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# **HISTORY AND PRESENT SITUATION OF THE OLDEST TERRITORIAL CONFLICT IN THE WORLD: THE BRITISH USURPATION OF THE ARGENTINE MALVINAS ISLANDS ARCHIPELAGO**

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*CARLOS ALBERTO BIANGARDI DELGADO\**  
*NORBERTO E. CONSANI\*\**

## **INTRODUCTION**

The Malvinas or Falkland Islands are an archipelago with a surface area of nearly 12,000 square kilometers, made up of two major islands

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\* Professor Carlos Alberto Biangardi Delgado is Coordinator of the Department of Malvinas, the Antarctic and the Islands of the South Atlantic of the Institute for International Relations at the National University of La Plata.

\*\* Professor Norberto E. Consani is Director of the Institute for International Relations at the National University of La Plata (norbertoconsani@yahoo.com).

and many minor islands. They are located in the South Atlantic, off the coast of the Argentine Republic – not far north from the Strait of Magellan. The city of Río Gallegos, capital of the Argentine province of Santa Cruz, is on the same latitude, i.e., in the same parallel that crosses the capital of the islands, and at a rough distance of 760 km from this city, but 550 km from the closest island in the archipelago. The greater islands are called Soledad (East Falkland), to the East, and Gran Malvina (West Falkland) to the West. They are divided by the Strait of San Carlos (Falkland Sound). There are fifteen islands with a surface of over 20 km<sup>2</sup> each; approximately a hundred if one counts the minor islands and almost two hundred if islets are included.

The territorial conflict discussed in this paper also includes the archipelagos of the South Georgia Islands – covering 3,860 km<sup>2</sup> – and the South Sandwich Islands – covering 300 km<sup>2</sup> – which were once called “Dependencies of the Malvinas Islands” in Argentine law and are currently part of the Argentine province of “Tierra del Fuego, the Antarctic and the South Atlantic Islands”, along with the Malvinas Islands.

The first academic studies on this conflict were, as could be expected, the work of scholars who were affected of this territorial usurpation. Such works include a doctoral thesis by Isaac Areco, published in 1885, and studies by Carlos Calvo (1887), Juan Carlos Moreno (1938), Gómez Langenheim (1939), Hidalgo Nieto (1947), Ricardo Caillet-Bois (1948), Guillermo Moncayo (1959), José Luis Muñoz Aspiri's outstanding work *Historia Completa de las Malvinas* (A Complete History of the Malvinas Islands) (1966) and Enrique Ferrer Vieyra (1984 and 2007). In addition, hundreds of books looking into various aspects of this conflict have been written, though these are, in general, derivations of the discoveries of the aforementioned authors.

United Kingdom scholars have always been aware of the fact that

their country's possession of this archipelago – located at a distance of nearly 14,000 km from London – is a mere de facto situation, which is why research into the origins of and the grounds for the occupation are so scarce. Two works on the topic are W. Down's *The Occupation of the Falkland Islands and the Question of Sovereignty*, published in 1927, (the British refer to the Malvinas Islands as “Falkland Islands”, a name they try to impose in the international arena) and C. H. Waldok's work *Disputed Sovereignty in the Falkland Islands Dependencies*, published in 1948. We can also mention the terms R. Phillimore used to express his disagreement with the behavior of English navy officers in *International Law* (Vol. 3), published in 1885.

That lack interest on the part of scholars in studying or even justifying the occupation has always been shared by politicians. This made it possible for Sir William Molesworth to make the following statement before the House of Commons, during the 25 June 1848 session:

*I will now conclude the catalogue of the military stations with the Falkland Islands. On that dreary, desolate, and windy spot, where neither corn nor trees can grow, long wisely abandoned by us, we have, since 1841, expended upwards of £35,000; we have a civil establishment there at the cost of £5,000 a year ... What I propose to the House is ... to acknowledge the claim of Buenos Ayres to the Falkland Islands.*

It was only after the 1982 South Atlantic War (Falklands War) that the British government created an investigating committee with the purpose of reviewing the events leading up to this conflict. The committee, headed by Lord Franks, did not even analyze the supposed right of dominion of the United Kingdom over the archipelago, as can

be seen in the conclusions to the *Franks report*.

At the same time, a series of hearings were held at the House of Commons involving scholars Michael Akehurst, James Fawcett, P. Beck and M. Deas, the conclusions of which can be found in the draft report by the chairman of the House of Commons Foreign Affairs Committee, Sir Anthony Kershaw.

Last, the *Official History of the Falklands Campaign*, commissioned by prime minister Tony Blair from historian Lawrence Freedman, is an extremely poor work from the academic point of view as regards the legal justification for the occupation of the Malvinas Islands archipelago by the United Kingdom.

The views of prestigious British historian Eric Hobsbawm, according to whom the Malvinas Islands were an insignificant scrap of land that did not warrant a war, are also well known.

Possibly the most serious enquiry into the British usurpation of the Malvinas Islands written in the English language was penned by U.S. Professor Julius Goebel, whose work *The Struggle for the Falkland Islands: A Study in Legal and Diplomatic History*, published in 1927 by the University of Yale, in New Haven, United States, shows that the Malvinas Islands have always belonged to Argentina in every way – politically, geographically, from the point of view of the *ius gentium* (which was current at the time) and for Roman law – ever since it inherited Spain's colonies in this part of the world. Unfortunately, knowledge of this work is not sufficiently widespread in English-speaking countries, possibly because its circulation has been intentionally obstructed.

In the French language, it is worth mentioning the work of Paul Groussac, *The Malvinas Islands*, first published in 1910, which is a genuine exposition of the rights of the Argentine Republic over the archipelago. It was followed by a series of studies in the same language in 1972, published by the French Yearbook of International

Law, and a series of scholarly debates after the South Atlantic War.

Finally, in the German language, we can mention the work of prestigious researcher Rudolf Dolzer, *The Territorial Status of the Falkland Islands*, which was preceded by the works of Weber and Hillekams. Dolzer concludes that the Argentine Republic has a superior legal claim to the archipelago than the United Kingdom, despite its difficulties in making this claim heard in the international arena.

Even though most of the aforementioned studies suggest that there is no room for debate about the Argentine Republic's unparalleled historical and legal rights over the archipelagos that the United Kingdom usurped 179 years ago, countries in North America and Europe have protected the United Kingdom, with the European Union going as far as listing the archipelagos in the 2007 Treaty of Lisbon as “British overseas territories.”

The purpose of this study is clarifying this situation, which is a genuine injustice protected only by the prevalence of the economic, political and military might of a country that is a permanent member of the United Nations Security Council over a country located “in the periphery of a Eurocentric world.” This situation constitutes a threat against international peace and security, since the 2004 relocation of the United Kingdom's South Atlantic naval command from Ascension Island to the Mount Pleasant base in the Malvinas archipelago and the European Parliament's project to “Europeanize” that base constitute steps towards the transformation of the South Atlantic into a new area of international conflict.

## **I. THE HISTORY OF THE OLDEST TERRITORIAL CONFLICT IN THE WORLD**

The Malvinas Islands archipelago was first discovered by the men of

Ferdinand Magellan's fleet, according to some historians, Estêvão Gomes or De Vera, both captains in the expedition who refused to follow their leader and supposedly headed towards the Cape of Good Hope (Africa), discovering the archipelago along the way. Gomes arrived in the archipelago in 1520, as recorded in the "World Chart" created in 1529 by Diego Ribero, head cosmographer of the Casa de Contratación in Seville. Historian Enrique de Gandía attributes the discovery to Duarte Barbosa, who was sent after Gomes by Magellan, and cites the Pigafetta and Istanbul maps. What is certain is that the discovery of the islands by mariners at the service of the Spanish Crown is sufficiently documented.

Argentine minister Manuel Moreno, in his protest to the British government over the usurpation of the archipelago in 1833, also mentions the travels of Carabajal (1524), Loaiza (1525), Alcazaba (1535), Camarque (1540), Villalobos (1549) and Fernández Ladrillero (1557), all of which took place before the first British mariners arrived in the area.

The British attribute the discovery of these lands to Drake (1577), Davis (1592) and Hawkins (1593), but there is no documentary evidence of this. What is certain is that it was not until 1690 that English Captain Strong explored the San Carlos Strait, which he called Falkland Sound. Thus, the United Kingdom cannot claim to have discovered the archipelago.

A century before Strong, Dutch navigator Sebald de Weert sighted these islands (around 1600) and called them "the Sebaldes". The archipelago was also visited around that time by mariners from the port of Saint-Malo, who named the islands "Îles Malouines" (Spaniards and Argentines would eventually transform this name into "Malvinas"). These mariners would become the first occupants of the islands, after the great French sailor Louis Antoine de Bougainville founded the settlement of Port Louis on Soledad Island in his king's

name in 1764. In 1766 – two years later – England occupied the area the French had called “Port de la Croisade” in the small island known as Trinidad (Saunders Island) and called it Port Egmont after that.

The Spanish Crown complained to France about the settlement established by the Saint-Malo mariners, arguing that Spain had the right of dominion over the Malvinas Islands because the archipelago was a dependency of the American continent, of which the Patagonia region belonged to Spain. The French sovereign, Louis XV, acknowledged the Spanish claim and ordered Louis Antoine de Bougainville to restitute the islands to Spain, which he did by formally handing possession to Spanish navy captain Felipe Ruíz Puente, who accepted them on behalf of Philip III and settled in Soledad Island. In this way, the Spanish crown not only was granted effective and permanent possession of these lands by France, but also gained France's acknowledgement of its rights as first occupant of the islands.

On April 23, 1982, when France and the whole European community had sided with the United Kingdom during the South Atlantic War, François de Bougainville, a direct descendant of the great French navigator, arrived in Buenos Aires in a solitary crusade in favor of the Argentine Republic, armed with historical truth proving that his forebear had had the right of first occupant of the archipelago and that France had later acknowledged the sovereignty of the Spanish Crown over it.<sup>1</sup>

Later on, Governor of Buenos Aires Francisco de Paula Bucarelli expelled the English in 1770 by order of Spain, which nearly caused a war between this country and England. This situation was solved through a secret diplomatic arrangement that materialized as a temporary restitution of Port Egmont to England in 1771 and the later withdrawal – voluntary in appearance – of the English forces from this enclave and from all other areas in the archipelago in 1774. In this agreement, minister Masserano declares, in the name of the Spanish

crown, that the arrangement “cannot nor ought in any wise to affect the question of the prior right of sovereignty of the Malouine islands, otherwise called Falkland's Islands.”<sup>2</sup> The fact that the British crown did not object to Masserano's assertion of Spain's reservation of rights entails an acknowledgment of such rights.

Before abandoning Port Egmont, the English forces left behind a flag and an engraved plaque claiming British sovereignty over the archipelago. This was an act of symbolic possession which does not grant any rights, particularly because the British government failed to make any kind of formal complaint to the Spanish Crown and respected the latter's dominion over Soledad Island. English internationalist Phillimore expresses dissent with the way English officials acted in this respect.<sup>3</sup>

Likewise, U.S. Professor Julius Goebel maintains that, even if one interprets the 1771 agreement as fixing the rights of the parties, there is an implicit recognition of the Spanish right to Soledad Island, and the British would only be entitled to Port Egmont, on the small islet called Trinidad.<sup>4</sup>

Argentine professor César Díaz Cisneros, in his work *La soberanía argentina en las Islas Malvinas y en la Antártida* (Argentine Sovereignty over the Malvinas Islands and the Antarctic) also studies England's acknowledgement of the rights of Spain in several English international treaties, foremost among them the 1790 San Lorenzo Convention (also known as the Nootka Sound Convention), which prohibited English navigation and fishing in the southern seas within ten leagues “from any part of the coast already occupied by Spain.”<sup>5</sup> Based on this, Argentine historian Rodolfo H. Terragno concludes that “sixteen years after leaving Port Egmont – and forty three years before entering Port Louis by force – Great Britain had expressly waived any right it may have had over the islands.”<sup>6</sup>

Consequently, Spain was the only nation with sovereignty over the whole of the archipelago, which it colonized and used to create, in 1776, a local government by appointing Felipe Ruíz Puente as the first governor. In 1783, specific decrees regarding the islands were issued, which later came to be dependent on the Puerto Deseado Commandancy.

In 1810, the United Provinces of the Río de la Plata (as the Argentine Republic was then known) inherited all Spanish titles and claims over these territories, through the principle of *uti possidetis*, and created the “Political and Military Commandancy of the Malvinas Islands and the Lands Surrounding Cape Horn in the Atlantic Sea” on 10 June 1829, appointing Mr. Luis María Vernet as commander based in Soledad Island.

It is worth mentioning that the basis given for the creation of this dependency includes the following statement:

*When these provinces became free from the domination of the European power, Spain was in material possession of the Malvinas Islands and all other islands surrounding Cape Horn, including the one known as Tierra del Fuego. Spain's possession was founded on the right of the first occupant, with consent from the main maritime powers of Europe, and on the adjacency of these islands to the continent occupied by the Viceroyalty of Buenos Aires, on whose government it was dependent.<sup>7</sup>*

Luis María Vernet – in his capacity as political and military commander of the archipelago – forbade the hunting and fishing of seals in the waters under his jurisdiction to all foreigners in general and stopped four United States ships that violated this decision. As a response to this episode, the U.S. consul in Buenos Aires intervened and the USS Lexington mounted an armed attack on Puerto Soledad,

after which the aggressors destroyed the Argentine colony. The government of the United States ignored all objections from the Argentine government and acknowledged Great Britain's claims over the archipelago. Years later, however, the Massachusetts Judicial Court declared that the commander of the USS Lexington had no right to proceed as he did.<sup>8</sup>

Finally, on January 3, 1833, the United Kingdom forcefully took over Puerto Soledad using the brig-sloop HMS Clio, despite the fact that it had signed a treaty of “friendship, commerce and navigation” with the United Provinces of the Río de la Plata in 1825. All inhabitants were expelled and returned to the continent, and the archipelago was repopulated with English colonists from Saint Helena and other British overseas territories.

Argentine minister Manuel Vicente Maza protested immediately and ordered the Argentine representative in London, Manuel Moreno, to submit the corresponding complaint, which Moreno did in an erudite memorial that contains a good part of the basis for the claim of the Argentine Republic.

Between the time of the immediate protest before the British chargé d'affaires in January 1833 and the time the issue was included in the United Nations agenda during the 20th century, the Argentine Republic has maintained its claim, not only before the British government, but in all international forums it has participated in. Argentina has been explicit about claiming rights over the usurped archipelago in all the international documents it has ratified which could have affected that right in any form. In addition, Argentina has also shown attitudes and decisions internally that demonstrate its continued interest in keeping the claim as a live issue, including, among others: Argentine radiotelegraph stations not accepting messages for the Malvinas Islands in 1919; informing the Universal Postal Union about Argentine jurisdiction over the Malvinas, South

Orkney and South Georgia Islands (1927); enrolling those born in the Malvinas as Argentines since the first case in 1927; refusing to accept correspondence mailed with stamps commemorating the first century of British usurpation over the archipelago (claiming such correspondence lacked postage) (1933), and the creation of and appointment of authorities for – through Law 23.775 – the province of Tierra del Fuego, Antártida e Islas del Atlántico Sur (which includes the Malvinas islands and the other Argentine archipelagos under British military occupation). This process was completed when a temporary provision was included in the 1994 National Constitution of Argentina in which the country ratifies its legitimate and non-prescribing sovereignty over the Malvinas, South Georgia and South Sandwich Islands, and over the corresponding maritime and insular zones, as an integral part of the national territory, the recovery of which is “a permanent goal of the Argentine people”.

This is therefore the oldest territorial conflict in the world, as the Argentine Republic, unlike Spain with the Rock of Gibraltar, has never signed a treaty accepting the 179-year-old military occupation of its insular territories in the South Atlantic by the United Kingdom, which is an unacceptable remnant of colonialism in the 21st century maintained by a country that is a permanent member of the UN Security Council and has participated, along with the United States of America, in many Peace Missions ordered by this organization in which they overstepped the boundaries of the UN mandate, resulting in suspicious neocolonial behavior on the part of the military forces of both countries. The same can be said of their NATO-sanctioned military interventions.

## **II. BRITISH USURPATION OF THE MALVINAS ISLANDS ARCHIPELAGO IN THE PRESENT**

On 16 December 1965, the United Nations General Assembly passed Resolution 2065 regarding the situation of the Malvinas Islands. During the session, Argentine minister of foreign relations Miguel Angel Zavala Ortiz, defined the archipelago as a territory subjected to “illegitimate administration at the hands of the United Kingdom of Great Britain and Northern Ireland, which is exercised over an integral part of our national territory that was occupied by force after the expulsion of the Argentine authority that had been exercising its sovereign rights as an undeniable continuation of the rights of Spain.”<sup>9</sup>

Resolution 2065 was passed, with 87 votes in favor, 13 abstentions – among them, the United Kingdom and the United States of America – and no votes against. This resolution is to be interpreted as an acknowledgement of the rights invoked by the Argentine Republic. This interpretation derives from the following facts: the Argentine Republic had claimed sovereignty over the archipelago and had opposed the application of the principle of self-determination of nations, as the territory in question is not a colony, and Resolution 2065 contains no mention of self-determination, either for the United Kingdom to promote it as the mother country or for the islanders to exercise that right themselves; on the contrary, the resolution discards self-determination when it states that “the interests of the population of the Falkland Islands (Malvinas)” are to be considered, from which we can infer that the General Assembly has implicitly considered the archipelago to be a part of the national territory of Argentina.

In compliance of this resolution, between 11 and 14 January 1966, a series of discussions between the foreign secretaries of the two countries took place in Buenos Aires, and the joint communiqué “Zavala Ortiz-Stewart” was issued, marking the beginning of the negotiations surrounding the resolution.

However, these dealings were never undertaken in good faith by the United Kingdom and, eight years later, the United Nations General Assembly insisted again through Resolution 3160, of 14 December 1973, which was based on the concern that there had been no substantial progress in the negotiations that were to lead to a peaceful resolution of the sovereignty dispute. The purpose of this resolution was to urge the parties to proceed with the negotiations without delay in order to solve the controversy. Moreover, the General Assembly expressed its gratitude for the Argentine efforts to promote the wellbeing of the population of the island and facilitate the process of decolonization. This is because the General Assembly had been informed that the Argentine air force had a regular service between continental Argentina and the capital of the islands, that Malvinas-based students were able to attend Argentine schools and that inhabitants of the islands received hospital care from Argentina. This resolution was adopted by consensus and was a triumph for Argentine diplomacy.

In spite of this, the United Kingdom continued to put off the solution to the main issue: the problem of sovereignty over the archipelago that's been occupied since 1833. The main forestalling tactic employed was the gradual introduction of a foreign element into the negotiations: the need to respect the will of the inhabitants of the Malvinas Islands. As mentioned above when discussing Resolution 2065, this document states that the *interests* of the islanders should be taken into account, not *their wishes*. This semantic difference is not insignificant, as interests are “objective”, whereas wishes are “subjective”. Respecting the will, i.e. *the wishes*, of the islanders means framing the discussion in the principle self-determination of nations, which contradicts the text of Resolution 2065.

Thus, on 1 December 1976, in view of the serious incidents that had taken place early that year between a British research ship that

had illegally entered Argentine maritime jurisdiction and was engaged in research there and an Argentine destroyer, the General Assembly issued Resolution 31/49, the purpose of which was to request that the parts expedite the negotiations and to call them to refrain from making decisions that would imply the implementation of unilateral modifications to the situation. This resolution also expresses an acknowledgement by the international community of the efforts made by the Argentine Republic to promote the wellbeing of the inhabitants of the islands and to facilitate the process of decolonization, repeating the reasons mentioned in Resolution 3160. This resolution was passed by 102 votes to 1 (the United Kingdom) with 32 abstentions.

However, the United Kingdom continued to disregard the United Nations mandate and suggested in 1978 the inclusion among the disputed territories of the “continental shelf of the Falkland Islands and its dependencies”,<sup>10</sup> which had never been part of the original dispute and had always belonged to the Argentine Republic (not unlike the Malvinas, South Georgia and South Sandwich Islands, which are Argentine territories occupied by United Kingdom armed forces). Finally, in 1982, the UK made the proposal of “freezing” the sovereignty debate, limiting the direct negotiations to issues related to “economic cooperation.”

The South Atlantic War, over the possession of the archipelagos of the Malvinas, Georgia and South Sandwich Islands, took place between 2 April and 14 June 1982. In this conflict, the United Kingdom – aided by military supplies, ammunition and logistical assistance from the United States of America, and with the cooperation of the European Economic Community, which blocked Argentine exports – overcame the Argentine Republic militarily.

Eight years later, in 1990, diplomatic relations between the two countries were reestablished and a series of agreements were signed which essentially amounted to the resumption of bilateral negotiations

on the issue of sovereignty over the territories usurped by the United Kingdom for 179 years.

During those eight years, the United Nations General Assembly had passed a resolution annually urging the parts to resume the aforementioned negotiations, which the United Kingdom had systematically refused to do.

After the Argentine-British agreement was signed in 1990, the UK has continued to behave in the same way, finding new ways to forestall discussions surrounding the issue of sovereignty and getting away in many cases with limiting the negotiations to matters of “bilateral economic cooperation” over the usurped Argentine spaces.

To this day, there are at least fifty five United Nations resolutions (issued either by the General Assembly or by the Special Committee on Decolonization) that the United Kingdom has failed to comply with.

The true intentions of British diplomacy since the approval of Resolution 2065 by the United Nations General Assembly until the present day are exposed on page 42 of the *Franks report*, in chapter I, paragraph 61, when it reveals that the Secretary of Foreign Affairs and the Commonwealth had stated that it was necessary to stage negotiations to “keep the Argentines in play” by prolonging conversations indefinitely and incorporating new issues that increased the scope of the conflict considerably, consolidating the British position in the South Atlantic colonial enclave.

At present, the United Kingdom, through the colonial authorities of the Malvinas Islands, is currently selling fishing licenses with a validity of up to twenty five years to ships from all over the planet, depleting the maritime resources of a good portion of the exclusive economic zone that corresponds to the Argentine Republic under the United Nations Convention on the Law of the Sea, with the protection of the occupying British military forces.

Moreover, a hydrocarbon exploration campaign started in 2010 on a part of the Argentine continental shelf which is within the maritime zone controlled by the airbase at Mount Pleasant, in flagrant violation of United Nations General Assembly Resolution 31/49.

In May 1979, around the time British prime minister Margaret Thatcher was taking office, she received a proposal for the creation of the so-called “Fortress Falklands” from the official in charge of negotiations regarding “matters relating to Argentina and the Falkland Islands”, Nicholas Ridley, and the head of the Foreign Office, Lord Carrington. That project was postponed once again in July 1981, due to the magnitude of the financial investment it would require of the British treasury, but was finally started during the 1982-87 period, with an estimated cost of 3,010 million pounds. The fortress is located on Mount Pleasant, Soledad Island, and is equipped with a cutting edge air force and manned by 2,000 officers. It is part of the NATO defense system and is the largest base located outside the European territory. The facility is used to train British troops eventually headed to Afghanistan and Iraq.

In 2004, fourteen years after resuming diplomatic relations with the Argentine Republic and having signed a series of agreements and treaties for economic cooperation, the United Kingdom made the strategic decision of relocating its South Atlantic naval command from Ascension Island to the Mount Pleasant base, in the Malvinas Islands archipelago, which is supposedly subject to a decolonization process, according to the resolutions of the United Nations General Assembly.

The Malvinas Islands are currently inhabited by 2,478 British citizens, some of whom are descendants for the population the United Kingdom brought in to replace the Argentine inhabitants expelled when the archipelago was usurped in 1833. No country would make an investment of the magnitude required for “Fortress Falklands” in

order to deploy one soldier for each inhabitant. No country would make such an investment in a territory subject to decolonization, either.

It is therefore clear that the United Kingdom intends keep the islands, making a mockery of all the resolutions of the United Nations General Assembly.

During the last few years, the Argentine Republic has mounted a significant diplomatic offensive by getting the support of the General Assembly of the Organization of American States, the Southern Common Market (Mercosur), the South American Nations Union, the Rio Group, the Iberoamerican Summits, the South American Regional Conference of the International Civil Aviation Organization, the legislators of various regional blocs in Latin American (Parla Sur, the Andean Parliament, and the Central American Parliament) that participated in the Fourth Parliamentary Meeting of the Euro-Latin American Parliamentary Assembly, the Summit of South American-Arab Countries, the Sixteenth São Paulo Forum, and of heads of state that visited the country. Among all these events, the Summit of South America and the Caribbean held in Cancun in February 2010 is of special importance, since the Argentine diplomats received the unanimous support of its 32 members for the “rights of the Argentine Republic” in its dispute with the United Kingdom regarding sovereignty over the Malvinas Islands and the “surrounding maritime areas”.<sup>11</sup> This was the first time commonwealth countries showed support, which had repercussions in the European press, particularly in London.

All of these documents, in which a considerable portion of the international community urges the conflicting states to seek a peaceful solution within the frame of the resolutions issued by the United Nations General Assembly, were met by the United Kingdom with a policy of force that builds on the de facto material possession of the

territory and its military control over the islands and their influence area. Thus, in September 2009, the UK replaced all the Tornado F3 aircrafts deployed in the Malvinas Islands with modern Typhoon aircrafts; on 24 January 2010, the UK generated a low-intensity incident between the destroyer HMS York and the Argentine warship ARA Drumond, which was navigating in South Atlantic waters with the specific mission of identifying fishing ships that were violating the limits of the exclusive economic zone of the Argentine Republic; the following month, the British government deployed a nuclear submarine in the conflictive area, which was added to the group of SAS commandos that had arrived in the archipelago earlier.

After this, there was suspicion of illegal flights of the RAF over Argentine territory in Isla Grande, Tierra del Fuego, with these combat aircraft landing in the airport of the Chilean city of Punta Arenas.

Argentine diplomats protested the British disregard for all peaceful means of solving the controversy, both before the United Nations General Assembly and before various regional forums the country participated in, to which the British Defense Secretary replied that “those in politics on the other side of the world can huff and puff but it will not change our resolve politically to retain the independence and the sovereignty of the Falkland Islands. We have Typhoons already stationed there. We have a very clear message that we have both the naval power if necessary, and certainly an intent to ensure that the Falkland Islands are kept free.”<sup>12</sup>

There is no room for doubt that the Argentine Republic, with its uninterrupted diplomatic effort during these 179 years, has demolished one by one the various facades the imperial vocation of the British have set up along the way in an attempt to legitimize the usurpation that started on 3 January 1833, seven years after signing a treaty of “friendship, commerce and navigation” with the United

Provinces of the Río de La Plata. Faced with unfavorable decisions by the international community in more recent times, the UK now openly acknowledges today that the islands are occupied by sheer force.

However, the United Kingdom is backed by some of the most powerful countries in the world and is a permanent member of the United Nations Security Council.

### **ON THE FALLACIOUS APPLICATION OF THE PRINCIPLE OF SELF-DETERMINATION OF NATIONS**

Here we must deal with the biggest lie the British diplomats have been spreading since the 1970s: the supposed need to receive a “prior authorization” from the islanders before proceeding with the negotiations demanded by Resolution 2065 of the United Nations General Assembly.

The annals of the Foreign Office and Argentine historiography coincide on the fact that, after 3 January 1833, the British authorities performed an ethnic cleansing operation by expelling the original population settled there by the United Provinces of the Río de La Plata in order to repopulate the archipelago of the Malvinas Islands with British subjects, who were at first relocated from the island of Saint Helena. Later on, the UK increased its monopoly over the transmission of culture and self-identity to the islanders, restricting the possibility that Argentines might settle on the islands. Finally, the current “Falkland Islands Constitution Order 2008” contains restrictive regulations on migratory policy intended to underscore the “British” character of the archipelago.

For many years now, Argentina has been denouncing the United Kingdom's intent to confuse the public opinion of an international community that has adhered – almost unerringly – to the principle of democratic legitimacy, in a situation in which the British government, the multilateral organizations involved and the Argentine Republic,

naturally, are all perfectly aware that the principle of self-determination is simply not applicable to the Malvinas Island controversy.

Let us remember that United Nations General Assembly Resolution 1514 is not applicable in this case precisely because we are dealing with a transplanted population whose cultural purity has been enforced for 179 years by the usurpers in an attempt to break down the territorial integrity of the Argentine Republic. This is the way the UN General Assembly interpreted the matter when passing Resolution 2065, where it advises the conflicting countries to adopt a solution bearing in mind “the interests of the population of the islands” rather than “their wishes”.

The Argentine Republic has demonstrated by means of its actions its complete acceptance of the General Assembly's resolutions by helping to improve the living conditions of the islanders whenever the United Kingdom has allowed it. Clearly, as the Malvinas Islands are a colonial enclave populated by British citizens, their “wishes” simply cannot solve a conflict to which their own country is party. Former foreign secretary Michael Stewart himself stated on 28 March 1968 before the House of Commons that the custody of the rights of the United Kingdom over the archipelago lay with the government, “not its inhabitants.” It is thus clear that the United Kingdom is convinced that the principle of self-determination of nations is not applicable to the Malvinas Islands matter and it is being invoked only as a way to deceive the international community.

However, in a time in which the principle of democratic legality has acquired universal prestige, demanding that the inhabitants of the disputed territory be polled before any negotiations can take place is very appealing for observers who ignore the fact that the usurping nation started out by performing an ethnic cleansing of the legitimate inhabitants of the territory. As proof of the opportunism demonstrated

by the United Kingdom in presenting itself as a champion of the right of nations to self-determination, one need only recall the way it has acted on similar occasions in the past.

The historical record reveals that in 1965, the United Kingdom offered independence to Mauritius on the condition that the Chagos archipelago passed into their hands. The largest island in the archipelago, Diego Garcia, was inhabited at that time by 1,800 people who had been introduced by Great Britain in the same way the inhabitants of the Malvinas Islands were. The United Kingdom granted independence to Mauritius, but kept the Chagos archipelago – without polling its inhabitants – and later handed it to the United States of America, for which it was a strategic site for controlling the actions of the soviet fleet. However, the United States would not accept the island with its inhabitants and demanded that the 1,800 British citizens be expelled from Diego Garcia. The first US citizen arrived in the island in 1971 and the inhabitants were given two weeks to leave, with the British colonial authority in charge of their transportation. Some had been living on the island for five generations and lost their plantations and everything they identified as their own. This time, as in the previous occasion, the inhabitants were not asked if they wished to hand the territory over to the US navy.

The case of Diego Garcia is proof that the principle of self-determination of peoples is not an ethical doctrine that guides the United Kingdom. Rather, it is being invoked in the Malvinas Islands controversy as a mere stratagem to try and give a veneer of legitimacy to its de facto possession of the islands for the last 179 years on territory usurped from the Argentine Republic.

British diplomat Denzel Dunnet, in his work *Self-Determination and the Falklands*, mentions other cases in which the principle of territorial integrity took precedence over the principle of self-determination, such as the case of Hong Kong, where the integrity of

the People's Republic of China took absolute priority over self-determination. He concludes that “there is no point in not recognizing that the United Nations has on occasion allowed precedence over self-determination to other considerations, in particular territorial integrity.” Dunnet also mentions the case of Western New Guinea, in which territorial integrity favored Indonesia prior to the withdrawal of the Dutch.

Dunnet himself admits that, while it is true that very small countries have been given independence, it is doubtful that the inhabitants of the Malvinas Islands can be considered “a people” due to their limited numbers and the declining tendency of the population, among other reasons. Moreover, he makes a distinction between the inhabitants of the Malvinas Islands descended from the early British colonists and those who have been recently hired from overseas to meet needs that arose after 1982, when the island development program was set into motion. This latter group makes up the majority and lacks a true background on the islands.

It has been forty six years since the United Nations General Assembly passed Resolution 2065. This international document acknowledges the existence of the Argentine-British conflict over the sovereignty of the Malvinas Islands and invites both parties to negotiate in order to reach a peaceful solution to the dispute, bearing in mind the interests, rather than the wishes, of the population of the islands. The Special Committee on Decolonization, likewise, has excluded the application of the principle of self-determination of nations from cases in which there is a territorial dispute, implicitly referring to the Malvinas Islands archipelago and the Rock of Gibraltar.

It is therefore clear that the application of the principle of self-determination of nations regarding the Malvinas Islands matter is a fallacious argument employed by the United Kingdom which it has

failed to abide by in other cases and whose application lacks any legal basis in this case, as some British officials have admitted themselves.

## CONCLUSIONS

This paper is declaration meant to unmask the lies the United Kingdom has sown for the last 179 years to confuse the international community in an attempt to give a veneer of legality to the usurpation of the Argentine archipelagos in the South Atlantic.

It is unfortunate that North America and Europe continue to support the UK.

The diplomatic forces of the countries in the geographical areas of the planet have failed to question the United Kingdom regarding its repeated lack of compliance with the aforementioned resolutions of the United Nations General Assembly, even though they are usually extremely zealous about compliance with such resolutions, and with those of the Security Council, when it comes to condemning countries located, in the British Defense Secretary's disdainful words, “on the other side of the world.”

Even the European Union has accepted once again the inclusion of the archipelagos of the Malvinas, South Georgia and South Sandwich Islands as “overseas territories” of the United Kingdom in the 2007 Treaty of Lisbon, disregarding United Nations General Assembly resolutions that acknowledge the existence of the sovereignty conflict, despite the fact that some of these countries are members of the Security Council of that very organization.

Likewise, in February 2009, the Directorate-General for External Policies of the European Parliament released a document entitled “The Status and Location of the Military Installations of the Member States of the European Union and their Potential Role for the European

Security and Defence Policy (ESDP),” in which they analyze the possibility of “Europeanizing” the overseas military bases of France and the United Kingdom with a view to “protecting trade routes”. Let us remember that the British military base at Mount Pleasant (located on the Malvinas Islands archipelago usurped by Great Britain from Argentina) is part of the NATO system and is used to train British troops that operate in Afghanistan and Iraq.

Now that the veil of British hypocrisy has fallen once and for all, the governing elites of these countries have an obligation to prove to the world that the statements in the name of peace, international rule of law, freedom and democracy which they periodically make in all international forums are sincere and not merely an imposture that serves to hide their particular interests.

If, on the contrary – as their behavior to this day appears to indicate – there is in fact an international double standard, peace and security will be forever compromised. ❖

## NOTES:

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