

Research Briefing

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International treaties and the Overseas Territories

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|--|----------|
| Summary | 2 |
| 1 Background: The Overseas Territories | 3 |
| 2 Applying treaties to the Territories | 3 |
| 2.1 Power to extend treaties | 3 |
| 2.2 Grounds on which treaties will be extended | 4 |
| 2.3 Encouraging the Territories to sign | 5 |
| 3 Human rights treaties | 6 |
| 3.1 UK Government position | 6 |
| 3.2 European Convention on Human Rights | 7 |
| 3.3 What UN human rights treaties apply? | 7 |
| 4 Environmental treaties | 9 |
| 4.1 UK Government position | 9 |
| 4.2 Climate Change | 9 |
| 4.3 Biodiversity | 10 |

Summary

There are 14 UK Overseas Territories (OTs) across the globe, but only 10 are permanently inhabited by British nationals. The majority of their 270,000 inhabitants are [British citizens](#).

The Territories all have historic links to the UK and with the UK and Crown Dependencies like Jersey [form one undivided realm](#), where the Monarch is sovereign. This means they have no separate representation internationally.

This paper sets out how international treaties and conventions, such as those relating to human rights and the environment, apply to the inhabited OTs.

How are Territories governed?

Each [inhabited Territory has its own constitution](#), UK-appointed Governor, and locally elected parliament or council, though these have varying powers and responsibilities. Generally, the smaller a Territory's population, the more law-making power or policy responsibility the Governor wields.

In most, the [Governor retains responsibility for external affairs, defence, and internal security](#) (such as the police and judiciary), while local governments have responsibility for finance, social policy, and the environment.

Extending treaties and conventions

Treaty-making is a royal prerogative, [meaning that it is exercised by the Crown following ministerial advice](#). It is ultimately for the UK Government to determine whether to ratify treaties and extend them to the OTs.

The Foreign, Commonwealth and Development Office (FCDO) [have issued guidance](#) which states that generally extension takes place only with the consent of the Territory Governments and only once the UK is satisfied the OT can meet any treaty obligations. This is because the UK is responsible for the Territory's adherence and would be challenged in international courts or by other states if the Territory was not observing its duties under a treaty.

The UK Government encourages the extension of treaties to the Territories on [tax and transparency issues](#) and [human rights](#). Sections 3 and 4 set out the treaties and conventions that apply to the inhabited Territories in respect of human rights and the environment. The European Convention on Human Rights [applies to all the inhabited Territories](#) aside from Pitcairn and some governments have [expressed an interest in the Paris Agreement on Climate Change being extended](#) (though it doesn't currently apply to any Territory).

1 Background: The Overseas Territories

There are 14 Overseas Territories (OTs), situated in the Pacific, Caribbean, Atlantic and Indian Oceans and Mediterranean Sea:

| The 14 Overseas Territories | | |
|---|--------------------------------|--|
| Territories permanently inhabited by UK nationals are marked with a * | | |
| Ascension, St Helena, and Tristan da Cunha* | British Indian Ocean Territory | Montserrat* |
| Akrotiri and Dhekelia | British Virgin Islands* | Pitcairn* |
| Anguilla* | Cayman Islands* | South Georgia & the South Sandwich Islands |
| Bermuda* | Falkland Islands* | Turks and Caicos Islands* |
| British Antarctic Territory | Gibraltar* | |

The Commons Library has published further briefings setting out the constitutions of the Territories, their relationship with the European Union, and on thematic and topical issues including environmental issues and LGBT+ rights. These can be found on the Library's [Overseas Territories topic page](#).

2 Applying treaties to the Territories

2.1 Power to extend treaties

As a matter of constitutional law, treaty-making is a royal prerogative, meaning that it is exercised by the UK Crown following ministerial advice.¹

Because of the constitutional position of the OTs, the UK can unilaterally decide to extend treaties to one or all the Territories, and also use an Order in Council or seek an Act of Parliament to pass the necessary implementing laws. As Ian Hendry and Susan Dickson in their book *British OT law* write:

It is open to the UK to apply treaties to (or to withdraw their application from) the territories without consultation with them because the application of treaties falls wholly within the responsibilities of the Government of the United Kingdom [...].²

¹ Commons Library, [The Royal Prerogative](#), August 2017. Sources accessed 23 December 2022

² I. Hendry and S. Dickson, *British OT law*, 2018, p28

Orders in Council are [legal instruments that have the force of law](#), and are made by the Crown through the Privy Council.³

Hendry and Dickson also state that if the UK is required to impose a treaty extension to an OT against the will of the Territory government to comply with an international obligation, “there is nothing to prevent it from doing that.”⁴

The UK instead adheres to its guidance which says treaties are not extended to Territories without the request of the respective government (see below).

2.2 Grounds on which treaties will be extended

Unless expressly authorised by the UK Government, OTs do not become party to treaties in their own right.

The UK must instead extend the ratification of Treaties to them. UK practice is to declare on ratification which, if any, Territories, a treaty applies.

In 2022, the FCDO [set out the conditions on which it will consider extending treaties to the Territories](#), including that:

- The Territory is both willing to accept treaty obligations and, in the view of the UK, able to fulfil them (eg through having required legislation or policies in place).
- The Territory governments are first made aware of any issues and have time to raise concerns with any text. This may include the Territory acting as part of the UK delegation.
- The UK provides a briefing on the concept, perceived benefit, implementing process, and the UK stance on the treaty to the Territory.
- The Territory has formally requested extension (such as through a letter from the Governor).⁵

Of the Overseas Territories, only the Cayman Islands constitution contains a requirement for the Governor to first obtain the agreement of the local cabinet, unless instructed by a Secretary of State, before the Territory agrees to an international agreement, treaty, or instrument.⁶ However, some constitutions, including the British Virgin Islands, allow the Governor to delegate authority for aspects of external affairs to a Minister or Premier.⁷

³ Privy Council Office, [Orders in Council](#)

⁴ Hendry and Dickson, *British OT law*, 2018, p282

⁵ FCDO, [Guidelines on extension of treaties to OTs](#), 18 November 2022

⁶ [Cayman Islands Constitution 2009](#), as amended, Part II, Section 55

⁷ See Commons Library, [The UK OTs and their Governors](#), esp. section 5.3 and 5.4

The UK takes an interest in whether the OTs have the capacity to meet their treaty obligations because it is the UK Government that will be held responsible and required to answer any case in an international court or a complaint from another treaty state that the UK is not adhering to its obligations.⁸

As topics such as social policy, the environment, and human rights are devolved issues, it is the responsibility of Territory governments and parliaments to implement convention duties, and to determine how this is done. The UK Government expects that Territory Governments:

Ensure local law complies with the relevant conventions and court judgements and is non-discriminatory. We expect Territories to take action, including legislating where necessary, in any areas of disparity to reach full compliance.⁹

There are also some specific treaties that apply to the OTs, for example relating to the Caribbean, and it is open to the UK to grant “entrustments” to Territory Governments to cover either general topics or a specific treaty to enable them to begin and conclude negotiations.¹⁰

2.3 Encouraging the Territories to sign

The UK Government states that it cannot compel Territories to request a treaty extension or that all treaties will be applicable to them:

The United Kingdom Government cannot compel Overseas Territories to request extension of any treaty but can and should provide a steer on the importance of a particular treaty and why it might be in their interests to have it extended. Not all treaties will be relevant to every Overseas Territory.¹¹

However, it states that there are some issues on which it will encourage OTs to sign. This includes tax and transparency issues.¹² The UK Government has also committed to support the implementation of International Labour Organisation (ILO) Conventions and UN Convention Against Corruption.¹³

On human-rights related Treaties, in 2012 the Government said it aims for the Territories to implement UN human rights conventions: see section 3.1.

⁸ Hendry and Dickson, *British OT law*, 2018, p280

⁹ Foreign & Commonwealth Office (FCO) [UK OTs](#), Cm8374, 2018, p53

¹⁰ Hendry and Dickson, *British OT law*, 2018, p283

¹¹ FCDO, [Guidelines on extension of treaties to Overseas Territories](#), 18 November 2022, section 1 (b)

¹² As above

¹³ FCO, [UK OTs](#), Cm8374, 2018, pp60, 70

3 Human rights treaties

3.1 UK Government position

In its 2012 [White Paper on the UK OTs](#), the UK Government set out its aim to ensure the extension of all UN human rights treaties to the Territories by 2013, if Territory Governments had the capacity to meet their duties under them:

The UK Government's longstanding practice in this area is to encourage the Territories to agree to the extension of UN human rights conventions that the UK has ratified, but to extend these to the Territories only when they are ready to apply them. We want to work with all the populated Territories with a view to extending outstanding UN human rights conventions to them by the end of 2013. We will support those Territories that face resource and capacity constraints.¹⁴

It also noted human rights chapters in recent Territory constitutions support the implementation of rights under the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights.¹⁵

For a brief overview and further reading on human rights in the Territories, see section 3.2 of the Commons Library briefing [The OTs: An introduction](#).

In 2007, the UK Government set out an objective for the following seven treaties and conventions to be extended to all Territories:

- European Convention on Human Rights
- International Convention on Civil and Political Rights
- International Convention on Economic, Social and Cultural Rights
- Convention against Torture
- Convention on the Rights of the Child
- Convention on the Elimination of Discrimination against Women
- Convention on the Elimination of all Forms of Racial Discrimination.¹⁶

The follow sections describe how most apply to the majority of OTs.

¹⁴ FCO, [UK OTs](#), Cm 8374, 2012, p52

¹⁵ As above

¹⁶ HC Deb, [British OTs, 11 October 2007](#), C702W

3.2 European Convention on Human Rights

In its 2022 Core Human Rights Document, the UK Government says the European Convention on Human Rights (ECHR) [applies to all ten inhabited Territories aside from Pitcairn](#).¹⁷

In 2010, the UK Government also said that since 1999 every new constitution, at a minimum, reflects the rights set out in the ECHR.¹⁸

3.3 What UN human rights treaties apply?

Note treaties and related policy objectives can be implemented in the Territories regardless of whether they have been formally extended.

Two are extended to all inhabited Territories

- 1965 [Convention on the Elimination of all forms of Racial Discrimination](#)
- 1984 [Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment](#).¹⁹

Convention on Elimination of Discrimination Against Women (CEDAW) applies to seven

The 1979 [CEDAW](#) has been extended to seven inhabited Territories, with the most recent extensions taking place in 2016 and 2017.

It currently applies to: Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falklands Islands, Ascension, St Helena, and Tristan da Cunha, and the Turks and Caicos Islands.²⁰

In 2017, the UK Government set out an ambition “to extend the convention to all” OTs, and in 2019 said work was underway to extend ratification to Montserrat, Pitcairn, and Gibraltar.²¹

¹⁷ UK Ministry of Justice, [Human rights: Common core document](#), updated 19 May 2022; Hendry and Dickson, *British OT law*, p184. Pitcairn’s courts are required to take account of the European Court on Human Rights [under its 2010 constitution](#); Council of Europe, [Reservations and declarations for treaty no.005](#), status as of 24 January 2023

¹⁸ HC Deb, [British Overseas Territory: Equality](#), 17 June 2010, c516W

¹⁹ UK Ministry of Justice, [Human rights: Common core document](#), updated 19 May 2022

²⁰ As above

²¹ Government Equalities Office and Foreign & Commonwealth Office, [UK extends women’s rights protections to Bermuda and St Helena](#), 16 March 2017; UN Committee on the elimination of

UN Convention on the Rights of the Child (UNCRC) apply to all but Gibraltar

The 1989 UNCRC applies to all Territories other than Gibraltar.²²

In 2017, Gibraltar-based Equality Rights Group (ERG) said both Territory and UK Governments were “too slow” in extending the convention to Gibraltar.²³ Speaking in the previous year, a Gibraltar Government spokesman said the “necessary steps” had been taken in Gibraltar in advance of an extension.²⁴

Covenants on political, economic, cultural, and social rights apply to all but Anguilla

The 1966 International [Covenants on Civil and Political Rights](#) and [Economic, Social and Cultural Rights](#) apply to all inhabited OTs other than Anguilla.²⁵

In 2012, the UK Government said Anguilla’s Government was considering an extension of both.²⁶ No updates have been published, but in 2020 the Commonwealth Parliamentary Association British Islands and Mediterranean Group recommended extending the convention covering political rights.²⁷

Convention on the rights of persons with disabilities applies to none

The [UN Convention on the rights of persons with disabilities](#) has not been extended to any OT. In 2022, the Government of Bermuda begun exploring applying the Convention,²⁸ and Gibraltar’s Government says it intends for an extension to take place by October 2023.²⁹

St Helena and the Falklands have also previously expressed interest.³⁰

discrimination against women, [List of issues and questions in relation to the report of the UK \[...\] Replies of the UK](#) (PDF), 18 November 2018, p2

²² UK Ministry of Justice, [Human rights: Common core document](#), updated 19 May 2022

²³ [UK taking too long on Gib’s children’s rights—ERG](#), Gibraltar Chronicle [online] 15 July 2017

²⁴ [ERG presses government on child and gender rights](#), Gibraltar Magazine [online] 1 October 2016

²⁵ UK Ministry of Justice, [Human rights: Common core document](#), updated 19 May 2022

²⁶ FCO, [UK OTs](#), Cm8374, 2018, p51

²⁷ Commonwealth Parliamentary Association British Islands and Mediterranean Region, [Anguilla general election](#) (PDF), 2020, p7

²⁸ Government of Bermuda, [International Day of Persons with disabilities](#), 2 December 2022

²⁹ Gibraltar Parliament Hansard, [Consolidated May 2022](#), May 2022 p15

³⁰ Hendry and Dickson, [British OT law](#), 2018, p185

Human rights treaties applying in specific Territories

Some Territory Governments and human rights commissions have published a list of the conventions and treaties that apply to them:

- Government of Bermuda, [International conventions or treaties](#)
- Cayman Human Rights Commission, [Human Rights Treaties](#)
- St Helena Equality and Human Rights Commission, [Conventions](#)
- Government of the Turks and Caicos Islands, [UN and other international conventions](#)

For some International Labour Organization (ILO) conventions that apply to the inhabited Territories, see the ILO's [country profiles: UK page](#).

4 Environmental treaties

4.1 UK Government position

While the UK participates in many international agreements on climate change and biodiversity, most OTs are not party to these agreements.

In 2014, the Commons Environmental Audit Committee was critical of the UK Government deciding not to extend international agreements to the OTs, but the Government has stressed it will not extend treaties that place on Territories obligations that they do not have the capacity to meet.³¹

4.2 Climate Change

In 1992, the UN Framework Convention on Climate Change (UNFCCC) was adopted. It has the objective of stabilising greenhouse gas levels in the atmosphere at a safe level.³²

Of the Territories, Bermuda, Gibraltar, the Cayman Islands, and the Falklands have had UK ratification of the UN Framework extended to them (to 2022).³³

³¹ [Government response to the Environmental Audit Committee report: Sustainability in the UK OTs](#), March 2014, para 3

³² UN, [What is the UN Framework Convention on climate change?](#)

³³ PQ 135440 [[Climate change convention: British OTs](#)], 15 March 2022

No OT has had the Paris Agreement on climate change extended to them,³⁴ though in the 2021 Joint Ministerial Council between the UK and the Territories, some expressed an interest:

The UK warmly welcomed the ongoing interest from some Overseas Territories in being covered by the Paris Agreement, and confirmed that the UK stands ready to support these Overseas Territories.³⁵

The Paris Agreement was adopted in 2015 and requires ratifying parties to submit plans for climate action, known as nationally determined contributions, with a view to limiting global warming to 2°C.³⁶

In 2022, the UK Government said it would continue to engage with the Territories on the issue.³⁷

4.3

Biodiversity

As described in the Commons Library briefing on [The UK OTs: Climate change and biodiversity](#), the Territories are of great significance to global biodiversity, with extensive marine areas, coral reefs, and unique species.

Convention on Biological Diversity (CBD)

To March 2019, the CBD has been extended to six OTs: The British Virgin Islands, Cayman Islands, Gibraltar, South Georgia & South Sandwich Islands, St Helena, Ascension and Tristan da Cunha, and the Falkland Islands.³⁸

The Convention on International Trade in Endangered Species (CITES)

In 2014, 10 of the 14 Territories had been included in ratification of the Convention, the latest being Anguilla. The UK Government said it was working towards full compliance across all OTs “as soon as possible.”³⁹

Ratification of environmental treaties by the OTs to 2020

The UK Overseas Territories Conservation Forum published a [table on the status of OT ratification or extension of environmental treaties](#) (PDF) in 2020.

³⁴ PQ 135440 [[Climate change convention: British OTs](#)] 15 March 2022

³⁵ FCDO, [UK-OT Joint ministerial council December 2021: Communiqué](#), 18 November 2021

³⁶ UN Climate Change, [Paris Agreement](#)

³⁷ PQ 135439 [[Climate change convention: British OTs](#)], 15 March 2022

³⁸ Convention on Biological Diversity, [UK—main details](#)

³⁹ FCO, [Foreign Secretary extends CITES to Anguilla](#), February 2014

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