

Islands of principle: Referendums, constitutions, and the arc of international norms in the Falkland Islands, Malta, and the Chagos Archipelago

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Abstract: This article investigates how international laws underpin constitutional legitimacy in small island territories, drawing parallels to different states grounded in democracy, rule of law, and human rights. Unlike larger jurisdictions that embed norms through complex institutions, islands often turn to direct referendums for domestic consent and global recognition. Three former colonial outposts – Falkland Islands, Malta, and Chagos Archipelago – reveal divergent outcomes. Malta’s 1964 independence and 2003 EU-accession plebiscites facilitated a seamless shift to sovereign statehood and human-rights alignment. In 2013, the Falklands reaffirmed British Overseas Territory status, bolstering self-determination despite Argentina’s territorial-integrity claims and the UN Decolonization Committee’s June 2013 debate. By contrast, Chagos was secretly detached from Mauritius in 1965 (contravening UN General Assembly Res. 1514(XV) and 2066(XX)), and its people expelled without a vote. Only the International Court of Justice’s 2019 advisory opinion and UNGA Res. 73/295 (2019), now supplemented by bilateral talks and the 2025 sovereignty agreement, have begun redress; yet that deal itself proceeded without a referendum, despite calls from Chagossian representatives for one. These cases confirm that transparent referendums are helpful tools for just constitution-making; their absence can perpetuate injustice.

Keywords: Chagos archipelago, constitutional legitimacy, decolonisation, Falkland Islands, Malta, referendums, self-determination, small island states

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Introduction

“In my dominions, the sun never sets”, declared Charles V at the Diet of Augsburg in 1524 (Charles V, 1524, quoted in Roberston, 1769, p. 102). Centuries later, territories such as the Falkland Islands, Malta, and the Chagos Archipelago would repudiate that imperial boast, insisting instead that genuine sovereignty derives from the clear will of their own peoples. Small island communities have often been at the fulcrum of contested sovereignty, decolonisation struggles, and evolving international legal norms. Their experiences shed light on how principles of constitutional legitimacy, public participation, and international law intersect in unique contexts. This article examines three illustrative cases – the Falkland Islands, Malta, and the Chagos Archipelago (also known as British Indian Ocean Territory, or BIOT) – to explore how referendums have been used (or omitted) to bolster constitutional legitimacy and public buy-in, how international norms like self-determination, human rights, and territorial integrity have been incorporated or excluded, and how these factors have influenced each territory’s path in statehood evolution or protracted dispute. These cases

provide analogies between three states – actors invoking fundamental legal norms – and small island communities navigating those principles on the ground. The Falklands and Chagos cases, in particular, highlight how different actors champion competing international principles (self-determination vs. territorial integrity) in pursuit of their claims. Malta’s decolonisation, by contrast, represents a more clear-cut application of self-determination through constitutional processes, albeit not without internal contestation.

The paper unfolds in seven parts. After this introduction, Section 2 examines how referendums function as instruments of constitutional legitimacy, enabling small island populations to articulate clear public consent. Next, Section 3 analyses the Falkland Islands case, exploring the design, conduct, and legal ramifications of the 2013 plebiscite amid competing claims of self-determination and territorial integrity. Section 4 turns to Malta, tracing how the 1964 independence referendum and the 2003 European Union (EU)-accession vote underpinned successive constitutional reforms and the incorporation of human-rights norms. In Section 5, we assess the Chagos Archipelago, where the absence of any referendum at detachment and during sovereignty negotiations starkly illustrates the cost of excluding local voices (people lawfully and historically resident in the territory concerned—including those forcibly displaced and their descendants)—and how the International Court of Justice’s (ICJ) 2019 advisory opinion, later UN General Assembly (GA) Res. 73/295, and the 2025 United Kingdom (UK)–Mauritius Agreement have begun to address that exclusion. Section 6 offers a comparative overview of these trajectories: full sovereign statehood in Malta, an externally governed territory in the Falklands, and a belated redress of injustice in Chagos (summarised in Table 1). Throughout, the analysis draws on court judgments, ICJ opinions, UN resolutions, and official statements to ensure legal and historical accuracy. By weaving these cases together, we reveal the dynamic interplay between small island communities and international legal norms, illustrating both instances where referendums and principles dovetail to produce enduring legitimacy and instances where their absence entrenches conflict.

Referendums and constitutional legitimacy through international norms

Referendums are a powerful tool for gauging public will, especially in questions of sovereignty and constitutional status. In small, close-knit polities, a referendum can confer legitimacy on critical decisions – from independence to changes in sovereign status – by demonstrating clear public buy-in. However, as the cases of Malta and the Falkland Islands illustrate, the effectiveness of referendums in resolving questions of status depends on context: the inclusivity of the process, the clarity of the question, and whether the result is respected by relevant stakeholders. For Chagos, the decisive legal defect was not the absence of a plebiscite, but its 1965 detachment from the non-self-governing territory of Mauritius, which has found to be contrary to the right of self-determination and the rule of colonial territorial integrity. The lack of consultation with Chagos Islanders compounded the political illegitimacy of that course, but it was the unlawful excision that grounded the persisting dispute. International legal norms play a decisive role in shaping the constitutional and political development of small territories, particularly in contexts of decolonisation and disputed sovereignty. Chief among these norms are the right of peoples to self-determination, respect for territorial integrity of states, and the protection of fundamental human rights. The interplay – and sometimes tension – between self-determination and territorial integrity is a thread running through all three case studies, albeit in different ways. Additionally, the incorporation (or exclusion) of human rights and other international standards in constitutional arrangements can significantly influence outcomes for small communities. In contested status questions, the legitimacy architecture rarely turns on referendums alone. Where sovereignty, basing, or territorial settlement is

implemented by treaty, the metropolitan State's domestic controls over treaty-making become part of the legitimacy equation. In the UK, the Constitutional Reform and Governance Act 2010 (CRAG) has been criticised for leaving scrutiny vulnerable to executive control—through a time-limited “laying” period, the absence of any automatic debate requirement, and the practical capacity to structure instruments or classifications so as to minimise parliamentary friction (Malhotra 2025). In this section, we examine how each of our case studies has engaged with international norms, highlighting both compliance and deviation.

Falkland Islands: Self-determination vs. territorial integrity

Historical context and competing claims

The Falkland Islands encapsulate a clash between two core principles of international law: self-determination of peoples and the territorial integrity of states. The UK's position on the Falklands rests almost entirely on the former – that the inhabitants of the Islands, who have a distinct community and identity, have chosen freely to remain affiliated with the UK, and that this choice must be paramount. The islanders are British citizens and have developed their own self-governing institutions under a 2009 Constitution, enjoying internal self-government while the UK handles defence and foreign affairs. Britain argues that forcing a change of sovereignty against the islanders' will would violate their right to self-determination, a right enshrined in the UN Charter and UN resolutions on decolonisation. One may invoke UNGA Resolution 1514 (XV) (1960), which proclaims the right of all colonial peoples to determine their political status and assert that the Falkland Islanders are a ‘people’ entitled to this right.

The 2013 referendum and territorial integrity

In response to renewed Argentine pressure ahead of the 30th anniversary of the 1982 War, the Falkland Islands Government – backed by London – called a referendum in March 2013 to definitively demonstrate local consent. Under international observation, over 1,650 voters, i.e. 90% of eligible voters, and an overwhelming majority, to the tune of 1,513 votes, chose to remain a British Overseas Territory. That result served not only as a powerful moral and diplomatic affirmation of self-determination, but also as a practical tool for the UK to rebut Argentina's territorial-integrity claims in international forums (Falkland Islands Government, 2013a; Falkland Islands Government, 2013b).

Argentina, however, counters with the principle of territorial integrity. It contends that the Falklands/Malvinas (the latter used by Argentina) are part of its national territory, illegally detached by Britain in the 19th Century, and that the decolonisation process for this territory cannot be resolved by consulting what it regards as a settler population introduced by the colonial power (UN Special Committee on Decolonization, 2013). Argentina can leverage support to underscore the operative paragraph 6 of Resolution 1514 (XV), which cautions that nothing in the decolonisation process should be “interpreted as authorizing or encouraging any action which would dismember or impair ... the territorial integrity of a country”. The operative paragraph was intended to bar any decolonisation process that “dismember[ed] or impair[ed]” an existing state's territory, thereby preventing colonial powers from transplanting populations to justify claims on land that previously belonged to another sovereign. From Argentina's perspective, then, the Falklands case is *sui generis*: not a classic example of a colonised people seeking self-government, but rather a dispute over Argentine territory held under foreign rule. Thus, whereas the UK may frame the issue as one of *people-centred* self-determination, Argentina must frame it as one of *territory-centred* restoration of integrity.

This divergence has led the UN to treat the Falklands/Malvinas as a special case. UNGA Resolution 2065 (XX) of 1965, the first UN resolution on this dispute, recognised the existence of a sovereignty contest between the UK and Argentina and called for bilateral negotiations to find a peaceful solution, taking into account “the interests of the population” of the Islands (UNGA 2065 (XX) 1965). Notably, it did not explicitly affirm a right of the islanders to choose their sovereignty, reflecting Argentina’s influence and the decolonisation norms of the era. Over time, there has been some normative evolution, but no resolution. Many states in the Global South (especially in Latin America and the Non-Aligned Movement) continue to back Argentina’s territorial integrity argument in international forums, viewing the British presence as an anachronistic colonial situation (Heine, 2024).

The UK, on the other hand, has doubled down on self-determination, especially after the 1982 war. British officials have cited the Islanders’ rights under Article 73 of the UN Charter – which obliges administering powers to ensure the political advancement and self-government of colonial peoples – as well as under common Article 1 of the International Covenants (ICCPR and ICESCR), which guarantees all peoples the right to freely determine their political status. (UK Government, 2013). Indeed, it has pointed out that Argentina itself formally accepted the principle of self-determination in other contexts (for example, supporting self-determination for territories such as Western Sahara or for Mauritius in the Chagos case) (UK Government, 2023). Argentina’s rejoinder is that those contexts do not involve its own territorial integrity, whereas the Malvinas do – hence Argentina participated in the ICJ’s Chagos Archipelago advisory proceedings to champion the view that colonial-era dismemberment of territory (like the UK’s separation of Chagos from Mauritius) is illegal, implicitly drawing a parallel to what it sees as the UK’s detachment of the Malvinas from the Argentine motherland (Cancillería Argentina, 2018).

Normative reflections and legal nuance

International law does not offer a clear-cut resolution when these principles square off. However, some legal commentators and jurists have sought nuance, therefore provoking, *inter alia*, a reimagining (Popovski & Malhotra, 2023). In the ICJ’s Chagos Advisory Opinion (2019), for instance, the Court emphasised that respect for territorial integrity is a part of the self-determination process – colonial territories should emerge to independence intact unless the people freely decide otherwise (ICJ, 2019). A separate declaration by Judge Abdulqawi Ahmed Yusuf (drawing analogies to the Falklands/Malvinas without naming them) observed that the free will of a distinct population could be relevant even in disputed territories, cautioning against an absolutist use of territorial integrity to deny peoples a voice (Yusuf, 2019). Similarly, Judge Abraham’s declaration in the Chagos case argued for a “precise” interpretation of territorial integrity: he agreed it is a crucial principle to prevent arbitrary colonial partitions, but warned it “should not be interpreted so broadly as to prevent consideration of the genuine wishes of affected populations” during decolonisation (Abraham, 2020). In other words, different geographic sub-units of a colonial territory might legitimately express different preferences without violating international law. This reasoning, if applied, suggests that even if the Falklands had once been administered as part of a larger unit (the former Spanish Viceroyalty or colony of which Argentina is successor), the *distinct wishes of the Falkland Islanders* should carry weight in settling the dispute.

In practice, despite the legal deadlock, the Falkland Islanders have increasingly been treated as possessing many attributes of a people with rights under international law. The islanders participate in UN Decolonization Committee hearings, asserting their identity and

desires and frequently invoking the 2013 self-determination referendum (UN press release, 2023). The UK has extended most international human rights instruments to the Falklands, and the territory operates under the rule of law and democratic governance. Taken together with the 2013 referendum result—where over 99% of valid votes favoured remaining a British Overseas Territory—these facts bolster the UK’s argument that continuing British sovereignty harms no fundamental norm but rather upholds the islanders’ democratic and human rights. Argentina continues to dispute this, viewing the current situation as the result of historic injustice. Thus, the Falklands case remains an emblematic instance where international norms are invoked by each side in seemingly inconsistent ways: self-determination, supported by a referendum, championed by the colonial power, and anti-colonial territorial integrity championed by the state seeking to ‘decolonise’ the territory by absorbing it. This inversion of the typical script highlights how small island communities can become arenas for principled legal battles with no easy compromise.

Malta: Embracing international norms in statehood

Malta’s constitutional evolution demonstrates a relatively successful integration of international norms during and after decolonisation. In the early 1960s, as Malta negotiated independence, the norm of self-determination was unambiguously on Malta’s side: unlike in the Falklands, no other state laid claim to Maltese territory, and Malta was clearly listed as a Non-Self-Governing Territory under Chapter XI of the UN Charter (Hansard HC Deb. 23 July 1964). The UK, as administering power, was bound by Article 73 to prepare Malta for self-government and eventual independence, “taking due account of the political aspirations of the peoples”. Thus, the fundamental international norm of the era – that colonial peoples should be able to freely decide their political future – was fully aligned with Malta’s path to statehood. Indeed, both the Maltese government and the principal opposition agreed on achieving independence (the disagreements were over timing and constitutional specifics).

The 1964 independence referendum: turnout, politics and aftermath

The referendum of May 1964, though conducted over three days and approved by the legislature, saw an 83.4% turnout amid boycotts and blank votes from smaller parties, underscoring divisions even as it gave formal expression to Malta’s right to self-determination (The Malta Independent, 2018). Indeed, the vote was relatively close, with 54% in support of independence and 46% against. Once independence was achieved, Malta promptly joined the UN in 1964 as a sovereign equal and embraced multilateralism as a small state intent on upholding international law.

One area where international norms influenced Malta’s constitutional setup was human rights. The independence Constitution of 1964 included a chapter on fundamental rights and freedoms of the individual, consistent with the template of many post-colonial constitutions and reflecting the influence of the European Convention on Human Rights (ECHR) and the Universal Declaration of Human Rights (Malta Independence Act, 1964). However, initially the Maltese drafters – under pressure from the powerful local Catholic Church – inserted clauses to protect the Church’s status, including provisions that effectively immunised certain religious matters from the scope of fundamental rights (for example, preventing judicial review of laws on religious education or morality) (Hirschl & Shachar, 2022). The British government and Maltese minority parties found these carve-outs problematic, as they clashed with the principle of equal application of human rights norms (HC Deb. 2 February 1959). In the final negotiations prior to independence, the British Secretary of State insisted on revisions.

Consequently, two clauses that would have excluded the Roman Catholic Church from general human rights obligations were removed from the constitution (HL Deb. 2 February 1955). This was a significant incorporation of universal human rights norms over parochial exceptions, ensuring that Malta's new Constitution did not overtly contradict the non-discrimination and freedom of conscience principles that the international community was increasingly expecting in national constitutions. In essence, Malta's independence settlement had to balance a home-grown vision of statehood (deeply influenced by religion) with broader liberal-democratic norms; and ultimately the broader norms prevailed in text, if not immediately in practice. After independence, Malta continued to weave itself into the fabric of international norms. It acceded to the ECHR in 1967 (shortly after joining the Council of Europe in 1965), thereby subjecting itself to external human rights supervision (Council of Europe, n.d.). The rule of law and democratic governance have since taken firm root, despite periodic political crises, and in 1987 Malta explicitly entrenched neutrality in its constitution, aligning with the norm of peaceful settlement of disputes and non-alignment (Cassar, 2024). In retrospect, the choices vindicated the narrow 'Yes' vote in the 1964 referendum: the constitutional settlement that emerged from it became the platform from which Malta gradually internalised and then deepened the very human-rights and rule-of-law commitments that had been so contested during the independence campaign.

The 2003 EU accession referendum: process and political economy

Malta's 1987 constitutional amendment enshrined active neutrality, committing the Republic to non-alignment and prohibiting participation in any military alliance. This principle underpinned Malta's role as an impartial mediator – hosting the 1989 Bush–Gorbachev Malta Summit and facilitating humanitarian evacuations during the 2011 Libya intervention – while bolstering its global diplomatic profile. Perhaps the most transformative step in Malta's post-independence evolution was its 2003 referendum on EU membership, approved by a 'yes' vote of just under 54%. This ushered in sweeping political, legal, and economic reforms, including adopting the entire body of EU law, including extensive human rights, rule of law, and governance standards; pooling aspects of its sovereignty in a rules-based supranational framework; harmonising Malta's laws with the *acquis Communautaire*; liberalising markets; and securing structural funds that fuelled GDP growth and infrastructure modernisation. Joining the EU on 1 May 2004 capped Malta's 8 March 2003 referendum – 53.65% 'Yes' on a 91% turnout – after a polarised campaign, with the governing Nationalist Party supporting membership and the opposition Malta Labour Party (MLP) urging 'partnership' and even abstention. The MLP's proposed 'partnership' alternative rested chiefly on fears that full membership would erode Malta's sovereignty and neutrality, expose its labour market and welfare model to external pressures, and leave the country overly constrained by decisions taken in Brussels. The general election that followed shortly after on 12 April 2003 then confirmed the mandate, showing how a tightly run referendum-plus-election sequence can aid small-state development (Vitalis, 2019).

This move reflected Malta's confidence as a small state that international norms and cooperative structures can augment, rather than diminish, its sovereignty. In the EU context, Malta went from being a former colony to an equal participant in a union of states, protected by and obliged to uphold principles such as human dignity, minority rights, and adherence to international law. In short, Malta's trajectory has been one of enthusiastic incorporation of international norms: it leveraged self-determination to achieve independence, it conformed to human rights expectations in its constitution (even when that meant curbing the influence of the Church in temporal matters), and it later embraced further normative frameworks that bind

states together. The positive outcomes Malta experienced – political stability, international recognition, and development – reinforce the view that small states can thrive by embedding themselves in a network of legal norms and treaties. In conclusion, Malta shows how, in small states, a high-turnout, clearly framed referendum—paired with swift electoral confirmation—can legitimately catalyse transformative integration.

Chagos Archipelago: Violations and vindication of international norms

Unlike the Falkland Islands and Malta, the Chagos Archipelago has never been the subject of a referendum on its political status or on the expulsion and prospective return of its inhabitants. This case study therefore examines a ‘missing referendum’: what follows when decolonisation and strategic decision-making proceed without any plebiscitary consultation of the affected island community, even as international norms of self-determination and human rights harden around them. Therefore, the Chagos Archipelago case represents a stark example of the violation of international norms during decolonisation; and the gradual vindication of those norms through international legal processes decades later. In the 1960s and 1970s, virtually every applicable norm was flouted in Chagos: the right to self-determination was denied to both the Chagossians and the people of Mauritius; the principle of territorial integrity of colonial territories was ignored when the UK excised Chagos; and fundamental human rights were trampled when the inhabitants were exiled and left impoverished without remedy. Over time, however, these norms have reasserted themselves. Global opinion, legal advocacy, and the institutional memory of the UN kept the issue alive until it reached the ICJ, which then confirmed that those norms did apply and had been breached.

1965 detachment and forced exile: Breach of decolonisation norms

At the time of the Chagos detachment (1965), the norm of territorial integrity in decolonisation was just coalescing. UNGA Resolution 1514 (1960) had declared that any attempt to divide a colonial territory was contrary to the UN Charter, and subsequent resolutions like 2066 (1965) specifically reminded the UK of this in Mauritius’ case (UNGA 1514 (XV) 1960). The UK nonetheless proceeded, arguing at the time (and in later legal defences) that Mauritius’ leaders had consented to the separation – a claim widely viewed as disingenuous given the power imbalance and secretive nature of the deal. In its 2018–2019 submissions to the ICJ, the UK maintained that the principle of territorial integrity was meant to protect only the emergence of sovereign states from colonial rule, and that once Mauritius achieved independence in 1968 (without Chagos), the decolonisation was *ipso facto* completed. (UNGA 2066 (XX) 1965).

However, the UK’s argument in relation to territorial integrity was rejected; the ICJ found that because the detachment was not based on the genuine will of the people, the decolonisation of Mauritius was *not* lawfully completed. Crucially, the Court and several judges treated the right to self-determination as already established in customary international law by 1968: partly on the strength of UNGA resolutions that, while not binding, evidenced a normative consensus. The late Judge Cançado Trindade, in a separate opinion, underscored that self-determination had become a *jus cogens* (peremptory) norm, from which no derogation is permitted. (Cançado Trindade, 2019; Cançado Trindade & Robinson, 2019). Thus, the Chagos case affirmed that the norms violated in the 1960s have an even stronger status today (UNGA 73/295 2019).

Regarding self-determination, the Chagossians occupy an interesting place. Were they considered a people entitled to self-determination in their own right, or were they part of the people of Mauritius? The ICJ seemed to view the relevant people as the entirety of Mauritius, including those of Chagossian origin. The UNGA likewise spoke of the ‘people of Mauritius’, which includes the former inhabitants of Chagos. In practice, this means that the right vindicated was primarily that of Mauritius as a state to have its territory whole, and of its people to have enjoyed a proper decolonisation process. The Chagossians’ individual human rights – while severely violated – were somewhat subsumed under the collective territorial claim of Mauritius. So, unlike Falkland Islanders and Maltese, there was never an easy opening for their voice to be heard formally. At each of these junctures – 1965 detachment, post-independence litigation, and the 2019–2025 sequence of advisory opinion, UNGA resolution, and the UK–Mauritius agreement – no referendum for Chagossians has been seriously countenanced. Even so, multiple international voices have highlighted the Chagossians’ plight as an affront to human rights and human dignity (UNGA 73/295 2019).

Chagos after 2019: Decolonisation prevails, rights shape ‘return’

All in all, a norm Britain did observe, arguably, was the importance of international security agreements – but that is not a principle that overrides self-determination or human rights in law, though it was treated as de facto paramount by London and Washington during the Cold War. The secrecy around the UK–US agreement for the base, and the use of administrative orders to avoid parliamentary scrutiny, indicate that the UK was well aware its actions were of dubious legality and morality (Gifford 2007). It was precisely this dissonance between Britain’s conduct and the emerging international norms that led to opprobrium and eventually isolation. By 2019, when 116 states voted in the UNGA to demand UK withdrawal from Chagos (with only a handful, mostly Western allies, abstaining or opposing), it was clear that the norm of decolonisation with integrity had prevailed over any 1960s-era justifications (House of Commons Library, 2023).

The Chagos case also touches on human rights norms. While the ICJ advisory opinion tactfully focused on decolonisation law and avoided pronouncing on human rights per se, the human tragedy of the Chagossians underlies the entire dispute. International human rights bodies did not offer much relief; as noted, the European Court of Human Rights could not adjudicate the substance because of jurisdictional issues (ECHR, 2012). However, the spirit of human rights law heavily influenced the narrative. The Chagossians’ displacement must be seen as a violation of the right to home and family life, the prohibition of forced exile, and even as a form of racial discrimination (since the removal targeted an Indigenous, mostly Creole population to benefit two powerful Western states). The UK’s belated expressions of “deep regret” for its treatment of the Chagossians, as recorded in its ICJ written statement, indicate an acknowledgment that its behaviour fell short of modern human rights standards (R vs. SSFCFA ex parte Bancoult [2020]).

Decades of legal limbo and the 2025 sovereignty agreement (transfer without a referendum)

Within the UK, the story led to litigation that at times affirmed Chagossians’ rights (a High Court judgment, for example, found the expulsion Ordinance ultra vires, leading the UK government briefly to allow resettlement before reversing course) (House of Lords, 2008). Yet the ultimate stance of the British government was to prioritise “strategic interests” (the defence value of the US base) over the Chagossians’ right of return – a position maintained even into the 21st century, as evident when UK courts in 2025 refused to halt Chagos sovereignty

negotiations despite an applicant arguing that such talks betrayed Chagossians' interests. (Agreement between UK and Mauritius, 2025). On 22 May 2025, the UK and Mauritius formalised a landmark agreement settling the long-running dispute. Under the 'Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Mauritius concerning the Chagos Archipelago including Diego Garcia' (CP 1334) Mauritius assumes sovereignty over the entire archipelago while authorising the UK to continue operating the strategically vital naval and air base on Diego Garcia (Agreement UK–Mauritius, 2025). Entry into force awaits each state's domestic ratification: UK primary and secondary legislation and Mauritian ministerial approvals are expected shortly (Explanatory Memorandum, 2025). That ratification pathway also matters normatively. The House of Lords International Agreements Committee has recently characterised Westminster treaty scrutiny as marked by an "accountability gap", grounded in the limited, executive-managed opportunities for Parliament to interrogate the policy and legality of major agreements before binding effect. In relation to the UK–Mauritius Chagos agreement (treated in the Committee's report as the 'BIOT Treaty'), the Committee sought an extension of the standard scrutiny period; the Government refused. (House of Lords International Agreements Committee 2025, paras 27–29). Analytically, the point is straightforward: the Agreement proceeded without a plebiscite of the Chagossian community and then travelled through a scrutiny model that is itself institutionally vulnerable to compression.

From London's standpoint, the purpose of the treaty is to "secure the long-term, secure and effective operation" of the UK-US base, deemed critical to national and allied security (Explanatory Memorandum, 2025, p. 1). The UK's explanatory memorandum underscores that the ICJ advisory opinions and UN resolutions had placed the base's future at risk, as did questions over fisheries membership in the Indian Ocean Tuna Commission. To neutralise such challenges, Article 8 and its interpretive Exchange of Letters confirm the UK will relinquish "coastal state" status for Chagos in the IOTC, maintaining only "distant water fishing nation" membership (Explanatory Memorandum 2025, p. 3).

Mauritius, however, ought to view the Agreement as the culmination of its decolonisation. The Preamble explicitly acknowledges the "wrongs of the past" and commits both parties to address the continued welfare of the expelled Chagossian population (Agreement UK–Mauritius, 2025, Preamble). The treaty blending sovereignty transfer with detailed ocean-governance provisions. Article 1 vests full sovereignty in Mauritius, while Article 2 authorises the UK to exercise Mauritian rights on Diego Garcia necessary for base operations—covering everything from basing and overflight to communications infrastructure. Mauritius retains all other sovereign rights, notably over natural resources and environmental protection. Institutional oversight comes via a Joint Commission (Article 12) comprising UK and Mauritian representatives, with the US as observer. This body will oversee implementation, resolve emerging issues, and review security proposals; such as any new installations beyond Diego Garcia's 12-mile zone. Crucially, dispute-settlement is streamlined: Article 15(4)–(5) and Annex 4 establish compulsory arbitration – triggered only by the UK – to adjudicate whether grounds exist for terminating the treaty, ensuring that disagreements over interpretation can be resolved without recourse to political brinkmanship.

Could a referendum have altered the Chagos trajectory? It must be noted that a genuine plebiscite of the Chagossian population – whether during the 1965 detachment or ahead of the 2025 sovereignty transfer – ought to have conferred legitimacy, clarified public aspirations, and pre-empted decades of dispute. Another human rights aspect is the right of return: while not explicitly codified, it flows from principles of state obligations to their citizens and

residents. The Chagossians have fought for the right to return to their islands, winning moral victories but facing legal and practical obstacles (European Court of Human Rights, 2012). UNGA Res. 73/295 (2019), however, explicitly calls for the resettlement of Chagossians in Chagos, treating it as part of completing Mauritius's decolonisation. This is an implicit recognition of a collective right of the exiled community to go home: a belated vindication of a basic human interest that was ignored in 1968. In summary, the Chagos Archipelago's story is one of norm violation at the time of an unjust act, followed by a long arc of justice where international norms eventually caught up. It underscores that small island communities, though vulnerable to great power interests, have recourse in the principles of international law; even if delayed. The norms of self-determination and territorial integrity, properly understood, worked hand in hand to delegitimise the Chagos detachment, while human rights norms provided a framework for remedy as the world now insists on righting the wrong by enabling the Chagossians' return and restoring the territory to the people of Mauritius. Chagos thus completes the spectrum: where Malta and the Falklands relied on referendums of varying legal weight to articulate local preferences within international constraints, Chagos illustrates the legal, political and human costs of excluding a small island population from any such vote at all.

Comparative outcomes and trajectories

Degree of self-governance and constitutional order

Despite some commonalities in size and colonial heritage, the Falkland Islands, Malta, and the Chagos Archipelago have experienced quite different outcomes in terms of statehood evolution, decolonisation, and dispute resolution. A comparative overview helps to understand the degree of self-governance achieved, the resolution (or persistence) of sovereignty disputes, the role that referendums (or their absence) have played in articulating local preferences, the extent to which international legal frameworks have embraced each community, and the overall trajectory in positive or negative terms. A few critical points emerge. Malta's trajectory represents the positive potential of decolonisation when international norms and local democratic practices are observed. Malta moved from colony to independent state smoothly (despite internal political disunity), gaining full sovereignty and later reinforcing its position through EU membership. The use of a referendum in 1964, although imperfect, and the adherence (over time) to human rights and self-governance norms contributed to a stable constitutional order. In terms of international status, Malta went from being the object of colonial administration to an active subject in the international community within a short span, with the 1964 independence referendum both crystallising its people's self-determination and facilitating the subsequent trajectory of international recognition and engagement.

Resolution or persistence of sovereignty disputes

The Falkland Islands' trajectory is mixed. On one hand, the islanders have achieved a great degree of self-governance and a high quality of life under the protective umbrella of the UK. Democratic norms are upheld locally, and the 2013 referendum gave voice to the people's wishes emphatically. On the other hand, the sovereignty question remains a thorny deadlock. The Falkland Islanders' preferred outcome – continuing British Overseas Territory status – is not recognised by Argentina and many states, leaving the Islands in a perpetual state of disputed status. Unlike Malta, the Falklands has not attained independence (nor do they seek it, given their small population and desire for British protection), and thus they remain somewhat in limbo under international law: a colony by name, but one that considers itself self-determining.

The lack of a resolution keeps alive the risk of future conflict or diplomatic strife and ties the Islands' future to the ebb and flow of UK–Argentina relations. In short, while the Islanders' rights are respected *de facto*, the Falklands remain a British Overseas Territory: an arrangement that, even absent Argentina's claims, falls short of full decolonisation under UN definitions, which require the removal of all residual non-self-governing status (UNGA 1514 (XV) 1960). The principle of self-determination has given the Islanders internal self-government and contentment, but the principle of territorial integrity invoked by Argentina has prevented a final settlement. This contrast with Malta (where no external territorial claim existed) highlights how an unresolved normative conflict can freeze a small community's status indefinitely.

The Chagos Archipelago's trajectory has been largely negative, though recent developments offer a measure of hope. For decades, Chagossians lived as displaced people, and the territory functioned as a geopolitical enclave devoid of its native population. This represents a nadir in decolonisation: an instance where neither independence, integration, nor any referendum or comparable consultation took place; instead, power politics prevailed. Consequently, Chagos remained a colonial relic far longer than it should have, with the UK only reluctantly acknowledging that it must eventually cede control. The stark absence of local governance or inhabitants means Chagos cannot even be described as having a domestic constitutional order; it was effectively a military territory. However, the emphatic re-assertion of international norms through the ICJ and UN in 2019–2020 marked a turning point. The trajectory now is toward belated decolonisation – an outcome that aligns with what should have happened in the 1960s (Chagos remaining with Mauritius) – and the UK–Mauritius agreement envisages a peaceful transfer of sovereignty. This outcome stands as a victory for the principles of self-determination and territorial integrity, yet it is tempered by the reality that for the Chagossians, justice delayed was justice denied. Many of those evicted have passed away, never seeing their homeland again. Even if resettlement and, in due course, some form of consultative process or referendum on internal arrangements were to occur, two generations have lived in exile. Thus, Chagos's story is a cautionary tale with a partially positive ending: it demonstrates the costs of flouting international norms—and of excluding the affected community from any plebiscitary say—and shows that, while the international system can eventually correct course, the human damage inflicted in the interim is irreversible.

Comparatively, these cases underscore that small island communities can find themselves at the mercy of larger geopolitical struggles, but also that they can leverage international norms to assert their rights. The Falklands and Chagos cases both involved a third-party claim to the territory (Argentina and Mauritius, respectively) and became internationalised disputes, whereas Malta's decolonisation was a bilateral UK-Malta affair resolved with independence. Interestingly, we see cross-references: Argentina supported Mauritius in the Chagos case on principle, seeking to fortify the concept of territorial integrity in decolonisation: no doubt, with an eye to the Falklands. The UK, conversely, has championed self-determination for Falklanders, yet initially ignored that same principle for Chagossians. Such apparent double standards highlight that states invoke principles to suit their interests, but the principles themselves have enduring power. Small communities have repeatedly harnessed referendums to assert those principles: Malta's 1964 vote secured independence despite internal divides, and the Falklands' 2013 plebiscite reaffirmed its preferred status without securing self-determination under international scrutiny: demonstrating how a well-organised referendum can amplify local voices against great-power interests. But not for the Chagossians, as we have seen.

Another outcome aspect is the level of entrenchment of disputes, and the role referendums have (or have not) played in loosening them. The Falklands dispute remains entrenched but is effectively well-managed: the 2013 referendum did not resolve the sovereignty question, yet it helped stabilise the status quo by giving London a clear plebiscitary mandate to invoke, so that day-to-day impact on islanders is minimal (aside from defence burdens and geopolitical posturing). The Chagos dispute, by contrast, was entangled with Cold War and post-Cold War strategic interests and unfolded without any referendum or comparable consultation, effectively silencing Chagossian preferences for decades until normative pressure built up; once Mauritius galvanised international support, the dispute moved relatively quickly toward legal and diplomatic resolution. Malta did not face an entrenched international dispute over its statehood at all; instead, its referendums (1964, 2003) channelled internal ideological and religious divisions into decisive choices that, once taken, allowed its evolution to proceed comparatively straightforwardly.

Integration into international frameworks

In terms of integration into broader frameworks, Malta stands out as an example of a small island fully participating in international and regional organisations (e.g. Commonwealth, Council of Europe, EU, UN), thereby enjoying security and economic benefits and contributing to norm development (for instance, Malta has been an advocate for maritime law and environmental issues internationally). The Falkland Islands, by contrast, cannot join such organisations on their own (being a non-sovereign territory), but they receive indirect benefits from the UK's memberships and have some voice through the UK. However, the Falklands plug into Commonwealth networks via the UK: for example, the Falkland Islands Legislative Assembly is a branch of the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR), with Commonwealth Parliamentary Association UK (CPA UK) exchanges and training, and access to UK-led Commonwealth Local Government Forum (CLGF) and Royal Commonwealth Society (RCS) networks: gaining soft-power links without sovereign membership. The Chagossians, having neither a state nor a territory, were entirely excluded from such forums, illustrating the most marginalised position – their interests were represented, if at all, by Mauritius or sympathetic states and NGOs.

Lessons on legitimacy, consent, and normative consistency

Finally, the comparative perspective shows how issues of legitimacy and consent run through all three trajectories. Malta's independence, though contested by a social segment, had enough legitimacy (through elections, referendum, UN acceptance) to be enduring; its constitutional order has needed reforms but not basic re-litigation of sovereignty. The Falklands have achieved a form of local legitimacy (nearly unanimous consent to British affiliation) but lack full international legitimacy in the eyes of some, making their status perpetually conditional on diplomatic protection. Chagos had neither local nor international legitimacy; and correcting that required extraordinary recourse to advisory litigation and global diplomacy. Space here permits only a brief treatment; but referendums and plebiscites have been important, rather than indispensable, tools in this story: Malta's 1964 vote and the Falklands' 2013 plebiscite were clear expressions of popular will that have underpinned respective constitutional claims. The core defect in Chagos was the 1965 excision, not the absence of a plebiscite. Referendums are context-specific: sometimes apt, sometimes not (for example, Falklands practice centres on 'interests', not a plebiscitary 'wishes' test). The narrower lesson is to ensure meaningful, good-faith participation of affected communities – by suitable means consistent with decolonisation and human rights – since imposed decisions tend to prolong disputes and reputational costs.

Conclusion

Constitutions, referendums, and international norms intersect—but not always via referendums, and with varied legal effect. Malta’s 2003 plebiscite was determinative, driving EU accession. Falklands votes are expressive, shaping politics but not UN doctrine that speaks of the Islanders’ ‘interests’, not a plebiscite. In Chagos there was no referendum: decolonisation law fixes Mauritius’s title, while the Chagossians’ pathway concerns participation, return, and remedies: issues that a vote might inform but cannot replace.

Several comparative insights emerge. First, referendums (and by extension other forms of direct democracy) have proven invaluable for legitimacy in these contexts. They can entrench public buy-in for constitutional arrangements, as seen in Malta’s independence process and the Falklanders’ recommitment to British rule. When properly structured, referendums can deliver clear mandates. Malta’s 1964 vote featured a single, legislature-endorsed question, widespread voter information campaigns, and robust public debate while the Falklands’ 2013 plebiscite combined a straightforward binary choice with international observation and high voter engagement, ensuring both credibility and impact (The Malta Independent, 2018; Observation Report, 2013). Malta’s 1964 vote, for instance, though it enabled progress, also taught that a lukewarm mandate can prolong domestic divisions. Second, the growth of international norms – particularly self-determination and anti-colonial standards – has profoundly influenced outcomes. In the 1960s, these norms were still solidifying: the UK’s handling of Malta showed grudging acceptance of self-determination, whereas in Chagos the UK blatantly contravened norms it thought it could evade. By the 2010s, however, those norms had hardened into *jus cogens* (in the case of self-determination) and customary international law, enabling the international community to correct historical wrongs like Chagos. Even in the Falklands dispute, any eventual solution will inevitably have to reconcile both principles – perhaps through an innovative arrangement – precisely because neither self-determination nor territorial integrity can be ignored with impunity. Third, the experiences of these islands underscore that small communities are not passive in the face of great power interests; they actively invoke legal principles to fight for their interests. The Falkland Islanders have internationalised their cause by invoking self-determination at the UN, and the Chagossians, leveraged the UN and ICJ mechanisms through Mauritius to seek justice.

In a world where normative language matters, being on the side of a clear principle (like the Chagossians and Mauritius on territorial integrity, or the Falklanders on self-determination) can eventually yield dividends. There are also cautionary lessons. The Chagos saga warns that geopolitical expediency can lead to egregious violations that neither solve disputes nor remain hidden forever; they simply defer and complicate them. The Falklands reminds us that even the consent of an overwhelming majority of a local population may not settle a dispute when history and nationalism are at play; diplomatic stalemate can linger despite what seems a commonsense democratic outcome. For small islands, the umbrella of international law is crucial: it can protect their rights, but it can also constrain their aspirations when different norms collide.

Prioritising the voices and rights of those directly concerned, through context-appropriate participation such as referendums where suitable, offers the best opportunity for legitimate and durable outcomes, but it is not a guarantee. In the Falklands, referendums shape politics but do not settle title. In Chagos, the core wrong was the unlawful detachment rather than the absence of a plebiscite. Even so, meaningful participation remains an important and affirmatory path.

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