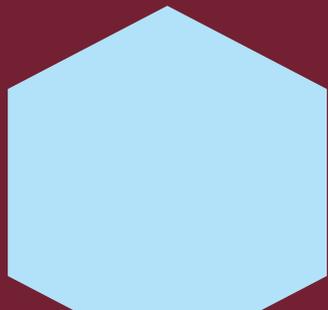


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**Przemysław Biskup\***

## **The 2025 UK-Mauritius Agreement Concerning the Chagos Archipelago: Legal and Strategic Consequences of the Cession**

DOI: [10.58183/pjps.01042025](https://doi.org/10.58183/pjps.01042025)

### **Abstract**

The 2025 agreement between the United Kingdom and the Republic of Mauritius concerning the cession of the Chagos Archipelago constitutes one of the most consequential acts of territorial transfer in modern British constitutional history. This paper employs two complementary lenses, i.e. legal-scientific and strategic, to argue that the cession was not a legal necessity but rather a political choice. The decision has been argued to compromise both the coherence of the British Overseas Territories system and the credibility of the United Kingdom as a strategic actor in the Indo-Pacific region. The paper's analysis of the implications of the treaty for the UK's sovereignty, constitutional practice, and alliance dynamics (particularly in relation to the United States), as well as the self-determination of the Chagossians, situates the analysed case within the broader trajectory of Britain's post-Brexit transformation.

### **Keywords**

Chagos Archipelago, Mauritius Agreement, British Overseas Territories, sovereignty, self-determination, Indo-Pacific, AUKUS, strategic autonomy, UK-US cooperation

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## Introduction

The United Kingdom's 2025 decision to relinquish sovereignty over the Chagos Archipelago, including Diego Garcia and its UK-US air and naval installations, signified a pivotal moment in Britain's post-imperial constitutional evolution. For the first time since the 1997 Hong Kong handover, British territory is to be transferred to another state not by an Act of Parliament but through an executive treaty. The UK's Labour government, led by Prime Minister Sir Keir Starmer, presented this move as an act of "decolonisation" intended to address historical injustice and align the UK with the 2019 International Court of Justice (ICJ) Advisory Opinion<sup>1</sup> and the subsequent UN General Assembly resolution.<sup>2</sup>

This paper argues that the cession resulted from the Starmer government's political preference rather than legal necessity, since the United Kingdom was under no binding international obligation to surrender sovereignty over the archipelago, and the ICJ's view possesses persuasive rather than binding authority. The analysed case thus exposes both the fragility of the contemporary British constitution and a growing uncertainty about the legitimacy and extent of its territorial sovereignty.

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 (hereafter the Chagos Agreement, 2025), signed on 22 May 2025 and pending ratification, has implications extending far beyond the Indian Ocean. The issue raises constitutional questions regarding the balance between parliamentary sovereignty and prerogative power in foreign affairs. Furthermore, it has been argued that the matter tests the reliability of the United Kingdom within its closest defence partnership with the United States. In addition, the issue may reshape the legal and political landscape for other British Overseas Territories (BOTs), including the Falkland Islands, Gibraltar, and the Sovereign Base Areas in Cyprus.

Methodologically, the paper combines doctrinal legal analysis with strategic assessment. The legal component examines the compatibility of the Chagos Agreement with constitutional norms and international law. The strategic component evaluates the consequences for Britain's defence relationships, particularly under AUKUS and Five Eyes. Taken together, these perspectives inform the central hypothesis that contemporary British foreign policy may be exhibiting a growing tendency to prioritise ideologically motivated considerations of historical redress ahead of traditional strategic calculations.

1. *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965 (Advisory Opinion)*. ICJ Reports 2019, International Court of Justice 2019.

2. *Resolution 73/295: Advisory Opinion of the International Court of Justice on the Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, United Nations General Assembly 2019.

## Methodological and Theoretical Framework

This study adopts a combined doctrinal legal analysis and strategic assessment to analyse both the juridical and geopolitical dimensions of the 2025 Chagos Agreement. Its aim is not only to establish what the law states regarding the cession of the Archipelago, but also to evaluate how this act reshapes the United Kingdom's constitutional and strategic posture. Law and strategy are treated as interdependent fields of state authority.<sup>3</sup>

The doctrinal analysis, based on the examination of primary legal instruments, is conducted on three levels. Firstly, the constitutional authority under which the Foreign Secretary concluded a treaty that altered the territorial extent of the realm without prior statutory approval is evaluated. Secondly, it assesses the implications of treating a non-binding advisory opinion as the basis for a sovereignty transfer. Thirdly, the rights of the Chagossians are considered in the context of the principle of self-determination as outlined in Article 1 of the UN Charter<sup>4</sup> and "Resolution 1514 (XV): Declaration on the Granting of Independence to Colonial Countries and Peoples."<sup>5</sup>

The fundamental supposition is that the Chagos Agreement represents a prerogative-based sovereignty transfer, whereby executive discretion supplanted both parliamentary endorsement and the consent of the displaced population. This prompts inquiries into the constitutional propriety of the act, given the long-standing requirement that any alteration to the territorial status of the realm necessitates legislative oversight. The present research explores the tension between the Crown's prerogative in foreign affairs and parliamentary sovereignty. This issue has been sharpened by the post-Brexit reassertion of executive autonomy.<sup>6</sup>

The strategic dimension draws on governmental white papers, such as the "Integrated Review Refresh,"<sup>7</sup> to assess how the loss of sovereignty affects Britain's ability to project power and maintain alliance credibility in the Indo-Pacific. This approach aligns with concerns raised in the House of Commons Defence Committee's report on UK defence posture in the Indo-Pacific.<sup>8</sup> This strategic analysis also employs process tracing to connect the legal act of cession with observable changes in alliance behaviour and operational planning. It assesses three dependent variables: (1) the degree of operational autonomy retained by the UK and US at Diego Garcia; (2) reactions within AUKUS and Five Eyes; and (3) the effect of the UK's justification for cession on its strategic credibility. Treating sovereignty as both legal status and practical capability allows for a multidimensional assessment of the analysed Agreement.

3. P. Biskup, *Britain's Global Strategy: Multiple Priorities vs. Limited Resources*, "PISM Strategic File", 2024, Vol. 1, No. 135, PISM; P. Biskup, *Cession of the Chagos Islands Having Wider Ramifications for British Security Policy*, "PISM Bulletin", 2024, Vol. 163, No. 2471, PISM; L. Freedman, *Strategy: A History*, Oxford University Press 2013.

4. *Charter of the United Nations*, United Nations 1945.

5. *Resolution 1514 (XV): Declaration on the Granting of Independence to Colonial Countries and Peoples*, United Nations General Assembly 1960.

6. See: *R (on the application of Miller) (Appellant) v The Prime Minister (Respondent)*, Case UKSC/2019/0192, The Supreme Court of the United Kingdom 2019, <https://supremecourt.uk/cases/uksc-2019-0192>, (access 20.11.2025).

7. *Integrated Review Refresh 2023: Responding to a More Contested and Volatile World*, HM Government, Cabinet Office 2023.

8. *UK Defence and the Indo-Pacific*, Eleventh Report of Session 2022–23, House of Commons Defence Committee, HC 183, 24 October 2023, House of Commons 2023, <https://publications.parliament.uk/pa/cm5803/cmselect/cmdfence/183/report.html>, (access 20.11.2025).

The theoretical framework rests on distinguishing binding legal obligation from political compliance. The 2019 ICJ Advisory Opinion,<sup>9</sup> issued under Article 65 of the ICJ's Statute, possesses persuasive but not binding authority. By voluntarily treating it as dispositive, the UK government blurred the boundary between soft law and binding obligation, effectively imposing a duty upon itself.<sup>10</sup> This form of normative self-binding reflects a broader trend in which states internalise moral narratives of decolonisation, thereby constraining their future policy options. In the context of British constitutional theory, this phenomenon corresponds to a transition from a territorial to a functional conception of sovereignty. Historically, British governments have defended overseas territories as integral to their global strategy; however, contemporary policymakers increasingly regard them as a burden of historical imperial injustice.

The study has two limitations. First, it focuses on sovereignty and strategic implications rather than environmental or human-rights litigation concerning resettlement. Second, it excludes classified operational details of Diego Garcia. Nonetheless, the combined legal-strategic method clarifies the constitutional status of advisory opinions and the real-world consequences of Britain's reinterpretation of its international obligations.

## Literature Review

The doctrinal component is based on the Chagos Agreement,<sup>11</sup> the accompanying "Explanatory Memorandum,"<sup>12</sup> and the 2019 ICJ "Advisory Opinion on the Chagos Archipelago."<sup>13</sup> These are analysed alongside earlier precedents, such as the 1960 Cyprus Treaties, the 1982 Falklands framework, and the 1997 Hong Kong handover, to identify continuity and departure in the management of Britain's overseas territories.

In the academic and analytical literature, the legal status of the Chagos Archipelago and the implications of the 2019 ICJ Advisory Opinion are analysed in several works. Laura Jeffery, writing from an anthropological perspective, highlights the Opinion's focus on historic displacement and its non-binding character,<sup>14</sup> while Besfort T. Rrecaj provides a doctrinal reading that stresses the Court's conclusions on self-determination and the illegality of the 1965 separation.<sup>15</sup> Both reaffirm that advisory opinions lack binding force. Broader doctrinal literature on advisory opinions and UN General Assembly resolutions similarly treats them as persuasive rather than binding, reinforcing the claim that the UK's response to the Opinion reflected political rather than legal compulsion.<sup>16</sup>

9. *Legal Consequences of the Separation of...*, op. cit.

10. Y.Y. Zhu, et al., *The Chagos Debacle: A Critique of the British Government's Shifting Rationales*, Policy Exchange 2025, [https://policyexchange.org.uk/wp-content/uploads/THE-CHAGOS-DEBACLE-A-CRITIQUE-OF-THE-BRITISH-GOVERNMENTS-SHIFTING-RATIONALES\\_.pdf](https://policyexchange.org.uk/wp-content/uploads/THE-CHAGOS-DEBACLE-A-CRITIQUE-OF-THE-BRITISH-GOVERNMENTS-SHIFTING-RATIONALES_.pdf), (access 20.11.2025); A. Hadfield, R.G. Whitman, *The diplomacy of 'Global Britain': settling, safeguarding and seeking status*, "International Politics", 2023, DOI: [10.1057/s41311-023-00489-x](https://doi.org/10.1057/s41311-023-00489-x).

11. *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*, Foreign, Commonwealth and Development Office 2025.

12. *Explanatory Memorandum to the Chagos Archipelago Agreement*, HM Government, Foreign, Commonwealth and Development Office 2025.

13. *Legal Consequences of the Separation of...*, op. cit.

14. L. Jeffery, *The International Court of Justice: Advisory Opinion on the Chagos Archipelago*, "Anthropology Today", 2019, Vol. 35, Issue 3, pp. 24–27, DOI: [10.1111/1467-8322.12508](https://doi.org/10.1111/1467-8322.12508).

The Chagos case also fits within scholarship concerning British Overseas Territories. Ian Hendry and Susan Dickson offer the leading analysis of BOT constitutional arrangements, against which the Chagos Agreement's use of prerogative treaty-making appears unusual.<sup>17</sup> Matthew C. Benwell and Alasdair Pinkerton emphasise the strategic and symbolic role of the territories, particularly in the context of Brexit.<sup>18</sup> Martin Welz conceptualises Chagos as a site where competing orders, i.e., human rights, rule of law, and foreign rule, produce divergent interpretations of decolonisation.<sup>19</sup> Collectively, these works show that Chagos sovereignty engages overlapping regimes of security, rights, and decolonisation rather than narrow legal doctrine.

Strategic analyses locate Diego Garcia within wider patterns of US-UK power projection. Robert D. Kaplan identifies the Indian Ocean as central to contemporary security competition, with Diego Garcia as a key logistics hub.<sup>20</sup> UK strategy documents, including the Integrated Review<sup>21</sup> and the "Indo-Pacific tilt," frame the region as central to "Global Britain," yet do not address how transferring sovereignty over one of Britain's few permanent bases aligns with aspirations for long-term regional presence. Benwell and Pinkerton highlight gaps between Britain's strategic ambition and limited capabilities.<sup>22</sup> This paper extends that argument by framing the Chagos Agreement as not only strategic retrenchment but also a shift towards moral symbolism. Welz's account of competing normative orders informs the tension between alliance expectations (AUKUS, Five Eyes) and the UK's self-presentation as a decolonising state.<sup>23</sup>

Sarah E. Stockwell examines how decolonisation discourse increasingly has been shaping British diplomacy,<sup>24</sup> while Christopher Hill analyses how external moral claims influence constitutional understandings of legitimacy.<sup>25</sup> Comparisons with Australian and New Zealand reconciliation frameworks<sup>26</sup> position Britain as an outlier in the sense that the UK externalises moral responsibility through territorial divestment rather than internal constitutional reform.

15. B.T. Rrecaj, *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, "Utrecht Journal of International and European Law", 2020, Vol. 35, Issue 1, pp. 50–55, DOI: [10.5334/ujiel.492](https://doi.org/10.5334/ujiel.492).

16. J. Crawford, *Brownlie's Principles of Public International Law*, 9<sup>th</sup> ed., Oxford University Press 2019; *Legal Consequences of the Separation of...*, op. cit.

17. I. Hendry, S. Dickson, *British Overseas Territories Law*, 2<sup>nd</sup> ed., Hart Publishing 2018.

18. M.C. Benwell, A. Pinkerton, *Brexit and the British Overseas Territories: Changing Perspectives on Security*, "The RUSI Journal", 2016, Vol. 161, Issue 4, pp. 8–14, DOI: [10.1080/03071847.2016.1224489](https://doi.org/10.1080/03071847.2016.1224489).

19. M. Welz, *The Chagos Islands and International Orders: Human Rights, Rule of Law, and Foreign Rule*, "International Relations", 2024, Vol. 38, Issue 4, pp. 447–466, DOI: [10.1177/00471178221136015](https://doi.org/10.1177/00471178221136015).

20. R.D. Kaplan, *Monsoon: The Indian Ocean and the Future of American Power*, Random House 2010.

21. *Global Britain in a Competitive Age: The Integrated Review of Security, Defence, Development and Foreign Policy*, HM Government, Cabinet Office 2021, <https://www.gov.uk/government/publications/global-britain-in-a-competitive-age-the-integrated-review-of->

## Legal Analysis

The 2025 Chagos Agreement constitutes one of the most complex exercises of British treaty-making power in recent decades. It is intended to replace direct British sovereignty over the British Indian Ocean Territory (BIOT) with Mauritian sovereignty, while granting the United Kingdom and the United States a 99-year right to operate military facilities on Diego Garcia.<sup>27</sup> This section analyses the Agreement's legal and financial architecture, the unresolved question of Chagossian self-determination, and the precedent it is likely to create for other British Overseas Territories (BOTs),

a matter that has also been connected to shifts in the UK's broader diplomatic strategy<sup>28</sup> and its Indo-Pacific posture.<sup>29</sup>

The Agreement contains nine operative articles and two annexes. Articles 1–3 establish a Joint Commission with representatives of Mauritius, the UK, and an *ex officio* US liaison, responsible for environmental protection, resettlement, and defence coordination, and operating “wherever possible” by consensus.<sup>30</sup> Although operational control remains with the UK and the US, the design grants Mauritius significant consultative leverage, introducing a system of divided control that contrasts with the previous exclusively Anglo-American framework.<sup>31</sup>

The transfer of sovereignty creates new fiscal obligations for the UK. Under Annex A, the UK establishes a £50 million Chagossian Reintegration Fund for relocation, housing, and vocational training, while Annex B creates an environmental remediation program with open-ended costs covering decontamination and conservation. The accompanying Explanatory Memorandum estimates transitional expenditures at approximately £120 million over ten years.<sup>32</sup> In addition, the UK retains liability for claims linked to historic displacement and potential environmental harm.<sup>33</sup> These provisions represent what could be called “sovereign responsibility without sovereign right”, i.e., the settlement preserves UK responsibilities while removing sovereign authority over the territory.<sup>34</sup>

The route selected for the Agreement is constitutionally significant. In contrast to the 1997 Hong Kong handover, which was ultimately underpinned by a statute, the Chagos settlement relies on the royal prerogative rather than primary legislation to alter territorial jurisdiction.<sup>35</sup> Notwithstanding the fact that the Agreement is subject to the “Constitutional Reform and Governance Act 2010” (CRAG),<sup>36</sup> it received no substantive parliamentary vote. This prompts further inquiries into whether CRAG offers sufficient safeguards when treaties result in alterations to the territorial extent of the realm.<sup>37</sup> In this sense, the Agreement contributes to what might be termed “executive-treaty sovereignty,” whereby major constitutional changes are implemented through international agreements concluded under prerogative authority rather than through explicit parliamentary endorsement.<sup>38</sup>

At the core of the legal controversy lies the unresolved issue of self-determination. Between 1968 and 1973, approximately 1,500 Chagossians were forcibly relocated from the islands to Mauritius, the Seychelles, and the UK to make way for the military base's secret construction and ensuing operation.<sup>39</sup> While the injustice of this displacement has been acknowledged by courts and interna-

[security-defence-development-and-foreign-policy](#), (access 20.11.2025).

22. M.C. Benwell, A. Pinkerton, *Brexit and the British...*, op. cit., pp. 8–14.

23. M. Welz, *The Chagos Islands...*, op. cit., pp. 447–466.

24. S.E. Stockwell, *Britain and decolonization in an era of global change*, in: *The Oxford Handbook of the Ends of Empire*, eds. M. Thomas, A.S. Thompson, Oxford University Press 2017, pp. 65–84.

25. C. Hill, *Debating Britain's role in the world: from decolonisation to Brexit*, “International Relations”, 2023, DOI: [10.1057/s41311-023-00454-8](https://doi.org/10.1057/s41311-023-00454-8).

26. *Strategic Intentions 2024–2028: New Zealand's Indo-Pacific Strategy*, MFAT, Government of New Zealand 2024, <https://www.mfat.govt.nz/assets/About-us-Corporate/MFAT-strategies-and-frameworks/Strategic-Intentions-2024-2028.pdf>, (access 20.11.2025); *Navigating a Shifting World: Pacific Resilience and Partnership Framework*, MFAT, Government of New Zealand 2023, <https://www.mfat.govt.nz/assets/About-us-Corporate/MFAT-strategies-and-frameworks/MFATs-2023-Strategic-Foreign-Policy-Assessment>, (access 20.11.2025); *Uluru Statement from the Heart*, Government of Australia 2017, <https://ulurustatement.org/the-statement/view-the-statement>, (access 20.11.2025); *He Whakaputanga me te Tiriti: The Decla-*

tional bodies, the remedy for it has largely remained at the discretion of the British executive.<sup>40</sup> The 2025 Agreement provides for “voluntary resettlement” under Mauritian jurisdiction; however, it does not restore this community’s pre-1965 status or provide meaningful self-government.

Under the UN Charter and Resolution 1514 (XV), the principle of self-determination shall be applied in the first instance to the peoples of non-self-governing territories rather than to metropolitan or successor states.<sup>41</sup> By negotiating solely with Mauritius, the UK government treated the issue primarily as an inter-state dispute rather than a question of the irrevocable rights of the Chagossian community. The Chagossians were not represented in the negotiations and were not offered a referendum, in contrast to the self-determination plebiscite held in the Falkland Islands in 2013 and in Gibraltar in 2002.<sup>42</sup> The UK and Mauritius effectively replaced one form of externally imposed authority over the Chagossians with another by equating decolonisation with the transfer of sovereignty to Mauritius.<sup>43</sup> As Przemysław Biskup contends, the Agreement risks falling short of the decolonisation standards it rhetorically claims to uphold.<sup>44</sup>

The Policy Exchange Report<sup>45</sup> argues that the absence of direct Chagossian representation erodes the legitimacy of the settlement. As Welz indicates, resettlement under Mauritian jurisdiction may engender uncertainty regarding Chagossians’ citizenship, property rights, and access to British consular protection.<sup>46</sup> A more coherent alternative, which has been the subject of much discussion in the legal literature, would have been the recognition of the Archipelago as a self-governing BOT under continued British sovereignty, combining self-determination with strategic continuity.<sup>47</sup> The rejection of such options indicates a strong preference of the Starmer government for symbolic alignment with international opinion, a tendency also noted in studies of “Global Britain” diplomacy.<sup>48</sup>

The 2025 Agreement also has implications for other BOTs. Three cases are frequently highlighted in the literature: the Falklands, Gibraltar, and the Sovereign Base Areas (SBAs) in Cyprus.<sup>49</sup> Commentators argue that Argentina, Spain, and Cyprus, respectively, are likely to present the Chagos case as evidence that the UK is now prepared, under certain conditions, to treat non-binding international opinions and decolonisation rhetoric as sufficient grounds for revising British sovereignty over these disputed territories.<sup>50</sup> In the context of international law theory, such arguments gain practical force from Britain’s own behaviour and may complicate the UK’s efforts to present its positions on the self-determination of the Falklands and Gibraltar as principled and consistent.

*ration and the Treaty*, Waitangi Tribunal, Government of New Zealand 2014, [https://forms.justice.govt.nz/search/Documents/WT/wt\\_DOC\\_85648980](https://forms.justice.govt.nz/search/Documents/WT/wt_DOC_85648980), (access 20.11.2025).

27. *Agreement between the Government of the...*, op. cit.

28. A. Hadfield, R.G. Whitman, *The diplomacy of...*, op. cit.

29. *Hansard Parliamentary Debates*, 10 February 2025: Statement by the Secretary of State for Foreign, Commonwealth and Development Affairs on the Chagos Agreement, House of Commons, The Stationery Office 2025; *UK Defence and the Indo-Pacific*, op. cit.

30. *Explanatory Memorandum to the Chagos...*, op. cit.

31. M. Welz, *The Chagos Islands...*, op. cit., pp. 447–466.

32. *Agreement between the Government of the...*, op. cit.

33. M. Welz, *The Chagos Islands...*, op. cit., pp. 447–466; L. Jeffery, *The International Court...*, op. cit., pp. 24–27.

34. Y.Y. Zhu, et al., *The Chagos Debacle...*, op. cit.

35. *R (on the application of Miller)...*, op. cit.; I. Hendry, S. Dickson, *British Overseas Territories...*, op. cit.; *Constitu-*

For the Falklands, the risk is that the UK's acceptance of an ICJ Advisory Opinion concerning the British Indian Ocean Territory (i.e., the Chagos Archipelago) could be portrayed as implicitly prioritising territorial integrity over the expressed wishes of local populations, even though the contexts of these two BOTs differ markedly.<sup>51</sup> In the case of Gibraltar, Spain may plausibly argue that if strategic necessity was insufficient to preserve sovereignty over Diego Garcia, similar claims about the indispensability of Gibraltar are open to challenge.<sup>52</sup> The most analogous structural arrangement is that of the SBAs in Cyprus, which, as retained under the 1960 "Treaty Concerning the Establishment of the Republic of Cyprus" (Treaty of Nicosia),<sup>53</sup> are regarded as fully sovereign British territory whilst being embedded within a complex regional settlement.<sup>54</sup> The Chagos Island precedent may encourage calls in Cyprus for analogous arrangements that recognise greater local influence over British military facilities.

At the constitutional level, the Chagos Agreement thus signals a shift towards viewing sovereignty as a negotiable asset rather than a permanent feature. Historically, substantial changes to the territorial extent of the British realm have been underpinned by statute and framed as exceptional moments in constitutional development.<sup>55</sup> By relying solely on prerogative-based treaty-making to give effect to the transfer of sovereignty regarding the Chagos Archipelago, the British government has set a precedent for altering territorial jurisdiction without clear parliamentary consent.<sup>56</sup> When combined with the decision voluntarily to treat a non-binding advisory opinion as if it created a binding obligation, this approach entrenches a model of concessionary diplomacy that may encourage future moral or diplomatic claims to be framed as constitutional imperatives.<sup>57</sup>

The strategic consequences of the Chagos Agreement are most evident in the sphere of UK-US defence cooperation. Since the 1970s, Diego Garcia has been one of the most important nodes in the US global network and a key element of Anglo-American military integration. Among others, it supported operations during both interventions in Iraq, in Afghanistan, and currently during Indo-Pacific deterrence missions. Under BIOT sovereignty, the United States and the United Kingdom enjoyed exceptional legal certainty and exclusivity over its use.

The Agreement is set to fundamentally change this foundation. By recognising Mauritian sovereignty and granting the UK and US only lease-type rights, the Agreement introduces a third sovereign actor into what used to be a strictly bilateral system. Although operational control of the

*tional Arrangements for the Use of Armed Force*, 2<sup>nd</sup> Report of Session 2013–14, House of Lords Constitution Committee, HL 46 House of Lords 2013.

36. *Constitutional Reform and Governance Act 2010*, c. 25, United Kingdom 2010, <https://www.legislation.gov.uk/id/ukpga/2010/25>, (access 20.11.2025).

37. L. Gibson, *Treaty-making and parliamentary scrutiny: recent developments*, House of Commons Library Research Briefing 2024, <https://researchbriefings.files.parliament.uk/documents/CBP-10116/CBP-10116.pdf>, (access 20.11.2025); M. Elliott, R. Thomas, *Public Law*, Oxford University Press 2021.

38. L. Gibson, *Treaty-making and parliamentary...*, op. cit.; R (on the application of Miller)..., op. cit.; A. Tomkins, *Public Law*, Oxford University Press 2017.

39. L. Jeffery, *The International Court...*, op. cit., pp. 24–27.

40. B.T. Rrecaj, *Legal Consequences of...*, op. cit., pp. 50–55; *Chagos Islanders v. the United Kingdom*, Application No. 35622/04, European Court of Human Rights 2012, <https://hudoc.echr.coe.int/fre#%22itemid%22:%22001-115714%22>}, (access 20.11.2025).

41. M. Weller, B. Metzger, N. Johnson, *Settling Self-Determination Disputes: Complex Power-Sharing in Theory and Practice*, Brill 2008; *Resolution 1514*

## Strategic Implications

Diego Garcia base is to remain American, the new legal framework will depend on Mauritian continued consent and UK management within a trilateral structure. As a result, the new arrangement also complicates, if not undermines, the 1966 UK-US Defence Agreement, which was predicated on British sovereignty. With this assumption removed, continuity rests on successor clauses and political assurances rather than clear statutory authority. Any dispute with Mauritius, e.g., over environmental management, resettlement, or jurisdiction, could expose the base to litigation in international forums, undermining the secrecy and flexibility essential to its strategic value.<sup>58</sup>

Consequently, from a US perspective, the Agreement introduces uncertainty into one of its most dependable overseas facilities. Despite formal expressions of support, American officials regard Mauritian involvement as a potential vulnerability, particularly if this country shifts alignment under external diplomatic or economic pressures. The decision also affects the UK's credibility within the broader Anglosphere security system. Under AUKUS, the UK is a technological and industrial partner contributing, among others, to the joint nuclear submarine program. Yet, by relinquishing sovereignty over its most strategically important Indian Ocean asset, the UK provokes perceptions of inconsistency with its ambitions of "Global Britain." Australian and US analysts have described the Agreement as a sign of strategic caution out of step with AUKUS's long-term posture, echoing concerns about the status-seeking but under-resourced character of British diplomacy.<sup>59</sup> Moreover, the Chagos Agreement coincides with, and may potentially harm, implementation of the newly forged UK-US Technology Prosperity Deal, which would limit the UK's potential for both technological development and economic growth.<sup>60</sup>

Within Five Eyes, operational integration depends on secure and uncontested facilities. Diego Garcia's hybrid jurisdiction may complicate intelligence protocols, particularly in relation to signals intelligence and satellite tracking. Mauritian participation in environmental and administrative oversight of the islands introduces additional confidentiality risks. Once allies perceive a pattern of retrenchment, reassurance becomes both more necessary and more difficult to provide by Britain.<sup>61</sup>

The strengthening of economic relations between China and Mauritius is a matter of particular concern to both the US and Australia. Despite its official non-alignment, there has been a notable increase in Mauritius' integration with Chinese infrastructure, technology, and trade networks. China has long had ambitions to gain direct and indirect leverage over critical nodes in the Indo-Pacific

(XV): Declaration..., op. cit.; Charter of the United Nations, op. cit.

42. I. Hendry, S. Dickson, *British Overseas Territories...*, op. cit.

43. A. Hadfield, R.G. Whitman, *The diplomacy of...*, op. cit.

44. P. Biskup, *Cession of the Chagos...*, op. cit.

45. Y.Y. Zhu, et al., *The Chagos Debacle...*, op. cit.

46. M. Welz, *The Chagos Islands...*, op. cit., pp. 447-466.

47. I. Hendry, S. Dickson, *British Overseas Territories...*, op. cit.

48. A. Hadfield, R.G. Whitman, *The diplomacy of...*, op. cit.

49. I. Hendry, S. Dickson, *British Overseas Territories...*, op. cit.; M.C. Benwell, A. Pinkerton, *Brexit and the British...*, op. cit., pp. 8-14.

50. M. Welz, *The Chagos Islands...*, op. cit., pp. 447-466; M.C. Benwell, A. Pinkerton, *Brexit and the British...*, op. cit., pp. 8-14.

51. K. Dodds, *Stormy Waters: Britain, the Falkland Islands and UK-Argentine Relations*, "International Affairs", 2012, Vol. 88, No. 4, pp. 683-700; K. Dodds, *The Falkland Islands as a "Strategic Gateway": Britain and the South Atlantic Overseas Territories*, "The RUSI Jour-

and has been realising them through the Belt and Road Initiative projects as well as wider regional engagement.<sup>62</sup> In such circumstances, the status of the Diego Garcia base has the potential to become a bargaining instrument shaped by actors external to the UK-US and AUKUS alliances.

**I**n addition to the geopolitical risks associated with the Agreement, there are material and reputational costs to Britain to be considered. The maintenance of a base under a non-sovereign framework necessitates the expansion of legal, environmental, and diplomatic coordination with Mauritius. The United Kingdom is obliged to provide financial support to the Chagosian Reintegration Fund and to initiatives focused on the environment, even though it does not exercise sovereign authority over the installation. From a political standpoint, the cession has the effect of weakening Britain's bargaining position in the Indo-Pacific region. Partners such as India and Japan may view the decision as indicative of the UK's status as a secondary rather than a primary regional stakeholder.<sup>63</sup>

**T**he United Kingdom's cession of the Chagos Archipelago must also be situated within the broader normative and strategic evolution of the Commonwealth. The 2025 Agreement is indicative of a broader transformation in Anglosphere's political culture, in which historical responsibility and moral reconciliation increasingly inform foreign-policy decision-making.<sup>64</sup> This shift is particularly important given the concurrent consolidation of AUKUS as the pivotal element of Indo-Pacific strategy for the UK, Australia, and the United States.<sup>65</sup>

**B**ritain's self-presentation as a technologically advanced and forward-leaning partner within AUKUS<sup>66</sup> is at odds with its 2024 decision to relinquish sovereignty over its strategically most significant Indian Ocean territory. This inconsistency has been noted by Australian strategic commentary, which has highlighted the tension between the rhetoric of "Global Britain" and the willingness to surrender long-standing strategic positions. Indeed, AUKUS presupposes enduring territorial commitments and resilient basing arrangements, while in fact these conditions will inevitably be weakened when sovereignty over the Chagos Islands is replaced by leasehold dependence.<sup>67</sup>

**W**ithin the framework of the Five Eyes intelligence alliance, operational integration is contingent on the presence of secure, stable, and uncontested jurisdictions. The cession introduces a non-aligned state, Mauritius, into the administrative environment of a key intelligence and surveillance node. Notwithstanding Mauritius's current engagement in cooperative endeavours with

nal", 2012, Vol. 157, Issue 6, <https://pure.royalholloway.ac.uk/en/publications/the-falkland-islands-as-a-strategic-gateway-britain-and-the-south>, (access 20.11.2025).

52. P. Gold, *Gibraltar: British or Spanish?*, Routledge 2005.

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55. L. Gibson, *Treaty-making and parliamentary...*, op. cit.

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57. L. Gibson, *Treaty-making and parliamentary...*, op. cit.; C. Hill, *Debating Britain's role...*, op. cit.

58. *Hansard Parliamentary Debates*, op. cit.; *UK Defence and the Indo-Pacific*, op. cit.

59. A. Hadfield, R.G. Whitman, *The diplomacy of...*, op. cit.

60. P. Biskup, P. Markiewicz, *American-British Trade and Technology Partnership: Implications for Poland and the European Union*, "PISM Policy Paper", 2025; *Memorandum of Understanding between the Government of the United States of America and the Government*

## The Commonwealth Dimension

Western partners, its broader regional relationships, including its involvement in the Indian Ocean Rim Association, are set to open new channels for influence from China.<sup>68</sup> Despite the maintenance of legal safeguards, the new arrangement has the potential to influence the reliability of Britain's intelligence-sharing frameworks.<sup>69</sup>

The ramifications for Australia and New Zealand underscore the heterogeneity of Commonwealth trajectories. The discourse within Australia regarding reconciliation, as evidenced by the National Apology (2008), the Uluru Statement from the Heart,<sup>70</sup> and the 2023 constitutional referendum, has effectively integrated moral discourse into the nation's identity. This development, however, has not undermined the government's commitment to enhance sovereign resilience and regional presence.<sup>71</sup> From this perspective, the Chagos cession can be regarded as a form of moral diplomacy that is not necessarily aligned with strategic necessity.

New Zealand, in contrast, offers an alternative model. The Treaty of Waitangi framework<sup>72</sup> established reconciliation as a foundational principle for internal constitutional development. In the realm of foreign policy, New Zealand's emphasis on partnership in the Pacific is complementary to, rather than in conflict with, strategic interests.<sup>73</sup> Conversely, Britain adopts an external approach to moral responsibility, utilising territorial concessions to address historical injustices, as opposed to the constitutional inclusion employed by the United States. This outward-facing moralism positions the UK as an outlier within the Commonwealth and as an actor whose commitment to reconciliation increasingly manifests through the divestment of sovereignty.<sup>74</sup> Whilst this approach may result in the generation of normative capital in the United Nations forum, there is a risk of weakening the structure that formerly underpinned Commonwealth relationships and British influence more broadly. In regions where power projection is contingent on territorial access, moral authority alone is inadequate. The Chagos Agreement thus reveals a widening gap between Britain's rhetorical commitment to global engagement and the practice of its post-Brexit policy.<sup>75</sup>

## Conclusions

The 2025 Chagos Agreement is indicative of the tensions inherent in Britain's post-Brexit foreign policy.<sup>76</sup> On the one hand, the UK articulates global ambitions; on the other, it voluntarily reduces the strategic assets necessary to sustain them.

*of the United Kingdom of Great Britain and Northern Ireland Regarding the Technology Prosperity Deal*, US Government 2025.

61. *UK Defence and the Indo-Pacific*, op. cit.

62. L. Buszynski, *Chinese Naval Strategy, the United States, ASEAN and the South China Sea*, "Security Challenges", 2012, Vol. 8, No. 2, pp. 19–32; J.R. Holmes, T. Yoshihara, A.S. Erickson, *Chinese Naval Strategy in the 21st Century: The Turn to Mahan*, Routledge 2008.

63. A. Hadfield, R.G. Whitman, *The diplomacy of...*, op. cit.; *UK Defence and the Indo-Pacific*, op. cit.

64. J. Szczepański, *The anglosphere as non-contiguous region. Remarks on CANZUK*, "Australian Journal of International Affairs", 2025, Vol. 79, Issue 6, pp. 954–968, DOI: [10.1080/10357718.2025.2505070](https://doi.org/10.1080/10357718.2025.2505070).

65. *Defence Strategic Review 2023*, Australian Department of Defence 2023, <https://www.defence.gov.au/about/reviews-inquiries/defence-strategic-review>, (access 20.11.2025); *UK Defence and the Indo-Pacific*, op. cit.

66. *Memorandum of Understanding between...*, op. cit.; *Strategic Defence*

Legally, the cession was not required. The 2019 ICJ Advisory Opinion exerts persuasive but not binding authority.<sup>77</sup> Furthermore, the ability of the UN General Assembly to impose obligations on member states is not unilateral.<sup>78</sup> Nevertheless, the government treated these instruments as effectively dispositive, reinterpreting a political choice as a juridical necessity.<sup>79</sup> This voluntary internalisation of soft law represents a departure from traditional British constitutional doctrine, which holds that the Crown cannot alter the territorial extent of the realm without statutory authority.<sup>80</sup>

Strategically, the cession reduces British and allied operational autonomy. Diego Garcia's value rests on certainty: the ability to conduct long-range operations from uncontested territory.<sup>81</sup> By converting sovereign territory into leased territory dependent on Mauritian consent, the Agreement introduces political and legal contingencies that complicate the functioning of UK-US basing arrangements.<sup>82</sup> Although the United States retains operational control, the involvement of an additional sovereign actor increases the risk of diplomatic friction, regulatory disputes, or external pressure, particularly given Mauritius's growing economic ties with China.

Within AUKUS, the decision sends mixed signals. The partnership presupposes long-term territorial resilience and a willingness to absorb strategic burdens.<sup>83</sup> Ceding sovereignty over the UK's only major Indian Ocean asset is difficult to reconcile with these expectations. Australia and the United States may also strengthen their perceptions of British strategic inconsistency or limited staying power.<sup>84</sup> Such scepticism matters: AUKUS cooperation depends not only on technological capability but on confidence that each partner can guarantee the stability of forward operating environments. Moral capital may enhance Britain's legitimacy in international fora, but it does not compensate for strategic capacity in a region defined by military competition.<sup>85</sup>

The constitutional implications are equally significant. The fusion of prerogative power and moral reasoning risks creating constitutional drift: major territorial changes can now be framed as ethical imperatives rather than political choices subject to parliamentary scrutiny.<sup>86</sup> The Government's self-binding to a non-binding advisory opinion further entrenches a model in which external normative expectations play an increasingly large role in shaping domestic constitutional practice.

The comparative material from Australia and New Zealand reinforces this interpretation. In both states, moral responsibility is internalised through processes that strengthen democratic par-

*Review 2025: Building Security in an Age of Competition*, HM Government, Ministry of Defence 2025; *Integrated Review Refresh 2023...*, op. cit.; *Global Britain in a Competitive Age...*, op. cit.

67. *Defence Strategic Review 2023*, op. cit.; A. Hadfield, R.G. Whitman, *The diplomacy of...*, op. cit.

68. M. Welz, *The Chagos Islands...*, op. cit., pp. 447–466; L. Buszynski, *Chinese Naval Strategy...*, op. cit., pp. 19–32; J.R. Holmes, T. Yoshihara, A.S. Erickson, *Chinese Naval Strategy...*, op. cit.

69. *UK Defence and the Indo-Pacific*, op. cit.

70. *Uluru Statement from the Heart*, op. cit.

71. *Defence Strategic Review 2023*, op. cit.; S. Maddison, *The Colonial Fantasy: Why White Australia Can't Solve Black Problems*, Allen & Unwin 2019.

72. *He Whakaputanga me te Tiriti...*, op. cit.

73. *Strategic Intentions 2024–2028...*, op. cit.; *Navigating a Shifting World...*, op. cit.

74. A. Hadfield, R.G. Whitman, *The diplomacy of...*, op. cit.; C. Hill, *Debating Britain's role...*, op. cit.

75. *UK Defence and the Indo-Pacific*, op. cit.

participation and constitutional legitimacy.<sup>87</sup> In Britain, by contrast, moral responsibility is externalised: it motivates territorial withdrawal rather than domestic transformation.

The Chagos case, however, has the potential to create a form of “moral trap.” By portraying the act of territorial cession as an act of justice, the UK may encounter greater difficulty in resisting analogous claims in other contexts without appearing inconsistent.<sup>88</sup> While such parallels are legally contestable, they carry rhetorical and diplomatic weight. It is highly probable that Argentina, Spain, and Cyprus will invoke the Chagos Island precedent in future sovereignty debates,<sup>89</sup> thereby complicating the UK’s efforts to maintain its longstanding positions on self-determination.

The treatment of self-determination exacerbates these inconsistencies. The Chagossians, who were historically subjected to displacement, have been marginalised once more in the decision-making process.<sup>90</sup> The Agreement conceptualises decolonisation as an inter-state act rather than a process centred on the rights of the displaced community, diverging from the standards articulated in UN General Assembly Resolution 1514 (XV).<sup>91</sup> A more coherent model would have recognised the Archipelago as a self-governing BOT under continued British sovereignty, aligning self-determination with constitutional stability.<sup>92</sup>

To maintain a coherent global role, it is imperative that Britain articulates a doctrine that reconciles moral responsibility with strategic necessity and constitutional permanence. In the absence of such a framework, the United Kingdom is susceptible to a foreign policy in which significant decisions, whether territorial or otherwise, are defined less by long-term strategic calculation than by the moral narratives through which they are presented. The Chagos settlement, therefore, represents not merely a diplomatic act but a test case for Britain’s future capacity to balance ethical aspirations with geopolitical reality.

76. P. Biskup, *Britain’s Global Strategy...*, op. cit.; P. Biskup, *Cession of the Chagos...*, op. cit.

77. B.T. Rrecaj, *Legal Consequences of...*, op. cit., pp. 50–55; *Legal Consequences of the Separation of...*, op. cit.

78. J. Crawford, *Brownlie’s Principles of Public...*, op. cit.

79. L. Jeffery, *The International Court...*, op. cit., pp. 24–27.

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81. R.D. Kaplan, *Monsoon: The Indian Ocean...*, op. cit.

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83. *Defence Strategic Review 2023*, op. cit.

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85. R.D. Kaplan, *Monsoon: The Indian Ocean...*, op. cit.

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