

False Falklands History at the United Nations

How Argentina misled the UN in 1964 – and still does

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Since the 1960s Falkland Islanders have faced efforts by Argentina to promote its claim to the Falkland Islands – efforts which culminated in the Argentine invasion in 1982. The current “wave” of intense Argentine pressure began with the foundation of an official pressure group inside the Argentine Congress, “Observatorio Parlamentario – Cuestión Malvinas”, in June 2006. That was before Argentina repudiated the 1995 Hydrocarbons Agreement with Britain in March 2007, and more than three years before the resumption of oil drilling around the Falklands in 2010 – the current Argentine activity is not a response to Falklands oil exploration. In 2007 the “Observatorio” distributed grossly erroneous pamphlets on the Falklands to Argentine schools, containing much of the false history Argentina also presents to the United Nations.



(i) Part of the ruins of Port Egmont, where Commodore John Byron claimed the Falklands for Britain in January 1765.

Argentina’s claim is not old

Argentine politicians assert that Argentina’s claim to the Falklands dates back continuously to the 1820s, but **that is untrue**. The Argentine claim was ended by treaty in 1850 (section 6 below), and for 34 years Argentina was silent over the Falklands, during which time several Argentine leaders stated that Argentina had no dispute with Britain. After a brief revival in 1884, the claim was largely dropped till the 1930s, when Senator Alfredo Palacios worked tirelessly to promote it. In 1939 Palacios and others formed the first “Malvinas lobby”,¹ to take advantage of Britain’s difficulties during the Second World War. By 1946 the Falklands claim had become official Argentine policy under President Perón.

Argentina at the United Nations – Resolution 2065

From 1945 Argentina made a very brief mention of its claim at the United Nations every year for 20 years but did little else. The new stridency dates from 9 September 1964, when Argentina’s UN representative, José María Ruda, made an 8,000-word speech to UN Sub-Committee III,² which was

part of the UN Decolonisation Committee (the “Committee of 24” or “C24”), and was charged with determining if the Falklands were subject to the United Nation decolonisation process as laid down in UN Resolution 1514 (XV) of 1960 (section 11 below). His speech purported to recount the history of the islands and of Argentina’s claim, but it was riddled with errors and gave a profoundly false account of history. Nevertheless Ruda’s speech ultimately resulted in the passing of Resolution 2065 by the UN General Assembly in 1965 (see page 2 below).

Repeated untruths at the UN

This brief paper examines the historical assertions made by Argentina at the UN, which have remained largely unchanged since José María Ruda’s presentation in 1964. His speech would be hard to beat for sheer concentrated inaccuracy. Among many others, he made the following untrue assertions, some repeatedly – the number in brackets at right indicates how many times he stated each one:

1. That Spain made an express reservation of its sovereignty in the treaty of 22 January 1771 which ended the crisis caused by Spain’s peacetime attack on the British establishment at Port Egmont in 1770; (6)
2. That Argentina put a governor in the Falklands in 1823; (1)
3. That Britain expelled the Argentine population from the Falklands in 1833; (5)
4. That the Argentine inhabitants resisted the British “invaders”; (2)
5. That Britain replaced the Argentine inhabitants with British subjects; (2)
6. That there has been no international agreement to confirm Britain’s possession of the Falklands; (1)
7. That Argentina has never accepted Britain’s possession of the Falklands; (3)
8. That Argentina has never ceased to protest at Britain’s possession of the Falklands; (6)
9. That Argentina’s claim is imprescriptible, i.e. eternal unless freely given up; (2)
10. That the present Falkland Islanders are a temporary population; (2)
11. That Britain’s possession of the Falklands violates the territorial integrity of Argentina; (4)
12. That Britain seized South Georgia and the South Sandwich Islands by force from Argentina. (2)

All those assertions are untrue.

Altogether José María Ruda’s speech contained dozens of historical errors, some of them repeated several times, of

¹ “Junta de Recuperación de las Malvinas” [“Society for Recovery of the Malvinas”], founded in Buenos Aires on 19 October 1939.

² Sub-Committee III was chaired by Carlos María Velázquez, Uruguayan Ambassador to the UN and an active supporter of Argentina’s claim to the Falklands. It was largely with encouragement from Velázquez that Argentina expanded its activities at the UN over its Falklands claim (this was stated by

Argentine diplomat Dr Lucio García del Solar at a seminar entitled “The Role of the Falkland Islanders in the Dispute Over Sovereignty with the Argentine Republic” at St. Antony’s College, Oxford, on 25 May 1993). Velázquez’s support enabled Argentina to pursue its territorial ambitions under the guise of decolonisation.

which the ones listed above were only the most important.¹ Despite its total historical inaccuracy, his speech marked the beginning of Argentina's new campaign to get the Falkland Islands. The following year, 1965, Argentina's new UN representative, Bonifacio Del Carril, stated untruths nos. 7 and 8 once each, and no. 11 three times, in a speech leading up to the passing of Resolution 2065 on 16 December 1965.

Since then, Argentina has repeated these untruths many times before the C24 – for example, on 24 June 2010 the new Argentine foreign minister Héctor Timerman stated nos. 3, 5 and 8 three times each, no. 11 four times, and nos. 7 and 9 once each; a year later on 21 June 2011 he stated nos. 3, 5 and 7 twice each, and nos. 8, 9 and 11 once each.

Resolution 2065 (XX),² 16 December 1965

Resolution 2065 simply invited Britain and Argentina to negotiate over the future of the Falklands, in accordance with the UN Charter and the “interests” of the Falkland Islanders; it delivered no verdict on the merits of either country's claim to the islands. The resolution's text did not refer to the islanders' “wishes” (the basis for all genuine decolonisation); Argentina says that this was to exclude the principle of self-determination, claiming that Britain “expelled the Argentine population” in 1833 and that a population that replaced an “expelled population” should not have self-determination. However, the claim that Britain expelled the Argentine population is untrue (section 3 below), so the resolution was obtained by misleading the UN.

The demand that outsiders (Argentina and Britain) should decide the islanders' “interests” for them is vital for Argentina, but absurd; it cannot be in the interests of a people to be ruled against their wishes. In any case, the wording of Resolution 2065 does not exclude self-determination.

Resolution 2065 prescribed no result for the negotiations – the outcome might have been a decision to refer the case to the International Court of Justice, or a decision for Argentina to drop its claim, or a decision to give the islands independence, or for them to become associated with Britain under UN Resolution 1541 (XV) of 15 December 1960, or any other peaceful solution. In the end it was Argentina that flouted the resolution by invading the islands in 1982.

Since the Falklands War Argentina has continued to press its claim at the UN; every year it presents much the same untrue account of the islands' history and calls upon Britain to “respect” Resolution 2065 and enter into negotiations on sovereignty – always aiming at a handover of the islands to Argentina, though that is not mentioned in Resolution 2065. But since 1994, when the claim to the Falklands was enshrined in the Argentine constitution, that has become the only solution acceptable to Argentina.

Britain's and Argentina's claims

Britain's case is threefold: it consists of an extremely strong historical claim; a political claim, since the Falkland Islanders clearly wish to remain British; and continuity of administration by Britain for almost 180 years.

¹ As well as the untruths listed above, some of the other errors were: that Britain “took” St. Helena in 1815 (it was 1659); that the USS *Lexington* visited the Falklands in May 1831 (it was December); that knowledge of the existence of the Falklands was uncertain in Britain until the mid-18th century (it was not); that 17th and 18th century Anglo-Spanish treaties excluded Britain from the Falklands (they did not); and that in 1820 David Jewett announced that Argentine fishing regulations would apply in the islands (he did not).

² The Roman numeral in brackets is the UN session number. All UN details in this paper are from the UN website.

Argentina has no political claim since the islanders are not clamouring to join Argentina, and – though Argentinians have sometimes pretended otherwise – there is no such thing in international law as a territorial claim based on contiguity (geographical nearness). The fact that Argentina now possesses the coast opposite the Falklands is irrelevant.

So Argentina's case is exclusively historical – and as this paper demonstrates, the history which provides the only basis for the Argentine claim is false, since it consists of the repeated untruths listed above and examined in detail below.

The truth in each of those cases is as follows:

1. Spain did not make an express reservation of its sovereignty in the treaty of 22 January 1771 which ended the crisis caused by Spain's peacetime attack on Port Egmont in 1770. Both Britain and Spain reserved their sovereignty in that treaty.

An early draft version of the treaty read that “nothing can diminish the Spanish King's prior right of sovereignty” over the Falklands, but Britain would not accept that wording. The final text said that the return of Port Egmont to Britain:

... cannot nor ought in any wise to affect the question of prior right of sovereignty of the Malouine Islands, otherwise called Falkland.³

That statement left the respective claims of **both** countries exactly as they had been before the Spanish seizure of Port Egmont. It did not specifically reserve Spanish rights, although many writers have wrongly asserted that it did.

2. Argentina did not put a governor in the Falklands in 1823.

Ruda stated in 1964 to the UN decolonisation committee: “In 1823 the Government of Buenos Aires designated Don Pablo Areguati Governor of the Malvinas Islands.” **That is untrue.** The truth is that Jorge Pacheco, an Argentine veteran of the war of independence, who was owed money by the Argentine government, and his business partner Louis Vernet (1791-1871), a Buenos Aires merchant,⁴ decided on an investment in the Falklands. On 18 December 1823 Pacheco applied to the Buenos Aires government for a small grant of land in the islands and for their employee Pablo Areguati to be given the rank of unpaid “commander”. The request for land was granted, but **not** the appointment of Areguati.⁵

Areguati landed with a few gauchos on 2 February 1824 at Port Louis, site of the penal settlement in the Falklands abandoned in 1811 by the Spaniards. His letter to Pacheco of 12 February (**figure ii**) describes the expedition's dire state:

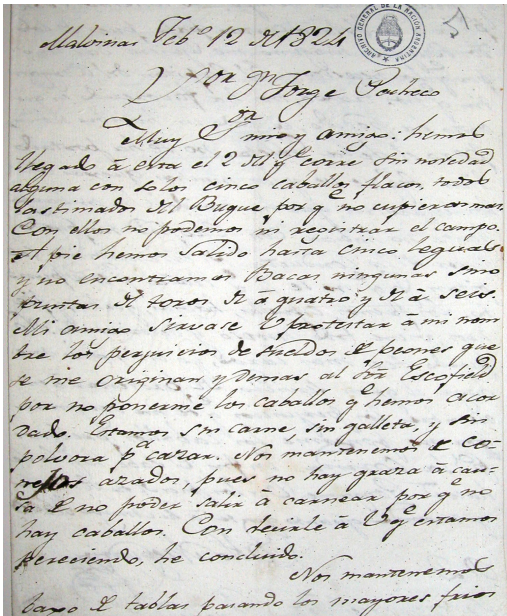
We are without meat, without ship's biscuits, and without gunpowder for hunting. We support ourselves on roasted rabbits, because there is no fat meat since we cannot go out to slaughter as there are no horses. I have resolved to tell you that we are perishing.⁶

³ Public Record Office (PRO), London, FO 6 501 (early translation of folio 14 *recto*: “ne doit nullement affecter la question du droit antérieur de souveraineté des Iles Malouïnes, autrement dites Falkland”).

⁴ Vernet was of French Huguenot (Protestant) origin and was born in Hamburg, where his grandparents had settled having fled from France to escape religious persecution.

⁵ The documentation can be seen in the Argentine National Archives, Archivo General de la Nación (AGN), Buenos Aires, Sala [room] VII, legajos [files] 127 and 129. In August 1823 Pacheco had obtained permission from Buenos Aires to exploit East Falkland.

⁶ AGN Sala VII, 129, doc. 51 (**fig. ii**, end): “Estamos sin carne, sin galleta, y sin polvora p^a cazar. Nos mantenemos d^e conejos azados,



(ii) “We are perishing”: page 1 of Pablo Areguati’s letter of 12 February 1824 describing the grim state of the 1824 expedition. (AGN, Buenos Aires, Sala VII, legajo [file] 129, documento 51)

The venture quickly collapsed, but not before it had clashed with the British ship *Adeona*, whose captain threatened to denounce it for piracy to the British government.¹ Areguati left the Falklands in the expedition’s ship *Fenwick* on 7 June, reaching Buenos Aires on 2 July 1824.²

Ruda stated in 1964 that the expedition “only prospered partially”, but in fact it was a total failure. The *Fenwick* sailed from Port Louis without foreman Aniceto Oviedo and seven gauchos, who finally managed to leave on 24 July in the British sealing cutter *Susannah Anne*.³ They reached Buenos Aires on 12 August 1824 and were paid off the next day.⁴

Louis Vernet and all the other investors in that expedition lost their money. From the time of the departure of Oviedo and the last gauchos, there was no one from Argentina in the Falklands for two years until June 1826, when Vernet arrived with a second expedition to recover his lost investment. He refounded the settlement at Port Louis and thus gave Argentina a claim to the islands.

3. Britain did not expel the Argentine population from the Falklands in 1833. In fact Britain did its best to persuade genuine residents to stay.

In August 1832 the British government ordered the Admiralty to arrange annual visits to the Falklands by “one of His Majesty’s ships”.⁵ There was no intention to occupy the islands permanently, as British policy at that time opposed further commitments overseas. The yearly visits were to maintain British rights in the Falklands and to forestall any threat to British trade routes to the Pacific – the government was worried by American activity in the Falklands.

pues no hay graza à causa d^e no poder salir à carnear por q^e no hay caballos. Con decirle à V q^e estamos pereciendo, he concluido.”

¹ Letter in German, 8 April 1824, from Emilio Vernet at Port Louis to his brother Louis Vernet, AGN Sala VII, legajo 132, doc. 8.

² Areguati never referred to himself as governor, nor by any other official rank. This is confirmed by Argentine historian Mario Tesler in “Gobernadores que nunca fueron” [“Governors Who Never Were”], *Clarín*, Buenos Aires, 6 June 1974.

³ AGN Sala III, Capitanía del Puerto, legajo 17.

⁴ AGN Sala VII, legajo 127, doc. 33.

⁵ PRO FO 6 499, fols. 166 recto - 166 verso; 168 recto - 169 recto.

That American activity was a visit to the islands by the corvette USS *Lexington* over the New Year 1831-2, plus a build-up of US warships at Rio de Janeiro. The *Lexington*’s captain, Silas Duncan, had sailed to the islands in fulfilment of orders to protect US shipping following the seizure of three American ships, *Harriet*, *Breakwater* and *Superior*, by Louis Vernet, who had accused their captains of “illegally” taking seals in the islands. But no country accepted any authority from Buenos Aires in the Falklands, nor Vernet’s authority to capture ships, and the Americans had been catching seals in the Falklands for about 60 years. Vernet had taken the *Harriet* to Buenos Aires, hoping to be awarded it as a prize.

So Captain Duncan sailed the *Lexington* to Port Louis, spiked Vernet’s guns, burnt the gunpowder and smashed the small arms, thus preventing the settlement from endangering US ships again. He took 7 men prisoner who had taken part in the seizure of the *Harriet*, and persuaded some 40 of the inhabitants to leave the islands, but he did not destroy the settlement (as wrongly asserted by José María Ruda in 1964). When the *Lexington* left Port Louis on 22 January 1832 there were still some 25 inhabitants there, mostly gauchos.

The American intervention led the British government to order annual visits by Royal Navy ships to the Falklands. The first was by the corvette HMS *Clio*, which arrived at Port Louis in January 1833. Her captain, John James Onslow, had been ordered to command any “foreign force” to leave, but not to molest any civilian inhabitants – his orders stated:

... you are not to disturb them in their agricultural or other inoffensive employments.⁶

Onslow was in fact very anxious that they should stay – he states in his report:⁷

I had great trouble to Persuade 12 of the Gauchos to remain on the Settlement, otherwise cattle could not have been caught, and the advantages of refreshments to the shipping must have ceased.

Later in his report Onslow states:

I regretted to observe a bad spirit existed amongst the Gauchos, they appeared dissatisfied with their wages... The whole of the inhabitants requested me to move the government in their favour for grants of land.

The gauchos were dissatisfied because they were being paid in worthless paper “currency” printed by Louis Vernet, which they could only use to buy over-priced goods at Vernet’s own store, instead of silver coins, which they could spend as they liked. Most were seriously in debt to Vernet.

The only group Onslow did expel was a 26-man Argentine garrison (with their 11 women and 8 children) that had come in the armed schooner *Sarandí* as an Argentine response to the visit by the *Lexington*. They arrived on 6 October 1832 and left on 4 January 1833, so they had been there for less than three months. Moreover, the British ambassador in Buenos Aires had made an official diplomatic protest to Argentina when he heard of their departure for the Falklands.⁸

They had not exactly been peaceful – on 30 November 1832 some of them mutinied, brutally murdered their commanding officer, Major Esteban Mestivier, plundered the settlement and terrorised the civilian population, eight of whom sought refuge aboard the British schooner *Rapid*.

⁶ Admiralty orders to Onslow, PRO Adm 1/2276.

⁷ Onslow’s report, PRO Adm 1/2276.

⁸ PRO FO 6 499, fols. 195 recto to 196 recto.

The only residents who left in January 1833 were:

Joaquín Acuña and his partner Juana
Mateo González and his partner Marica

Acuña was Brazilian and González Uruguayan;¹ both were gauchos who freely chose to leave, taking their women with them. All four of them had probably only arrived in the islands on 15 July 1831, since the only women listed in Vernet's accounts, apart from some black slaves, arrived from Montevideo in the British vessel *Elbe* on that date (together with some 20 other gauchos).² So it is likely that the two women, like their menfolk, were not Argentinian (although the sovereignty of Uruguay was not finally decided until many years later). They had been in the Falklands less than 18 months, and left despite Onslow's invitation to stay. They were not expelled; Britain expelled only the mutinous, murderous Argentine garrison. The civilian residents stayed; most were from Argentina, and all were recent – in January 1833 only two of the men that had arrived with Vernet in June 1826 were still there, and both of them stayed on.³

Nine mutineers left in the *Rapid* in irons; the rest of the garrison left in the *Sarandí*, whose commander José María Pinedo listed all those who left (**fig. iii**); he calls Acuña and González "Individuals from the island", confirming that they were genuine residents. He also lists three "foreigners", José Viel, Juan Quedy and Francisco Ferreyra, and one "prisoner", Máximo Warnes, who were clearly not genuine residents.⁴

Pinedo also wrote a report describing his visit to the Falklands, in which he confirms that genuine residents were invited to stay – he states that Onslow's orders were that:

...those inhabitants who freely wished it should remain and both they and their property would be respected as before...⁵

That those who left did so freely is also made clear in a letter to Louis Vernet dictated at Port Louis by the head gaucho, the illiterate Jean Simon:

... Command^r Pinedo told the people that anyone who wished to go to B^s ays., he would take him, and he took some gauchos...⁶

Jean Simon's letter was first printed in Buenos Aires in 1967,⁷ so from then on it was public knowledge in Argentina that Britain had not expelled the population of the Falklands.

¹ From their respective affidavits, AGN Sala VII, legajo 136.

² AGN Sala VII, legajo 127, doc 33.

³ They were Jean Simon, a French gaucho, later Vernet's gaucho foreman, one of the 5 men murdered at Port Louis on 26 August 1833 (page 5), and Manuel Coronel, who lived on in the Falklands until his death on 5 November 1841 (Jane Cameron National Archives (JCNA), Stanley, volume H1). Coronel had been a member of the failed 1824 expedition (section 2); he and one other gaucho from that first expedition, Aniceto Oviedo, returned to the islands with Vernet in 1826. Oviedo is not heard of again; Coronel left the Falklands in 1827 for a while, but later returned.

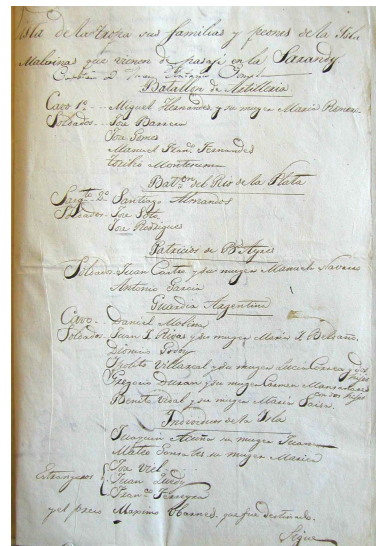
⁴ AGN Sala III, legajo 1320. List also published in Ernesto J. Fitte, *La Agresión Norteamericana a Las Islas Malvinas*, Buenos Aires 1963, pp. 372-373, and in Mario Tesler, *El Gaucho Antonio Rivero*, Buenos Aires 1971, pp. 235-237.

⁵ From Pinedo's report made aboard the schooner *Sarandí* on 16 January 1833 after returning to Buenos Aires, AGN Sala VII, legajo 60, p. 22: "los habitantes que quisiesen voluntariamente quedar, que serian respetados ellos y sus propiedades como anteriormente...".

⁶ Jean Simon's letter to Vernet, 2 April 1833 (dictated at Port Louis to Ventura Pasos, who was from Buenos Aires), AGN VII, 130, doc. 62 fol. 1 recto: "... el Comand^{te} Pinedo dixo á la gente q^e el q^e quisiera ir p^a B^s ays. q^e lo llevara y llevo alg^s peones...".

⁷ In [Anon.], *El Episodio Ocurrido en Puerto de la Soledad de Malvinas el 26 de Agosto de 1833...*, Buenos Aires 1967, 122-128.

After the *Sarandí* had left there were still two dozen inhabitants at Port Louis, mostly gauchos and mostly from what is now Argentina. Captain Onslow had two meetings with the gauchos, on 5 January aboard the *Clio* and on 7 January in the "big room" of the main house; he arranged that they were to work for four months for Louis Vernet, and if Vernet did not return or send a representative, they could then work on their own account.⁸ Onslow sailed again on 10 January 1833, leaving the British flag in the charge of Vernet's British storekeeper William Dickson,⁹ but he left no other official British presence in the islands – in fact nobody from the *Clio* (or the *Tyne*, for which see p. 5) stayed on in the Falklands at all.



iii) Only the garrison was expelled: the first page of the list of those who left the Falklands in January 1833, made by José María Pinedo, 16 January 1833. (AGN Sala III, doc. 1320)

All this shows that **the genuine inhabitants were not expelled**. In fact they appear to have looked forward to an improvement in their situation under the British flag.

So the Argentine claim that Britain expelled the Argentine population from the Falklands in 1833 is false.

The inhabitants carried on working at Port Louis, and indeed sent a full cargo of produce from the islands to Buenos Aires aboard the British schooner *Rapid* in April 1833. Some of those inhabitants lived on in the islands for many years after 1833: the gauchos Santiago López, Manuel Coronel and Antonina Roxa are recorded working there for an absent Louis Vernet in 1835;¹⁰ Antonina Roxa later leased and ran a large estate and died in Stanley in 1869.¹¹

Carmelita Penny, one of Louis Vernet's black slaves,¹² died in Stanley in 1845, and all her three sons were still in the Falklands in 1851.¹³ In 1858 the British Government paid one of her sons, José Simon, £550 in settlement of Louis Vernet's debts to José's father Jean Simon,¹⁴ who in August 1833 had been murdered with four others by some gauchos in a dispute

⁸ Jean Simon's dictated letter to Louis Vernet, fol. 2 verso.

⁹ Dickson came from Dublin, Ireland, then part of Britain.

¹⁰ AGN Sala VII, 130, doc. 104.

¹¹ Register of Deaths and Register of Burials, in JCNA, Stanley.

¹² Slavery had been illegal in Argentina since 1812, but it effectively continued under other names. Vernet's slaves were technically "indentured labourers". They had been taken from captured slaving vessels, and were put under indentures (indissoluble contracts) to work without pay for fixed periods, usually ten years. Vernet had paid their captors in order to obtain them.

¹³ Falklands Census 1851, in JCNA.

¹⁴ Governor Moore's letter, 13 Dec 1858, in JCNA, B10, 443-44.

over pay (section 4). The last of those who remained in the Falklands in 1833, Gregoria Parry, another of Vernet's black slaves, died in Stanley in 1871.¹

Argentina has always omitted to mention that Louis Vernet, who was born in Hamburg of Huguenot descent, did not want Argentinians as settlers; he came to regard them as unsuitable for the rigours involved. Instead of Argentinians, he brought in settlers of North European stock. The only Argentinians he saw as useful to his enterprise were gauchos, whose skill at hunting the wild cattle was essential. These gauchos were genuine residents, but to Vernet they were just employees, not settlers; most were single men.

Vernet's settlement at Port Louis contained three groups of people: settlers (mainly German); gauchos (from Argentina and Uruguay, including some Charrúa Indians captured in the wars with the native population), and black slaves, of whom Vernet purchased 30 in 1828; by 1832 only 17 remained.

All the people to whom Vernet planned to sell land were from Europe or North America;² none was from Argentina. He also expected them to bring in more North Europeans.

All the European settlers were persuaded to leave in the USS *Lexington* in January 1832,³ together with all but three of Vernet's black slaves. The *Lexington* also took away as prisoners 6 gauchos and Vernet's British employee Mathew Brisbane, who had all been involved in seizing the *Harriet*.

So it was not Britain that removed the settlers in 1833 but the United States in 1832, a year before HMS *Clio* arrived to reassert British sovereignty. The Americans did not take the rest of the gauchos away. Most were still there when the *Clio* arrived, and Britain actively encouraged them to stay.

The action of the *Lexington* led to a breach in diplomatic relations between Argentina and the US that lasted almost 12 years until 1844.⁴ It also badly affected Vernet's operation, though that still continued. For many years Vernet tried to get compensation from the United States, but the US always rejected his claims on the grounds that he had had no right to seize American ships. In 1839, in a case over insurance on the seized ships, the US Supreme Court ruled Vernet's action to have been illegal (and hence that the loss was to be borne by the insurers) after the US government had informed the Court that the Falklands were not "any part of the dominions within the sovereignty of the government of Buenos Ayres".⁵

Bonifacio del Carril, who had replaced Ruda as Argentina's UN representative, said something at the UN in 1965 that went unnoticed at the time. He omitted most of the bogus history that Ruda had used a year before, but he made one important admission – he said Britain had "expelled the garrison" from the islands. That shows that in 1965 Argentina did know the truth. Nevertheless, recent Argentine statements at the UN have repeated Ruda's untruth no. 3, that Britain "expelled the Argentine population".

¹ Death certificate 11 April 1871, in JCNA.

² AGN Sala VII, 129, doc. 119.

³ The German families of Schmidt, Klein and Feuser (14 people in all) left, plus a single German (Sperl), a single English-speaker (Knight) and a Spanish-speaking family of 3 – they are listed in the log of the *Lexington*, in US National Archives, Washington DC, RG 24, E. 118, Pt 123. The Grossi family (3 people), of Genoese origin, left then too, posting a notice on their house saying how glad they were to go. Vernet had contracted them as fishermen.

⁴ William R. Manning, *Diplomatic Correspondence of the United States: Inter-American Affairs 1831-1860*, vol. I, Washington 1932, p. 22, footnote.

⁵ Charles Williams v. Suffolk Insurance Co., 38 U.S. 415 (1839).

4. The Argentine inhabitants did not resist the British "invaders".

In his speech in 1964 José María Ruda stated that Britain's actions in the Falklands in January 1833 had been "against the will of its inhabitants". **That is untrue.** The truth was established by a Spanish-speaking British colonel, Belford Hinton Wilson, who had played a notable part in the South American independence movement – he had assisted Simón Bolívar and had been thanked in Bolívar's will. Wilson had been appointed British ambassador to Peru, and visited the Falklands aboard a British ship, HMS *Tyne*, which arrived on 14 January 1833 (four days after the *Clio* left), and spent four days at Port Louis. Wilson spoke in Spanish to the gauchos, who told him Captain Onslow had paid them in silver for beef, whereas Vernet had paid them in his worthless paper "currency". Wilson reported to the British government:

These Gauchos would cheerfully remain on the Island under any Englishman whom the Government may please to appoint...⁶

The resident gauchos had been through the chaos caused by the *Lexington* and by the mutinous and murderous Argentine garrison. They were heavily in debt to Vernet and looked forward to peace and good pay under British authority. Sadly though, neither the *Clio* nor the *Tyne* left anyone there to ensure this; for exactly a year (10 January 1833 to 10 January 1834) there was no official British presence in the islands. Instead, Louis Vernet's leading employee Mathew Brisbane (a Scot) and Don Ventura Pasos (an Argentinian) returned there on 3 March 1833, together with a new British secretary, Thomas Helsby. They re-established Vernet's business with all its abuses, particularly the use of his worthless paper currency, and proceeded to run the settlement on his behalf just as before.

The gauchos despaired of obtaining fair pay, or escaping from their debts, and on 26 August 1833 eight of them, led by the gaucho Antonio Rivero, murdered five of the leading inhabitants: Mathew Brisbane, Ventura Pasos, the head gaucho Jean Simon (of French origin), William Dickson (an Irishman) and Anton Vaihinger (a German).⁷ In his speech in 1964, Ruda referred to "the rest of the settlers who resisted the invaders", and some Argentine authors still state that the murderers were "resisting" Britain,⁸ but the victims were representatives of Vernet and hence Argentina, not Britain – Ventura Pasos was a nephew of Juan José Pasos, one of Argentina's rulers after independence, and a distant relative by marriage to Vernet. He was Argentinian through and through; the fact that he was murdered shows that there was no anti-British uprising.

The murderers are regarded as common criminals by such major Argentine historians as Ernesto Fitte, Arnoldo Canclini, Humberto Burzio, Ricardo Caillet-Bois, Laurio Destéfani, Armando Alonso Piñeiro, and Juan José Cresto. Louis Vernet too regarded the murderers as mere criminals.

Several British sailors who were in the Falklands at the time had provided the murderers with ammunition the night before, and so were arrested on suspicion of complicity in the murders. They were lucky to be exonerated later. They were

⁶ From Wilson's report, in PRO CO 78/1, fols. 212-213.

⁷ Thomas Helsby was British but was spared by the murderers, probably because he was a new arrival and not one of Vernet's former employees.

⁸ For example in the grossly erroneous new book for Argentine schools, *Malvinas en la historia: Una perspectiva suramericana*, published by the University of Lanús, Buenos Aires 2011, p. 123.

not harmed by the murderers, who wanted to escape to Patagonia, for which they needed the British sailors' help.

In all the extensive archive documentation of the time, which includes eyewitness affidavits, there is not even a hint that the murderers acted for political motives against Britain. In fact the Buenos Aires newspaper *Gaceta Mercantil*, on 30 April 1834, described the "vile" murders without the slightest suggestion that they were politically motivated, or directed against Britain. The paper saw them simply as appalling crimes.

So it is entirely untrue to say that the residents of the Falklands resisted the British in any way.

The idea that the murderers had carried out an anti-British uprising was only launched in 1956 by Argentine author Martiniano Leguizamon Pondal, in his book *Toponimia Criolla en las Islas Malvinas*.¹ He claimed that the murderers had torn down the British flag and raised the Argentine flag in its place – but Pondal had made that up himself; all the evidence suggests that nothing of the kind happened. He describes Antonio Rivero and his group of murderers as "patriots" who "held" the islands for three months on behalf of Buenos Aires, but all that is pure fiction.

At long last a British naval lieutenant, Henry Smith, and a boat's crew of four men were landed from HMS *Challenger* and stationed at Port Louis in January 1834 – exactly a year after HMS *Clio* had left. Six marines from HMS *Challenger* were left there temporarily while the murderers were at large.

Smith did his best to catch the murderers, but only managed to arrest them after Antonio Rivero had betrayed his comrades in the hope of a pardon for himself.² They were all then sent to Britain for trial.³

¹ Pondal's book *Toponimia Criolla en las Islas Malvinas* ["Native South American Place-Names in the Malvinas Islands"], Buenos Aires, 1956, is mainly about place names in the Falklands, but he "embellished" it with some patriotic myths which he had invented.

² Antonio Rivero's betrayal of his companions is recorded in Lt. Henry Smith's journal (PRO Adm 1/42): he wrote on 27 January 1834: "9.30 arrived a gaucho of the name of Santiago Lopez ... with a message from Antonio Rivero the principal of the murderers saying if I would promise him pardon... he would give up the horses and himself and assist in capturing the others." The murderers had taken all 53 tame horses from the settlement, preventing Smith and his men from following them. Smith tried unsuccessfully to catch the men, but eventually, on 6 March 1834, made contact with Rivero. As Smith later wrote in a letter: "...he [Rivero] determined the following morning to betray his companions, and deliver the horses (fifty three) being his turn to take care of them, which he accordingly did, and the four Indians seeing the course things had taken, surrendered" (letter by Smith to Rear-Admiral Sir Michael Seymour, 30 June 1834, PRO Adm 1/42, doc. 12). Smith wrote in his own journal: "Friday 7th [March 1834] ... the Marines with Santiago came in with all the horses[,] Antonio Riveiro having betrayed them into their hands".

³ In Britain the government consulted the Crown's law officers (the Advocate-General, Attorney-General and Solicitor-General), who were of course members of that government. They advised against a prosecution, so no trial took place. Argentine authors have suggested that this was because the territory where the crimes were committed was not British. That was not the reason; to the law officers, the Falklands were unquestionably British territory. The critical legal question was the status of the men themselves. At that time English law allowed British subjects, but not foreigners, to be tried in England for murder committed anywhere in the world outside Britain. The British government believed the murderers had become British subjects by staying in the Falklands after Captain Onslow had re-asserted British sovereignty, and the law officers appear to have agreed: they stated that the men could be tried, and that the

5. Britain did not replace the Argentine inhabitants with British subjects.

In 1964 José María Ruda asserted at the UN that the Argentine inhabitants of the Falklands were:

... ousted... and fluctuating groups of nationals of the occupying power supplanted them.

And in 2010 Argentine foreign minister Timerman said:

The usurper world power expelled the Argentine population, replacing it with its own subjects... this transplanted British population... cannot hold the right to self-determination...

As pointed out in section 3, Britain did not expel the genuine Argentine inhabitants but persuaded them to stay.

In fact there have been Argentinians in the islands at most times. As well as those who stayed on in January 1833, some arrived from Buenos Aires in the *Rapid* in March 1833 after the *Clio* and *Tyne* had left, including Ventura Pasos (page 5); Governor Richard Moody's secretary Murrell Robinson took two Argentine gauchos to the Falklands in 1843, and some 150 gauchos later arrived in three merchant ships from Montevideo: the *Paloma* in 1846 and the *Napoleon* and the *Vigilante* in 1847.⁴ The men had been hired by Samuel Fisher Lafone, a British businessman based in Montevideo who had a concession on East Falkland.

Argentine historian Hipólito Solari Yrigoyen considered all Lafone's immigrants to be Argentinian,⁵ but that is incorrect. Though no passenger list survives for the *Paloma*, there are lists for the other two ships. The list for the *Vigilante* gives Spanish names for 14 gauchos and 4 boys, without specifying nationalities. But the list for the *Napoleon* gives the names and nationalities of all 104 passengers: among them were 12 Argentine gauchos, plus 4 wives and 1

evidence would be sufficient for a conviction. But they said they thought that in case of a conviction the sentence "could not fitly be carried into execution" (PRO HO 48-30, Case 5, fols. 22-23). They gave no reasons, though the men's nationality was certainly a major issue. The British public would have seen them as highly exotic and anything but British, and a trial of such men would have attracted huge interest; three of the four were Indians whom the government itself described as "nearly approaching Savages". If convicted they would have been publicly hanged, and the spectacle of the British government hanging "savages" would have been highly embarrassing. In addition, the Tory opposition would have criticised the Whig government's failure to post a representative of the King in the islands, which had led to anarchy and the murder of five men who were entitled to the King's protection. So the men were taken to Montevideo in 1835 and simply released.

In 1966 Pondal announced that he had found Rivero's name on the Argentine casualty list for the battle against the British and French at the Vuelta de Obligado in 1845. Rivero is a very common name and it is unlikely to have been the same man, but the myth of the Gaucho Rivero as a heroic anti-British warrior grew from then on. On 5 April 1982 during the Argentine occupation of the Falklands the ruling military junta renamed the islands' capital, Stanley, "Puerto Rivero" in his honour. But two Argentine historians, Admiral Laurio Destéfani and Armando Alonso Piñeiro, told the junta that Rivero was a mere murderer, so on 21 April the name was changed to "Puerto Argentino". Recently the myth of the Gaucho Rivero as an anti-British hero has taken on a new lease of life as a name for laws banning ships engaged in oil exploration or fishing in Falklands waters from Argentine ports, and President Cristina de Kirchner has publicly mentioned the Gaucho Rivero as a hero in her references to Argentina's claim to the Falklands.

⁴ Falklands Shipping Record, in JCNA, 1846 (entries 21, 22) and 1847 (entries 10, 16).

⁵ Hipólito Solari Yrigoyen, *Malvinas: lo que no cuentan los ingleses (1833-1982)* ["Malvinas: what the English don't say (1833-1982)"], Buenos Aires 1998, pp. 21-22.

child, making at least 17 Argentine people who went to live and work in the Falklands in 1847.¹

The *Napoleon* also took to the islands 15 Uruguayans, with 6 wives and 3 children, and 24 Spanish men with 4 wives and 2 children. These were clearly immigrants into the River Plate area, and would have been intending to work in either Uruguay or Argentina. There were also 16 men born in France, with 2 wives and one child, 3 Brazilians, 1 German with his wife, and 6 British with 1 wife and 2 children.

By 1851 only 78 of those people remained,² but at least one family (Llamosa, listed on the *Napoleon* as Spanish) still has descendants in the Falklands today (with other surnames).

Argentiniens were never prohibited from living in the Falklands, but hardly any wanted to.

More importantly, most of the people who went to live in the Falklands arrived under their own steam without involving Britain at all. For example, Andrez Pitaluga from Gibraltar, whose family was originally from Genoa in Italy, landed in 1838 aged only 16; Jacob Goss arrived in 1842 also aged 16; James and Mary Watson arrived in 1840; Johannes Henricksen, a German-speaking Finn, arrived in the 1880s and had eleven children in the islands. Some arrived by shipwreck, including the Swede Frans Theodor Rylander (who swam ashore from the sinking barque *Colonsay* in 1860 and changed his name to Frank Theodore Rowlands), and the Dane Karl Hansen, who rowed ashore from the sinking German ship *Concordia* in 1860. **All those people still have descendants in the Falklands today (including some with other surnames).**

In the 1840s, the Falklands were open for immigration like the whole of the New World, including of course Argentina, where the native population was largely slaughtered to make way for European settlers.³

Immigration into the Falklands was not restricted to Britons; anyone could go. In fact the largest single group who went were the 150 people mentioned above, from Argentina, Uruguay, France, Britain and elsewhere, who were sent by Samuel Fisher Lafone.

Only a small proportion of the present population are descended from British people taken to the islands by Britain – only one man stayed from Governor Moody's garrison that arrived in 1842 (James Biggs, ancestor of the Biggs family, now in their 9th generation in the islands), and around seven from the 30 men of the 1849 garrison (some with their families); those garrisons were all of volunteers sent for fixed periods, most of whom left again. A couple of dozen British people also arrived in the 1860s on passages subsidised by Britain, after Argentina had dropped its claim by the Convention of Settlement (section 6), but most of them left again too.

¹ These were: Silverio Ponce, wife & child, Santiago Morales & wife, Cipriano Gomez & wife, Rumaldo Martinez & wife, Cirilo Almeida, José B Alvarez, Andres Zledal; Claudio Ramirez, Sebastian Rios, Celestino Gomez, Francisco Brume, and José Ponce. Miscellaneous Documents Volume H8, JCNA, Stanley.

² 1851 census in JCNA.

³ Argentine leaders such as Alberdi, Sarmiento and Avellaneda were keen to attract European immigrants, who were offered special fares and concessions. The Latzina map (section 11) is from a pamphlet aiming to attract immigrants to Argentina. It states that over the 13-year period 1870 to 1882 an average of 42,000 immigrants arrived per year. Argentina's land law no. 1265 of 24 October 1882 divided up territory (mainly captured from the Indians in the "Desert Campaign") and offered it for sale very cheaply. In Patagonia such land was sold to immigrants and others for just 6 shillings a hectare.

By contrast, nearly all the people of the Caribbean islands were implanted by the colonial powers Britain, France, Spain and Holland, replacing exterminated natives. To suggest that they therefore do not now have self-determination in their respective countries would be absurd.

6. There has been an international agreement to confirm Britain's possession of the Falklands.

CONVENTION between Great Britain and the Argentine Confederation, for the Settlement of existing Differences and the re-establishment of Friendship.—Signed at Buenos Ayres, November 24, 1849.

[Ratifications exchanged at Buenos Ayres, May 15, 1850.]

Convention for re-establishing the perfect Relations of Friendship between Her Britannic Majesty and the Argentine Confederation.
HER Majesty the Queen of Great Britain, and his Excellency the Governor and Captain-General of the Province of Buenos Ayres, charged with the foreign relations of the Argentine Confederation, being desirous of putting an end to the existing differences, and of restoring perfect relations of friendship, in

Convencion para restablecer las perfectas Relaciones de Amistad entre la Confederacion Argentina y Su Majestad Británica.

El Exclentísimo Señor Gobernador y Capitan General de la Provincia de Buenos Ayres, encargado de las Relaciones Exteriores de la Confederacion Argentina, y Su Majestad la Reyna de la Gran Bretaña, deseando concluir las diferencias existentes, y restablecer las perfectas relaciones de amistad, en

VII. Under this Convention perfect friendship between Her Britannic Majesty's Government and the Government of the Confederation, is restored to its former state of good understanding and cordiality.

7°. Mediante esta Convencion, queda restablecida la perfecta amistad entre el Gobierno de la Confederacion, y el de Su Majestad Británica, á su anterior estado de buena inteligencia y cordialidad.

(iv) Peace treaty: the Preamble and Article VII of the Convention of Settlement, signed 24 November 1849, ratified 15 May 1850.⁴

The peace treaty known as the **Convention of Settlement** (also called the "Arana-Southern treaty" from the names of its signatories) was signed on 24 November 1849 and ratified by both sides in Buenos Aires on 15 May 1850. It ended a British armed intervention around the River Plate, which had been a failure and had harmed Britain's trade. The treaty was not imposed on Argentina by Britain; the Argentine leader General Juan Manuel Rosas humiliated Britain by prolonging negotiations for nine months (October 1848 to July 1849) until he got everything he saw as important, including recognition of Argentina as a sovereign power in which European powers were no longer to intervene at will, and sovereignty over the River Paraná, which he particularly wanted in order to isolate separatist rebels in Paraguay and Corrientes. Argentine historians generally regard the Convention of Settlement as a triumph of Argentine diplomacy, though some have criticised it for omitting Argentina's claim to the Falklands. In fact Rosas had long regarded Argentina's claim as something that could be traded away in exchange for more direct advantages.⁵

In keeping with that position, the Convention twice states (in the Preamble and Article VII, see **fig. iv**) that it restores "perfect friendship" between Britain and Argentina, which rules out the continuance of any territorial dispute. In addition, both sides regarded it as a peace treaty, and it is a universal principle of international law that in a peace treaty, any territories not mentioned are confirmed by the treaty in the possession of the party that held them when the treaty was

⁴ *British and Foreign State Papers (BFSP) 1848-1849* (printed London 1862), pp. 7 and 10.

⁵ In the 1840s Rosas tried in vain to exchange the Argentine claim to the Falklands for annulment of Argentina's debt to Baring's bank.

signed. That was stated by many 19th-century writers on international law, such as the American jurist Henry Wheaton (1785-1848), who wrote in 1836 that in a peace treaty:

If nothing be said about the conquered country or places, they remain with the conqueror, and his title cannot afterwards be called in question.¹

Argentine authors say Britain conquered the Falklands from Argentina; the Convention of Settlement did not mention the Falklands at all, so it fixed the state of affairs existing in 1850 – **the Falklands were British, by Argentina's agreement.**

Significantly, in July 1849, knowledge of the ongoing negotiations led to the subject of the Falklands being raised in the House of Commons by an MP called Henry Baillie; the Foreign Secretary, Lord Palmerston, knew by then that Argentina was giving clear evidence of accepting Britain's possession of the islands, and in his reply stated that the correspondence between Argentina and Britain

... had ceased by the acquiescence of one party and the maintenance of the other.²

The Argentine ambassador in London, Manuel Moreno (who knew nothing about the proposed treaty) protested against Palmerston's statement. Palmerston's statement was also published in the Buenos Aires press some five weeks before the signing of the treaty,³ so the Falklands were still a topic of public discussion in Argentina. But even though the subject was in the press, there was no reaction from the Argentine government – that shows that its claim to the Falklands was not being simply forgotten; it had been dropped. Palmerston was right: Argentina was acquiescing in Britain's possession of the Falklands. The treaty was signed as originally agreed.

The Convention of Settlement was an international agreement between Britain and Argentina. It was a peace treaty, so by ratifying it in 1850, Argentina accepted that the Falklands were legitimately British and no longer regarded them as Argentine territory.

As a result all tension between Britain and Argentina disappeared, and the Falklands began to develop. From the 1850s onwards ten countries opened consulates in Stanley, which reflected the fact that the dispute had ended: Belgium, Chile, Denmark, France, Italy, Germany, Sweden, Norway (jointly with Sweden till 1900), the United States and Uruguay. Chile and Norway opened their consulates in 1877 and kept them open for many years, Chile till 1959, Norway till 1982. Though opening a consulate does not necessarily indicate *de jure* recognition of sovereignty, it implies *de facto* recognition of it – those governments did not think there was a problem any more. So there was extensive international acceptance of Britain's sovereignty over the islands.

7. Argentina did accept Britain's possession of the Falklands.

After the Convention of Settlement, several Argentine presidents and vice-presidents made official statements that confirmed that there was no dispute with Britain over the Falklands. For example, Vice-President Marcos Paz, opening the Argentine Congress on 1 May 1866, said:

The British Government has accepted the President of the Republic of Chile as arbitrator in the reclamation pending with the Argentine Republic, for damages suffered by English

subjects in 1845. This question, which is the only one between us and the British nation, has not yet been settled.⁴

So, apart from some old private claims by British subjects, there was no dispute between Britain and Argentina – the Convention of Settlement had ended the Falklands dispute.

Furthermore, Argentina published several maps in the 1870s and 1880s that did not show the Falklands as Argentine territory (see section 11 below). After an attempt to reopen the question in 1884, which ended with a last protest on 20 January 1888, Argentina dropped the subject again for several decades, and in 1899-1902 accepted arbitration by Britain in a territorial dispute with Chile, thus recognising Britain as an arbiter over Argentina's territory. **That is incompatible with maintaining a territorial dispute with Britain.**

There is plenty of evidence from historians that the Convention of Settlement ended the Argentine claim to the Falklands. The Mexican diplomat and historian Carlos Pereyra (1871-1942) says that Argentine dictator General Juan Manuel Rosas wanted to purchase the end of Britain's involvement in River Plate affairs by giving up the claim to the Falklands, and Pereyra adds that the effect of the Convention was as if it had an unwritten article stating that "Britain retained the Falkland Islands."⁵

Some Argentine historians agree with Pereyra: Ernesto Fitte criticised the Convention in 1974,⁶ and Alfredo Burnet-Merlín says the Convention's omission of the Falklands was "a concession to Britain or a culpable oversight".⁷

The negative effect of the Convention of Settlement was also mentioned in the Argentine Congress on 19 July 1950 by a Deputy, Absalón Rojas, in a major debate on Argentina's claim to the Falklands. Rojas blamed General Rosas for the loss of the Falklands to Britain, and complained that the restoration of "perfect friendship" between Britain and Argentina without mentioning the Falklands was a serious omission and a weakness in the Argentine claim.⁸

Thus Argentina accepted both by treaty and in top-level statements that the Falklands were British, and ceased to regard them as Argentine territory.

8. Argentina did cease to protest at Britain's possession of the Falklands.

Argentina protested every year without exception for 17 years from 1833 to 1849 against the possession of the Falklands by Britain. The last protest was on 27 December 1849; after the ratification of the Convention of Settlement on 15 May 1850 there were no more protests for 38 years till 1888, and for over a third of a century (1850 to 1884) Argentina did not even mention the Falklands to Britain at all, let alone make a protest. A half-hearted attempt was made

⁴ English translation from *British and Foreign State Papers 1866-1867* (printed London 1871), p. 1009; original in Heraclio Mabrugaña, *Los Mensajes 1810-1910*, Buenos Aires 1910, vol. III, p. 238: "Este mismo gobierno [= el gobierno británico] aceptó por árbitro al Presidente de la República de Chile, sobre perjuicios sufridos por súbditos ingleses en 1845. Aun no se ha resuelto esta cuestión que es la única que con aquella nación subsiste."

⁵ Carlos Pereyra, *Rosas y Thiers. La Diplomacia Europea en el Río de la Plata 1838-1856*, Madrid 1919, pp. 202, 206; new edition Buenos Aires 1944, pp. 217, 222.

⁶ Ernesto J. Fitte, *Crónicas del Atlántico Sur*, Buenos Aires 1974, p. 256.

⁷ Alfredo R. Burnet-Merlín, *Cuando Rosas quiso ser inglés* ["When Rosas wanted to be British"], Buenos Aires, 1974 and 1976, pp. 20-22.

⁸ Text in *Diario de Sesiones de la Cámara de Diputados, Año del Libertador General San Martín, 1950, Tomo II, Período Ordinario, 6 de julio-10 y 11 de agosto*, Buenos Aires 1951, pp. 1095-1096.

¹ Henry Wheaton, *Elements of International Law: with a Sketch of the History of the Science*, London 1836, vol II, p. 288.

² *The Times*, London, Saturday 28 July 1849, p. 2, col. 6.

³ *British Packet and Argentine News (BPAN)*, Buenos Aires 20 October 1849, p. 1, col. 3.

to reopen the question in 1884, when a map was proposed that would show the Falklands as Argentine territory, but on 26 December 1884 Britain protested against it; Argentina accepted that the map would not be official, and after a final protest on 20 January 1888 dropped the subject.

The regularity of the annual Argentine protests up to 1849 emphasises the completeness of the change after the ratification of the Convention of Settlement in 1850.

9. Argentina's claim is not imprescriptible.

The assertion that Argentina's claim is "imprescriptible" is a version of the ancient legal principle *nullum tempus occurrit regi* ["for the king, time does not run"] – the sovereign's (i.e. the government's) claims are eternal unless given up voluntarily. This principle still holds in national law in the United States: the claims of federal authorities against private citizens are permanent, whereas citizens' claims lapse after a set length of time. It is not a workable principle in international law since there is no hierarchy between states, so any state could maintain it against any other state. Nevertheless, Argentina regularly invokes *nullum tempus* in maintaining that the Argentine claim to the Falklands is "imprescriptible", i.e. not weakened by the passage of time. That was stated twice by José María Ruda in 1964; it has been stated by Argentina many times since then, and it was enshrined in the Argentine constitution in 1994.

Any assertion that Argentina's claim is "imprescriptible" actually destroys its basis – if *nullum tempus* were valid in international law, Britain would have a much better claim to the Falklands than Argentina. Britain's rights in the Falklands would go back almost a quarter of a millennium to January 1765 (**fig. i**), and Britain can also show 8 years of occupation from 1766 to 1774 plus almost 180 years of administration since 1834,¹ much more than Argentina can boast.

Any such debate is pointless, of course; there is no such thing as an "imprescriptible" claim in international law.

10. The present Falkland Islanders are not a "temporary population".

In his 1964 speech, José María Ruda twice asserted that Falkland Islanders are "basically a temporary population". He based his remarks on simple figures of people leaving and arriving in the islands in the previous few years, but those figures included many temporary contract workers arriving and leaving again. In fact the present community of Falkland Islanders has lived uninterruptedly in the islands for over 170 years; some Falklands families have been in the islands for nine generations, and there are many islanders whose families have been there for seven or eight generations.

The Falkland Islanders are the oldest community in the world so far south (apart from a few Patagonian Indians). And for well over a century most of them have arrived in the islands by a short biological route – **they were born there**.

11. Britain's possession of the Falklands does not violate the territorial integrity of Argentina.

In 1964 Ruda stated that the Falklands were "an integral part of Argentine territory" and that Argentina claimed "the restoration of its territorial integrity by means of the return of the Malvinas, South Georgias and South Sandwich Islands which were wrested from her by force by the United Kingdom". And ever since 1964, Argentina has repeatedly asserted at the United Nations that Britain's possession of the

Falklands is a violation of Argentina's territorial integrity. For example, Argentine foreign minister Héctor Timerman stated to the UN decolonisation committee on 24 June 2010:

... the Malvinas Islands, South Georgias and South Sandwich, and the surrounding maritime areas, are an integral part of the Argentine territory unlawfully occupied by the United Kingdom since 1833 by virtue of an act of force.

That assertion seeks to take advantage of Section 6 of UN Resolution 1514 (XV), the Declaration on the Granting of Independence to Colonial Countries and Peoples, passed on 14 December 1960. But that Declaration's Sections 1, 2 and 5 condemn the subjection of peoples against their will, and establish the universal principle of self-determination:

(1) The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of World peace and co-operation.

(2) All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

(5) Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.

Those three statements by the UN General Assembly clearly rule out a takeover of the Falklands by Argentina. Section 5 explicitly calls for the transfer of power to the peoples of non-self-governing territories in accordance with their "freely expressed will and desire"; Britain has been steadily doing that in the Falklands by constitutional changes in 1985, 1997 and 2009. Section 5 makes paramount the "freely expressed will and desire" of the inhabitants and prohibits "any conditions or reservations" – the existence of a territorial dispute is irrelevant.

So Section 6 is the only part of Resolution 1514 that Argentina can use – it states:

(6) Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

To take advantage of that, Ruda stated no less than four times in 1964 that Argentina's territorial integrity was being violated by Britain, and Argentina has repeated this at the United Nations many times since. Argentine UN representative Bonifacio del Carril stated it three times to the decolonisation committee on 9 November 1965, which was followed by the passing of UN Resolution 2065 on 16 December that same year, and Argentine foreign minister Timerman stated it again in 2010 and 2011 (p. 2 above).

But Britain is not "disrupting" or "violating" Argentine territory.

As described above, Argentina accepted in 1850 that the Falklands were no longer Argentine territory, and later confirmed that acceptance many times, in official statements from Argentine leaders and by ceasing all protests on the issue (sections 6, 7 and 8). And up to the mid-1880s Argentine maps did not show the Falklands as Argentine territory.

The most important of those maps was the "1882 Latzina map" illustrated in **fig. (v)** – it was issued by the Argentine

¹ British administration began in January 1834, when HMS *Challenger* left Lieutenant Henry Smith and ten men at Port Louis (section 4).

government of President Roca and foreign minister Bernardo de Irigoyen as part of a campaign to encourage immigration, and its production was supervised by Dr Francisco Latzina (1843-1922), Director of the Argentine National Statistical Office (hence the name “1882 Latzina map”). The map was labelled only in Spanish, but bore on the back a description of Argentina for potential immigrants in five versions (Spanish, English, French, German and Italian). It was financed by the Argentine treasury and 120,000 copies were printed and sent to Argentine consulates worldwide.¹



(v) **Not Argentine territory:** the 1882 Latzina Map, *Mapa Geográfico de la República Argentina...*, Buenos Aires 1882 (detail). The Falklands are marked in a blank beige colour, like Chile or Uruguay but unlike Argentina, which is marked much darker with shaded relief. (The orange lines indicate average temperatures.) It shows that in 1882 Argentina did not consider the Falklands part of its territory.

As can be seen from **fig. (v)**, the map shows Argentina in various shades of orange-brown, with shaded contours, while all areas outside Argentina are shown in plain beige without shading. The Falklands are shown in “non-Argentine” beige, just like Chile and Uruguay, and also like the Beagle Channel islands at the very bottom of the map, over which Chile and Argentina nearly went to war in 1978 but which Argentina accepted in 1985 as non-Argentine territory in an agreement with Chile. In 1977 Chile used the 1882 Latzina map as evidence that Argentina had accepted that the Beagle Channel islands were not Argentine territory² – and the map supplies precisely the same evidence in the case of the Falklands.

The map also shows the coastline opposite the Falklands as Argentinian, which was a new development – part of it had been occupied by Chile, and Chile was only forced to leave by Argentina’s occupation of the Santa Cruz River in 1878, formalised by treaty in 1881. The coast opposite the Falklands was not held by Argentina until Britain had administered the Falklands for almost half a century. In 1833, Argentina had not even occupied all of what is now the Province of Buenos Aires. So any argument that the proximity of the Falklands to the Argentine coast supports Argentina’s sovereignty claim is weak historically, as well as irrelevant in international law.

12. Britain did **not** seize South Georgia and the South Sandwich Islands by force from Argentina.

In his speech in 1964, José María Ruda asserted that Britain had “wrested” South Georgia and the South Sandwich

Islands from Argentina. **That is false; they never were Argentinian.** They lie east of the line laid down by Spain and Portugal in the Treaty of Tordesillas (1494) to divide New World territory between them. By Argentina’s own argument that would make them Portuguese, not Spanish.

Captain James Cook claimed South Georgia for Britain in 1775 and was also the first to sight the South Sandwich Islands. Britain’s claims to them and other Antarctic and sub-Antarctic territories were consolidated in Letters Patent in 1908 and 1917 – without any protest from Argentina, whose attention was drawn to these documents. Argentina expressed no interest in those territories until 1927, when it made a claim to South Georgia and the South Orkneys to the Postal Conference in Berne. Argentina first mentioned a claim to all the Falkland Islands Dependencies in 1937, when it reserved its rights to them following an incidental remark by a British representative to a whaling conference going on at the time. That incidental reservation was not followed by any formal diplomatic claim. Such a claim only began to be firmly pressed by President Perón from 1946 onwards. Britain countered this with several invitations to Argentina to take its claim to the International Court of Justice (ICJ) at The Hague. In 1955, Britain tried to take the case unilaterally to the ICJ, but Argentina refused all such offers.³ In March 1982 Argentine actions on South Georgia led to the Falklands War.

Conclusion

José María Ruda’s many false assertions in 1964 (p. 1) led to Resolution 2065 a year later, calling on Argentina and Britain to negotiate on the future of the Falklands. His two falsehoods that Britain had “expelled the Argentine population” and replaced them by an “implanted population” were a critical part of Argentina’s new campaign to undermine the Falkland Islanders’ right to self-determination. Argentina claims that this was why Resolution 2065 refers only to the islanders’ “interests”, not their “wishes” (the universal basis of self-determination), although nothing in that Resolution rules out self-determination.

Argentina’s repeated calls for Britain to negotiate on the sovereignty of the Falklands under Resolution 2065 are based on false Argentine historical assertions at the UN made each year since Ruda’s speech in 1964. Those assertions have obtained many UN resolutions favourable to Argentina. They have been used similarly in other international forums too, such as the Organization of American States (OAS).

But they are untrue and should not be stated again.

UN Resolution 1514 of 1960 calls for an end to “colonialism in all its forms”, but **that does not mean handing a territory to a new colonial power.** For Britain to negotiate over the heads of the Falkland Islanders and hand their homeland against their wishes to Argentina would be a **most atrocious form of colonialism.** It would perpetuate colonialism rather than eradicate it.

The Argentine claim to the Falkland Islands is based only on history – false history. Since its basis is untrue, that claim is invalid.

Graham Pascoe
Peter Pepper

23 May 2012

¹ Details from “Una Tradición Cartográfica Física y Política de la Argentina, 1838-1882”, by Hernan González Bollo, in *Ciencia Hoy, Revista de Divulgación Científica y Tecnológica de la Asociación Ciencia Hoy*, vol. 8, no. 46, Buenos Aires May/June 1998.

² *International Law Reports* vol. 52, Cambridge 1979, pp. 197-8.

³ Details in this paragraph from *Pleadings, Oral Arguments, Documents: Antarctica Cases (United Kingdom v. Argentina; United Kingdom v. Chile); Orders of March 16th 1956; Removal from the List*, available from the ICJ under <http://www.icj-cij.org>.