelled by a British counter invasion later in the same year. The Falkland Islands were occupied for a period of 10 weeks.

Official documentation of the UN use the term “Falklands Islands (Malvinas)” in all languages except for Spanish language documents, where the term “Islas Malvinas (Falkland Islands)”. For ease of notation it is often shortened to Falklands Islands, as it is in this document, in English language documents.
Definition of Key Terms

Overseas Territory

A territory of a sovereign state, often located far away from their sovereign state’s capital. They are commonly former ‘colonies’ of their sovereign state, but have additional rights as an overseas territory. They are often autonomous, with limited amounts of self rule, and laws passed in their parliament don’t apply in their sovereign state, and neither do all laws passed in their sovereign state apply to overseas territories.

Plebiscite

This is a formal public referendum that is not by definition legally binding, but is often interpreted as such.

De Jure (control)

By law, either international, or by convention. For example, the United Kingdom has de jure, and de facto, control of the Falkland Islands, as it is recognised by the international community as the lawful controller of the archipelago.

De Facto (control)

In actuality, in reality. For example, Argentina had de facto control of the Falklands Islands during its brief occupation in the 1980s, but not de jure control.

Permanent Settlement

A settlement with permanent inhabitants, inhabitants without a second home elsewhere. These settlements have the ability to support life indefinitely, without outside intervention.

Expel

To remove, usually by force, from an area a group of people.

Claim

The right to a territory or area, often based on cultural similarities between the territory claimed and the claimant nation, or on discovery (historically)

Sovereignty

The right to self-determination in all areas of governance.
Background Information

The Falklands islands were initially colonised by French explorer, Louis Antoine de Bougainville, naming the settlement Port St. Louis on the island of East Falkland, in 1764. In 1765 British explorer, Captain John Byron, claimed the entire archipelago Falkland for the British empire. John MacBride founding a settlement called port Egmont the following year. In 1766, the French transferred their control of the archipelago to Spanish. When Argentina declared independence from Spain, Spain ceded its Patagonian claims to Argentina.

Argentine claims

The Argentine claim to the Falkland Archipelago is based on the transfer of Spanish claims to Argentina following Argentina’s independence. Furthermore, Argentine settlements on the archipelago, as well as military bases existed on the islands prior to the British arrival in 1833. However, because Argentine forces left the Falkland Islands, Argentina has not continuously occupied the territory. Argentine claims are also not supported by cultural hegemony between itself and the islands.

Many of Argentina’s neighbouring countries support Argentina’s claim to ownership over the Falkland Archipelago.

British claims

The British claim to the Falkland Archipelago is based on its continued sovereignty, de facto control over the Islands since the inception of its permanent settlements on the Archipelago in 1833. Since then, British settlers have cemented British claims to the territory, as the cultural hegemony that exists supports its de jure claim.

Britain’s European and most of its commonwealth Allies openly support continued British control over the islands.

Falklands war

A brief conflict erupted during the 1980s between Argentina and the United Kingdom, when Argentina decided to try and take the archipelago over by force. They decided to act due to British defense spending cutbacks, as well as heavy British involvement in Northern Ireland and NATO commitments.
American involvement

The United States of America officially supports the United Kingdom in the dispute with Argentina. They have supported the UK since before 1833, and severed diplomatic ties with Argentina over the issue in the past. Despite official support for the UK’s sovereignty, the CIA ([American] Central Intelligence Agency) has in the past worked against this official goal.

Major Countries and Organizations Involved

The United Kingdom

Maintains its claim to the Falkland Islands on the grounds of its continuous administration since 1833, as well as the self-determination of Falkland Islanders.

The Argentine Republic

Maintains claims to the Falklands Islands on the grounds that it was transferred sovereignty of the Islands upon achieving independence from Spain in 1816. A brief occupation in 1982 by Argentina of the Falkland Islands was repelled within a year.

The French Republic

The original European discovers of the Falklands Islands (Malvinas), who maintained brief control of the islands. While under Frenchh control, no large scale, permanent settlements were constructed on the archipelago. French control of the Islands was rapidly transferred over to the Spanish.

The Kingdom of Spain

The Kingdom of Spain claimed the Falklands Islands (Malvinas) during the latter half of the 1700s. However, under Spanish control there was no large scale, permanent settlement of the Islands.

CIA ([American] Central Intelligence Agency)

The Central Intelligence Agency was involved during the cold war, in a plot to transfer control of the Falklands Islands (Malvinas) to Argentina, in return for Argentinian support of American actions against the USSR. British settlers in the Falklands were to be moved to Scotland upon transfer of sovereignty. This plot did not take place.
Falkland Islands (Malvinas) (Government)

This is the semi-autonomous government of the Falkland Islands, overseas the internal affairs of the Archipelago

Timeline of Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Description of event</th>
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<tbody>
<tr>
<td>1764</td>
<td>Founding of Port St. Louis by the French</td>
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<tr>
<td>1766</td>
<td>Founding of Port Egmont by the Britihs</td>
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<tr>
<td>1766</td>
<td>Transfer of Port St. Louis to the Spanish by the French according to the <em>Pacte de Famille</em>. Port St. Louis renamed Puerto Soledad.</td>
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<tr>
<td>10th June 1770</td>
<td>Spanish Forces expel the British settler of Port Egmont</td>
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<tr>
<td>10th July 1770 - 22nd January 1771</td>
<td>Falkland Crisis between the United Kingdom and the Kingdom of Spain, resulting in British reestablishing sovereignty over the archipelago.</td>
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<tr>
<td>20th May 1776</td>
<td>The British Army leaves Port Egmont, British sovereignty asserted by a plaque left on the islands.</td>
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<tr>
<td>1780</td>
<td>Spanish forces expel the remaining British settlers from the Islands, destroying Port Egmont.</td>
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<tr>
<td>1811</td>
<td>Spanish Forces withdrew from their base in Puerto Soledad, also leaving behind a plaque asserting Spanish sovereignty over the archipelago.</td>
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<tr>
<td>1816</td>
<td>Transfer of Sovereignty of Spanish claims in South America to the newly independent nations of South America</td>
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<tr>
<td>1829</td>
<td>Argentina claimed the Falkland Archipelago, based on inheritance from Spain The British returned to the Falklands reestablishing Port Egmont, and taking control of Port St. Louis (Puerto Soledad) from Argentina. The Argentine garrison left peacefully.</td>
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<tr>
<td>1845</td>
<td>Administration of the Archipelago transferred to Stanley from Port St. Louis.</td>
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<tr>
<td>1947</td>
<td>The Archipelago listed by the UN as a Non-Self Governing Territory (NSGT).</td>
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<td>1960</td>
<td>UN Resolution 1514 grants right to self-determination to all NSGTs</td>
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<tr>
<td>1965</td>
<td>Passing of UN resolution 2605, reaffirming the UN’s pledge to end all forms of colonisation.</td>
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<tr>
<td>1966</td>
<td>Argentina and the UK began discussion about the issue of sovereignty of the archipelago.</td>
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1967
The Falkland Islands Emergency Committee was set up to work against any weakening of UK sovereignty of the Falklands Islands.

1971
The Communication agreement between the UK and Argentina was set up, whereby external communications from the Falklands was handled from Argentina.

2nd April 1982
Argentina invades the Falkland Islands. Diplomatic relations between the UK and Argentina broken.

14th June 1982
Argentina surrenders control of the Falkland Islands back to the United Kingdom.

1990
Diplomatic relations between the United Kingdom and the Argentine Republic restored.

14th July 1999
Joint statement by the British and Argentine government ‘to build confidence and reduce tensions’ between the islands and Argentina.

1st January 2009
New Constitution of the Falkland Islands adopted, enshrining enhanced local democracy, internal self-government, and self-determination.

March 2013
Plebiscite questioning British Overseas Territory status held with over 99.8% of the electorate voting YES to maintaining their current political status.

Relevant UN Treaties and Events

- Question of the Falkland Islands (Malvinas), 1974, A/RES/3160(XXVIII)
- Question of Pitcairn and of the Falkland Islands (Malvinas), 28 November 1977, A/DEC/32/412
- Questions of Pitcairn, of the Falkland Islands (Malvinas) and of the Gilbert Islands, 13 December 1978, A/DEC/33/413
- Question of the Falkland Islands (Malvinas), 1980, A/DEC/34/414
- Demanding withdrawal of Argentine forces from the Falkland Islands (Malvinas), 3 April 1982, S/RES/502
- Requesting the Secretary-General to undertake a renewed mission of good offices for the Falkland Islands (Malvinas), 26 May 1982, S/RES/505
- Question of the Falkland Islands (Malvinas), 4 November 1982, A/RES/37/9
- Question of the Falkland Islands (Malvinas), 26 January 1983, A/DEC/37/404
- Question of the Falkland Islands (Malvinas), 1 September 1983, A/AC.109/756
- Question of the Falkland Islands (Malvinas), 16 November 1983, A/RES/38/12
- Question of the Falkland Islands (Malvinas), 21 August 1984, A/AC.109/793
- Question of the Falkland Islands (Malvinas), 1 November 1984, A/RES/39/6
- Question of the Falkland Islands (Malvinas), 9 August 1985, A/AC.109/842
- Question of the Falkland Islands (Malvinas), 27 January 1986, A/RES/40/21
- Question of the Falkland Islands (Malvinas), 14 August 1986, A/AC.109/885
- Question of the Falkland Islands (Malvinas), 25 November 1986, A/RES/41/40
- Question of the Falkland Islands (Malvinas), 14 August 1987, A/AC.109/930
- Question of the Falkland Islands (Malvinas), 17 November 1987, A/RES/42/19
- Question of the Falkland Islands (Malvinas), 11 August 1988, A/AC.109/972
- Question of the Falkland Islands (Malvinas), 17 November 1988, A/RES/43/25
- Question of the Falkland Islands (Malvinas), 18 January 1989, A/DEC/43/409
- Question of the Falkland Islands (Malvinas), 15 August 1989, A/AC.109/1008
- Question of the Falkland Islands (Malvinas), 14 August 1990, A/AC.109/1050
- Question of the Falkland Islands (Malvinas), 14 August 1991, A/AC.109/1087
- Question of the Falkland Islands (Malvinas), 31 July 1992, A/AC.109/1132
- Question of the Falkland Islands (Malvinas), 14 July 1993, A/AC.109/1169
- Question of the Falkland Islands (Malvinas), 25 January 1995, A/DEC/49/408
- Question of the Falkland Islands (Malvinas), 14 July 1995, A/AC.109/2033
- Question of the Falkland Islands (Malvinas), 1996, A/RES/2065(XX)
- Question of the Falkland Islands (Malvinas), 23 July 1996, A/AC.109/2062
- Question of the Falkland Islands (Malvinas), 1997, A/RES/31/49
- Question of the Falkland Islands (Malvinas), 16 June 1997, A/AC.109/2096
- Question of the Falkland Islands (Malvinas), 9 July 1998, A/AC.109/2122
- Question of the Falkland Islands (Malvinas), 1 July 1999, A/AC.109/1999/23
- Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples on its work during 2002, 8 July 2002, A/57/23(PartII)
- Question of the Falkland Islands (Malvinas), 16 June 2003, A/AC.109/2003/24
● Report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for 2013, 2013, A/68/23

Previous Attempts to solve the Issue

Argentina has attempted to seize the Falkland Islands by force in 1982, but was repelled within 10 weeks. This attempt failed, and resulted in a diplomatic fallout between Argentina and the United Kingdom. Argentina has also pressured the United Nations to apply pressure to the United Kingdom to fully decolonise its overseas territories. Negotiations between Argentina and the United Kingdom have also been held, but no solutions have been approved by both parties. The case has gone to the ICJ, but no decisive ruling has been levied at this point. A plebiscite was held in the Falklands, Overwhelmingly the population wanted to remain A British territory.

All previous attempts to solve the disputed territory has failed.

Possible Solutions

One possible solution to the Falklands Islands (Malvinas) dispute is for the archipelago to be under joint custody between the United Kingdom and Argentina. Joint custody would involve both nations being allowed to manage visitors into the territory, as well as both having full access to the territories EEZ. This would involve the UK ceding some of its current sovereignty over the archipelago to the new entity.
A Hong Kong style agreement over the territory could also occur. Argentina gaining legal ownership of the territory, with the British allowed to manage the islands for some time, before a complete handover of the territory would occur.

The Falkland Islands could also be declared a “common heritage of all mankind” similar to Antarctica. This would mean that the current British occupants would have to be relocated to a different territory, but it would open the islands to international communities. The islands would become one massive nature reserve, and be a safe haven for animal species. Both Argentina and the United Kingdom would lose their claims to sovereignty of the territory.

Another solution is that Argentina cedes its claim to the United Kingdom. It could do this in exchange for (eg.) preferential trade access to the UK, or for other economic incentives. It would need to be balanced, as the issue of the archipelago’s sovereignty is highly contested with the South American nation. For this option to be viable, the United Kingdom would have to provide substantial incentives for the Argentine government to be able to entertain the notion.

The United Kingdom could also cede its claim to the Argentine republic, but due to the population's strong British identity, this would not be approved by the Falklanders themselves. This would also incentivise other nations with claims on British territories to resort to Argentine style tactics to take control of the disputed territories. Furthermore, this would go against the democratic wishes of the natives of the archipelago.

Independence for the Falkland Islands is a last resort option, due to lack of domestic support, as well as the territories low population, and low economic activity. A weak and independent Falkland Islands, would be at the whims of larger and more powerful nations in the region. It would be economically unviable, as well as militarily defenseless.

**Bibliography**


