

ON THE SCATTERED ISLANDS AND MARITIME DELIMITATION IN THE MOZAMBIQUE CHANNEL: A LEGAL AND GEOSTRATEGIC PERSPECTIVE

SOBRE AS ILHAS ESPARSAS E A DELIMITAÇÃO MARÍTIMA NO CANAL DE MOÇAMBIQUE: UMA PERSPETIVA JURÍDICO- ESTRATÉGICA

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Abstract

This article analyses the legal status and geostrategic relevance of the Scattered Islands in the Mozambique Channel, focusing on the effects on maritime delimitation and sovereignty disputes involving France, Madagascar, Mauritius, and the Comoros. A qualitative and interdisciplinary methodology is adopted, combining geopolitical analysis with a doctrinal and jurisprudential assessment of relevant international legal sources, notably Article 121 of the United Nations Convention on the Law of the Sea (UNCLOS). It adopts a qualitative approach combining geopolitical analysis with a comparative legal assessment of normative sources and international case law, focusing on Article 121 of the United Nations Convention on the Law of the Sea (UNCLOS) and analogous cases (Selvagens and Chagos). The study frames the subject and the relevant literature, assesses the legal nature of the formations (islands/rocks), and applies the applicable criteria to regional scenarios. It concludes that, in the absence of permanent human habitation and of an autonomous economic life, the Scattered Islands tend to qualify as “rocks” within the meaning of Article 121(3). Consequently, they are not entitled to generate an Exclusive Economic Zone (EEZ) or a continental shelf, which limits the projection of maritime jurisdiction. The Chagos precedent further supports an interpretation of the dispute through the lens of territorial integrity and decolonisation.

Keywords: Mozambique channel; Chagos; Decolonisation; Îles Éparses; Selvagens islands; Continental Shelf; EEZ.

Resumo

Este artigo analisa o estatuto jurídico e a relevância geoestratégica das Ilhas Esparsas no Canal de Moçambique, com foco nos efeitos na delimitação marítima e nas disputas de soberania entre França, Madagáscar, Maurícia e Comores. Adota-se uma abordagem qualitativa, combinando

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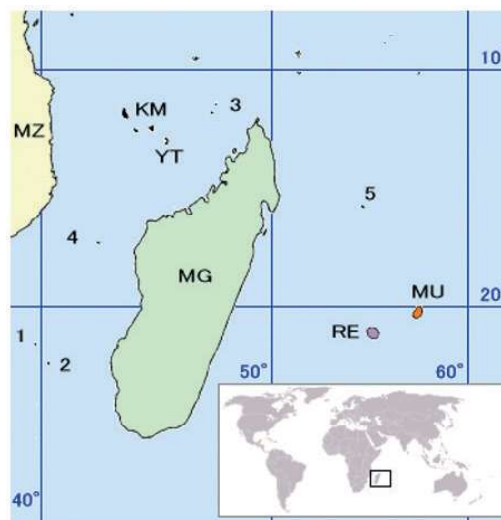
análise geopolítica e exame jurídico-comparativo de fontes normativas e jurisprudência internacional, com ênfase no artigo 121.º da CNUDM e em casos análogos (Selvagens e Chagos). O estudo enquadra o tema e a literatura, avalia a natureza jurídica das formações (ilha/rochedo) e aplica os critérios a cenários regionais. Conclui-se que, pela ausência de habitação humana permanente e de vida económica própria, as Esparsas tendem a qualificar-se como rochedos (artigo 121.º, n.º 3), não gerando zona económica exclusiva (ZEE) nem plataforma continental, o que limita a projeção de jurisdições marítimas. O precedente de Chagos reforça a leitura da controvérsia à luz da integridade territorial e da descolonização.

Palavras-chave: Canal de Moçambique; Chagos; Descolonização; Ilhas Esparsas; Ilhas Selvagens; Plataforma continental; ZEE.

1. Introduction

1.1. Framing of the study

The Scattered Islands have acquired increasing geopolitical relevance, particularly the two located in the Mozambique Channel. They constitute a group of five uninhabited islands in the Indian Ocean under French sovereignty.



Caption: * 1 : Bassas da Índia * 2 : Europa Island * 3 : Glorioso Islands * 4 : Juan de Nova * 5 : Tromelin (KM: Comoros, MG: Madagascar, UM: Mauritius, MZ: Mozambique, RE: Réunion, YT: Mayotte).

Figure 1 – Map of the Scattered Islands.

Source: Wikipédia

The present study aims to address the importance of the Scattered Islands in the French maritime power triangle in the Indian Ocean, highlighting the strategic implications for regional security and trade route control.

As it will develop, this research is based on a strategic analysis and the consequent development and argumentation of the legal nature of territories and maritime spaces, using international documents and jurisprudence, with a comparative analysis of normative sources and strategic documents.

To align the study with contemporary realities, the ecological and economic impacts of the French presence are explored, as well as the challenges of environmental conservation, which constitute a sustained and increasingly reinforced dimension of French strategic interest.

This analysis covers the period from 1978 to 2024, with occasional updating in 2025, and is primarily centred on France-Madagascar relations and their regional implications, with particular reference to the model of decolonisation pursued.

The independence of African peoples from the 1960s onwards has, in some cases, fragmented the old colonial units against the will of the new states, consequently giving rise to jurisdictional conflicts that remain highly relevant today, both from the standpoint of sovereignty and, potentially, regarding the legal nature of the insular territories under consideration.

Within this context and in a first approach, there is the issue of territorial disputes of several African countries neighbouring Mozambique, which claim sovereignty over the Scattered Islands.

From a complementary perspective, and drawing upon a critical reading of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), with particular emphasis on Article 121, it is intended to further examine and provide legal substantiation for the limits to the demarcation of exclusive economic zones (EEZs) and continental shelves with regard to “islands” and “rocks” (UNCLOS, Articles 56 and 76).

It should be noted that the applicable international legal framework governing this matter is the UNCLOS, namely regarding the demarcation and delimitation of maritime spaces. It is intended to further examine the underlying principles of the convention and to apply them to the specific case of the Scattered Islands.

To this end, the present case is compared with the legal regimes of the Selvagens Islands and the Chagos Archipelago, requiring a legal and diplomatic approach capable of balancing considerations of sovereignty, sustainability, and regional cooperation.

It is immediately apparent that the delimitation of maritime spaces beyond 12 nautical miles between Mozambique, Madagascar, and the islands located in the Channel entails the application of equitable criteria among these territories, taking into account that they are situated opposite one another and that the distance between their baselines is less than 400 nautical miles (UNCLOS, Articles 74 and 83).

As a conclusion of the investigation, it is intended to reiterate the uncertainty surrounding French sovereignty over the islands and to reinforce the legitimacy of the claimant African

countries. At the same time, it aims to provide a legal basis for the position that, in light of the factual and legal circumstances, these islands are not entitled to generate an exclusive economic zone (EEZ) or a continental shelf.

The “general objective” (GO) of the research is defined as follows:

“To determine the legal status and geostrategic relevance of the Scattered Islands and to assess their effects on the delimitation of maritime spaces and on sovereignty disputes involving France, Madagascar, Mauritius, and the Comoros”.

Thus, the following central research question is established (or starting question):

“Do the Scattered Islands meet the requirements of Article 121 of UNCLOS to generate an EEZ and a continental shelf, and what implications arise for sovereignty claims and maritime delimitation in the Mozambique Channel?”

From the GO, the **following specific objectives** are derived:

- (i) To identify and characterize the legal regime of the Scattered Islands;
- (ii) To assess its impact on sovereignty claims and on the delimitation of adjacent maritime spaces.

To these specific objectives correspond respectively **the following derived questions:**

- i. What are the geostrategic impacts (in terms of routes, navigation control, surveillance, and conservation) of the non-generation of an EEZ and continental shelf by the Scattered Islands?
- ii. What contributions arise from the International Court of Justice (2019) on the Chagos Archipelago for interpreting territorial integrity and decolonisation in the context of the Scattered Islands?
- iii. What effects does such qualification have on the projection of jurisdictions (EEZ/continental shelf) and on the equity of delimitation with Madagascar and Mozambique?
- iv. What is the legal classification of each formation (island/rock) within the Scattered Islands under Article 121(3) of UNCLOS?

1.2. Brief Historical Overview

The Scattered Islands consist of a group of small coral islands, an atoll, and a reef located in the Indian Ocean, administered by France. Despite the absence of a permanent population, they have been subject to sovereignty claims by Madagascar, Mauritius, and the Comoros. Their strategic location and potential natural resources render the sovereignty dispute a sensitive and multifaceted issue, without prejudice to the challenges associated with the delimitation of maritime spaces with neighbouring States.

In 2019, UNESCO inscribed the “Terres australes et antarctiques françaises” (TAAF) as a World Heritage Site – excluding the Scattered Islands. TAAF include the Crozet Archipelago, the Kerguelen Islands, Saint Paul and Amsterdam Islands, as well as approximately 60 small islets located in the sub-Antarctic region.

These territories were designated as French national nature reserves in 2006 and subsequently expanded in 2016. Human activities are strictly prohibited in approximately one-third of the protected area, while in the remaining zones they are regulated, subject

to mandatory environmental impact assessments and prior authorization by the managing authority. Regarding the Scattered Islands, there is no official record of a UNESCO nomination (UNESCO WHC, “French Austral Lands and Seas”, List 1603 (2019), 45 COM 8B.64 (2023), map doc. 203827; TAAF (2023), Rapport annuel sur les îles Éparses).

From the perspective of international law, and further developing the analytical framework, the legal nature of insular formations assumes particular importance, as it may determine whether the demarcation of an exclusive economic zone (EEZ) and a continental shelf is justified. This approach may have significant implications for the delimitation of maritime spaces with neighbouring territories, particularly in the present case involving the Republic of Mozambique and Madagascar.

European presence in the Scattered Islands dates back to the period of the great maritime explorations, with records of Portuguese and French navigators passing through the region since the sixteenth century. However, it was France that consolidated the formal occupation of the islands between the eighteenth and nineteenth centuries. Sovereignty over these islands is contested by Madagascar, Mauritius, and the Comoros, with implications for each of these States (Jaffrelot, 2023).

Following Madagascar’s independence in 1960, the issue of sovereignty over the Scattered Islands became a sensitive point in Franco-Malagasy relations. On the French side, although the issue is little known to the public, there is strong resistance to any territorial concessions (France 24, 2025, Madagascar Voyage, 2022). One example is the agreement on the joint management of Tromelin Island with Mauritius, signed in 2010 but still blocked in the National Assembly.

Mauritius (independent from the United Kingdom since 1968), Madagascar (independent from France since 1960) and the Comoros (independent from France since 1975) all lay claim to these islands. Mauritius claims Tromelin, claiming that the island, discovered by France in 1722, was not ceded under the Treaty of Paris of 1814. Madagascar has claimed the Glorioso Islands (including Geyser Bank), Juan de Nova, Europa and Bassas da Índia since 1972. However, these islands were never part of the Malagasy Protectorate, having belonged to the colony of Mayotte and, subsequently, to the French Comoros, which have been administered separately since 1946. The Comoros also claim the Glorious Islands, associating them to the dispute over Mayotte.

In this context, the UN intervened in 1979 and 1980 with two non-binding resolutions, inviting France to negotiate with Madagascar the reintegration of the islands (United Nations General Assembly, 1979; United Nations General Assembly, 1980, Moov, 2023). In 2019, a joint commission was established between France and Madagascar with the aim of negotiating a diplomatic solution to the impasse (RFI, 2025).

In January 2020, Mauritius reaffirmed its sovereignty over Tromelin and its EEZ, rejecting any French claim. Paris replied that such declarations had no legal value, reiterating its full sovereignty over Tromelin.

The territorial dispute represents the culmination of the defence of geostrategic and economic interests. Some of the islands are located in the Mozambique Channel, a strategic maritime route where security is of critical importance. Also, for this reason, the heightened interest of Mozambique and Madagascar, as they seek to strengthen their capacity to combat illicit trafficking in narcotics, piracy, and terrorism, essentially by sea. This historical trajectory continues to shape the debate on sovereignty and raises the question of the legal status of these island formations.

The EEZ (and the continental shelf) of the Scattered Islands, considered by France, is extensive (640,400 km²) and includes fishing resources as well as potential hydrocarbon reserves. Although no confirmed discoveries have been made, the proximity of major gas fields in Cabo Delgado (Mozambique) has fuelled expectations, particularly with regard to Juan de Nova.

In this context, the granting of the “Juan de Nova Maritime Deep” license to Sapetro/Marex in 2013, subsequently extended until 2018, illustrates the growing economic interest in offshore exploration.

However, in 2017 (Légifrance, 2017), France authorized legislation prohibiting the issuance of new oil and gas exploration licenses. In February 2020, the French government announced that it would not renew the license, reinforcing the climate transition policy.

From an environmental perspective, the islands remain largely untouched, hosting fragile ecosystems and significant biodiversity. The exploitation of fishery resources is regulated by the French law of 21 July 2007, applicable to the French Austral Lands and Seas (TAAF), which only permits fishing activities conducted by authorized vessels.

As a historical curiosity, the island of Juan de Nova (Île Juan de Nova) was discovered by the navigator and explorer João da Nova (also known as Xoán de Novoa, João Galego, among other names and spellings), a Galician nobleman who lived in Portugal and served the Portuguese Crown.

In 1505, João da Nova embarked on one of his voyages to India, commanding one of the 22 vessels of the fleet led by the Viceroy Dom Francisco de Almeida. On his return, he commanded the renowned galleon “Frol de la Mar” (or “Frol de la Mar”), the largest and most powerful ship of its time, serving as the flagship of the Portuguese fleet. While rounding the Cape of Good Hope, the vessel suffered significant damage and returned to Mozambique for repairs. João da Nova then arrived on this island in the Mozambique Channel. The island of Juan de Nova has been a French possession since 1897 (Nautical Blog, 2017).

The geostrategic relevance of the Scattered Islands in the Mozambique Channel has been the subject of increasing attention, particularly in the context of sovereignty disputes between France and Madagascar.



Figure 2 – Aerial view of Juan de Nova Island.

Source: Nautical Blog

1.3. Methodology and method

Given the aim of the research, an approach was adopted which, from an ontological perspective, is grounded in the existing reality of the Scattered Islands, characterized by a diversity of legal regimes of sovereignty and the delimitation of maritime spaces. Therefore, the formulation of hypotheses is not justified; rather, the focus lies on the search for arguments that substantiate the legal nature of the islands and the sovereignty exercised over them, seeking to understand and take advantage of structural, political, social, economic, and military factors.

The study therefore adopts a qualitative strategy in addressing an issue that incorporates legal, strategic, and institutional elements.

Thus, two distinct methodological procedures are adopted: on the one hand, a geopolitical analysis of the insular formations is conducted through documentary sources of various origins, assessing their strategic relevance and the interests of the States involved; on the other hand, a legal-comparative analysis is developed, based on UNCLOS, international jurisprudence, and analogous cases (the Savage Islands and the Chagos Archipelago).

The aim is therefore to address, in an integrated manner, the geostrategic dimension and the legal aspect of the delimitation of the EEZ and the Continental Shelf, particularly regarding the classification of “islands” and “rocks”.

Despite the distinction between the aforementioned methodological procedures, both are based on a qualitative approach, supported by the analysis of legal texts, international jurisprudence, and the official positions of the States.

At the strategic level, the methodology focuses on the geopolitical analysis of the territories in question, seeking to understand the strategic relevance attributed by the States and how they substantiate and defend their claims at the international level.

On the other hand, geopolitical analysis must also consider certain factors when assessing insular formations.

Among these, structural (geographical) factors are of paramount relevance to the subject under analysis, namely the position and control of shipping routes, the distance from neighbouring coasts, natural resources (fishing/energy), and environmental considerations. The geographical location of the two islands in the Mozambique Channel is significant for the delimitation of maritime spaces within the Channel, as well as for their natural and environmental resources.

As for structural (non-geographical) factors, these include legal status and administrative effectiveness, the density of infrastructure, the history of occupation and acts of sovereignty, and the institutional framework (TAAF/DOALOS), all of which will be examined in the course of the research.

Conjunctural (social and economic) factors have little expression, except for certain environmental conservation projects, given the near absence of population.

Conjunctural (political and military) factors are relevant in the context of disputes between France and Madagascar over the sovereignty of the islands, as well as those related to navigation control in the channel, including maritime threats (piracy, trafficking, terrorism), diplomatic agendas (AU/UN), and the impact of extreme climatic events.

From a legal perspective, a dogmatic and hermeneutic approach is adopted, centred on the interpretation of applicable international legal norms, the examination of pertinent jurisprudence, and the comparative analysis of concrete cases.

In this context, two paradigmatic cases are examined — the Selvagens Islands and the Chagos Archipelago — which present similarities with the situation under study, both with regard to issues of sovereignty and to the delimitation and limits of maritime spaces.

1.4. Structure of the study

The structure of the study is thus divided into the following chapters, which will sequentially develop the steps already outlined, as follows:

The present chapter aims to define the basic question that guides the investigation, clarifying the object of the study, providing a brief historical overview, outlining the methodology, and establishing its structure; in a second chapter, a literature review is conducted; the third chapter addresses the geopolitical perspective and the economic potential of the Scattered Islands; the fourth chapter is dedicated to the analysis of issues concerning State jurisdiction over the Scattered Islands, also drawing on elements of comparative law arising from the legal regime proposed for the Selvagens Islands and the Chagos Archipelago; the fifth chapter corresponds to a preliminary synthesis of the implications of the legal nature of the Scattered Islands; and, finally, the sixth chapter presents the conclusions and final considerations.

2. Review of the literature

The “state of the art” on this topic presents a fundamental framework according to which the Scattered Islands, within legal, geopolitical, and environmental contexts, have been the subject of various studies that converge around three main axes: the projection of maritime power, the international legal framework, and conservation strategies.

2.1. In terms of geostrategy, maritime safety and environmental conservation

Based on documents from 2015 to 2022, Lopes (2015) highlights the role of the Scattered Islands as central elements of the French presence in the Mozambique Channel, associating their administration with the maintenance of a military and scientific infrastructure that reinforces France's influence in the south-western Indian Ocean. In summary, the author emphasizes that these islands represent true geostrategic and ecological "treasures" in the Mozambique Channel, whose significance transcends the limits of national sovereignty (Lopes, 2015).

Randrianarisoa (2022) complements this vision by highlighting the diplomatic obstacles to resolving the dispute with Madagascar, emphasising the significance of regional alliances and the post-colonial narrative.

Meanwhile, Jaffrelot, C. (2023) conducts a political and strategic analysis of the French presence in the Western Indian Ocean islands, including the Scattered Islands. He highlights the military importance and the EEZ associated with these islands, as well as the role of France in projecting maritime power. Although this does not fall within the legal classification of island formations, it supports the strategic and economic interest of these maritime areas.

Fernández, C. & Philippe, L. (2015) discuss the importance of the Scattered Islands, analysing the geostrategic aspects, as well as the identification and relevance of their natural resources.

From a maritime safety perspective, Silva, PM (2024) addresses the importance of islands and islets in the delimitation of maritime jurisdiction areas. He explicitly refers to the Mozambique Channel and the impact of the French presence in the Scattered Islands. Although he does not address the legal nature of islands and rocks, he raises the issue of EEZ delimitation and the control of strategic routes (Châtaigner, 2015, 72–74; Villatoux, 2021).

In fact, the Scattered Islands occupy a strategic position on a vital shipping route in the Mozambique Channel. Security in the region is essential, particularly in the face of threats such as piracy and terrorism.

Finally, several studies, such as those by the Centre National D'études Spatiales, (CNES) (n.d.), address the instrumentalization of environmental conservation as a strategy for asserting sovereignty. The creation of natural reserves, the limitation of economic exploitation and scientific presence are interpreted as forms of legitimate occupation, with a direct impact on the legal qualification of the islands and their ability to generate exclusive economic zones (EEZs) (Dias, 2018; Lopes, 2015; Muianga, 2019; Mutombene, R. J., et al., 2021).

2.2. Within the framework of International Law – general considerations

Without disregarding earlier works addressing the issue of jurisdiction over insular formations, namely the legal nature of the Selvagens Islands (inter alia, Lynce de Faria, 2002) in the period between 2009 and 2022, Dias (2018) and Muianga (2019) analysed the limits of insular occupation in light of the UNCLOS, with particular emphasis on Article 121. These authors discuss the legitimacy of islands in generating specific maritime zones, taking into account criteria such as habitability, economic activity, and functional occupation.

International jurisprudence, namely the advisory opinion of the International Court of Justice concerning the Chagos Archipelago, is frequently invoked as a relevant precedent, reinforcing the principle of territorial integrity within the broader process of decolonisation.

In turn, Tanaka, Y. (2024) constitutes a particularly recent reference concerning the differentiated legal status between “islands” and “rocks”, in which the author elucidates the implications for the EEZ and the continental shelf. Tanaka cites recent case law, including the Permanent Court of Arbitration (PCA). 2016 and the International Court of Justice (2019), to illustrate maritime delimitation in relation to small insular formations. The aforementioned legal framework may be applied to the Scattered Islands, given the similarity in classification.

Mbaye F. (2023) presents a recent analysis of maritime sovereignty and international law in Africa, including the case of the Scattered Islands and how the classification of insular formations may affect the continental shelf of African coastal States.

It is also worth mentioning the recent institutional/ technical reference of the United Nations concerning the Delimitation of Boundaries and Sovereignty Disputes – DOALOS (n.d.), which constitutes a United Nations technical document in which recent cases of maritime delimitation are presented, including references to archipelagos in the western Indian Ocean. It expressly mentions Chagos Archipelago, Tromelin Island, and Franco-African disputes. It includes specific sections on EEZ, the continental shelf, and the application of Article 121 of UNCLOS.

Although that document does not explicitly address the Scattered Islands by name, it mentions the “disputed insular maritime zones between France and African coastal States”, which, in effect, encompasses the case of those islands.

2.3. Within the framework of International Law – the Scattered Islands

Regarding the legal aspects relevant to the present article, the following authors and their respective contributions are of note: Andriamiharisoa, F. S. P. (2022); Châtaigner, J.-M. (2015); Lynce de Faria, D. (2002); Oxford Public International Law. (2009), Rafaly, V. (2020), Quartin Graça, P. (2015), & Villatoux, P. (2021).

Andriamiharisoa, F. S. P. (2022) examines the Scattered Islands within the broader framework of international relations, emphasizing their geostrategic significance and focusing on the sovereignty disputes surrounding these territories.

In turn, Châtaigner, J. M. (2015) addresses the issues of sovereignty and the somewhat debatable notion of co-management of the Scattered Islands, bringing to the fore the challenges and implications of these disputes for France and for the States asserting claims of sovereignty.

Lynce de Faria, D. (2002) explores questions of jurisdiction and the delimitation of maritime spaces, with particular focus on the Selvagens Islands, offering a useful comparative framework for understanding the legal nature of the Scattered Islands.

Conversely, Oxford Public International Law (2009) presents a work that provides a vision of the Scattered Islands, including their legal status (but with a very brief consideration of their nature as insular territory) and the implications of sovereignty disputes at an international level.

Rafaly, V. (2020), in turn, provides a detailed legal overview of the status of the Scattered Islands, analysing the legal limits to the extension of maritime entitlements derived from such formations and addressing the issue of maritime delimitation beyond the territorial sea.

Quartin Graça, P. (2015) highlights the historical and legal importance of the Selvagens Islands, providing a comparative basis for understanding the legal nature of the Scattered Islands.

Finally, Villatoux, P. (2021) addresses the Scattered Islands within the field of international relations, highlighting their strategic importance for France, as well as the diplomatic challenges involved in addressing the ongoing sovereignty disputes over these territories.

In summary, the aforementioned texts primarily address issues of sovereignty over the Scattered Islands, rather than their legal nature under the terms of UNCLOS (Lynce de Faria, D., 2002; Quartin Graça, 2015).

Indeed, UNCLOS, particularly Article 121, establishes fundamental criteria for distinguishing between islands and rocks, with direct implications for the delimitation of EEZs and the continental shelf.

In particular, nr 3 of Article 121 sets out a cumulative test (the capacity to sustain human habitation and/or an economic life of its own), which determines whether an insular feature may generate an Exclusive Economic Zone and a continental shelf. Where this test is not satisfied, the projection of jurisdiction beyond the territorial sea is legally constrained, and maritime delimitation with respect to mainland coasts must prioritize equity and proportionality.

In summary, the literature converges on the strategic centrality and legal controversy surrounding the Scattered Islands, with the most relevant contributions by the various authors on this topic since 2009 being listed in Appendix B.

This convergence may be organized along three main axes: (i) the geostrategic function of the Scattered Islands within the Mozambique Channel and the broader French maritime posture in the Indian Ocean; (ii) the sovereignty dispute in a post-colonial context and in relation to the principle of territorial integrity; and (iii) environmental conservation as an instrument of presence and administrative legitimization. This structure enables a transition from a descriptive “state of the art” overview to an analytical interpretation of the legal and maritime impacts (EEZ/continental shelf) and the underlying geopolitical incentives.

3. The geopolitical perspective and the economic potential of the Scattered Islands

3.1. Pending territorial claims

The French administration of the Scattered Islands has been subject to criticism and subsequent claims by three African States: Madagascar, Mauritius, and the Comoros.

Madagascar has claimed the Glorioso Islands, Juan de Nova, Europa, and Bassas da India since 1972, on the basis of their historical integration within Malagasy territory and the principle of territorial integrity, as enshrined in the United Nations General Assembly resolutions of 1979 and 1980 (United Nations General Assembly, 1979; United Nations General Assembly, 1980; Andriamiharisoa, 2022, The Nature Conservancy Brasil (TNC), 2023).

Mauritius contests French sovereignty over Tromelin Island, claiming that the island was not formally ceded under the Treaty of Paris of 1814 (Oxford Public International Law, 2009; Fernández & Philippe, 2015). The Comoros, in turn, associate the Glorioso Islands with the dispute over Mayotte, considering that both should have been incorporated into the national territory following independence in 1975 (Châtaigner, 2015).

Despite the establishment, in 2019, of a joint commission between France and Madagascar, diplomatic progress has remained limited. France maintains a firm position regarding its sovereignty, proposing models of scientific and environmental co-management while avoiding any discussion of territorial transfer. The reaffirmation of Mauritian sovereignty over Tromelin Island in 2020, and the French response denying legal effect to that declaration, illustrate the persistent impasse (Jaffrelot, 2023, 45–62).

The Scattered Islands occupy a strategic position within the Mozambique Channel, a vital maritime route linking the Middle East, Asia, and Southern Africa. Their geographical location enables the control of trade flows and the monitoring of illicit activities, such as piracy, drug trafficking, and terrorism. The (alleged) lack of effective deterrence capabilities on the part of claimant States reinforces the importance of the French presence for regional security (Villatoux, 2021; Châtaigner, 2015; Lopes, 2015).

The geostrategic dimension of the islands is widely recognized. The EEZ and the associated continental shelf exceed 640,000 km², covering areas with fishing and energy potential. Although no confirmed discoveries have been made, the proximity of gas fields in Cabo Delgado Province has fuelled expectations, particularly in relation to Juan de Nova Island. The granting of the “Juan de Nova Maritime Deep” licence to Sapetro/Marex in 2013, and its non-renewal in 2020, reflect the tension between economic interests and ecological transition policies (Légifrance, 2013; Légifrance, 2015; Légifrance, 2017; Petroleum Africa, 2013).

It is clear that security matters, in general (and maritime security in particular), and the exploitation of energy resources are explicitly interconnected in the Mozambique Channel, both from the perspective of controlling strategic routes and with regard to the security conditions required for resource exploitation. Without security, there can, undoubtedly, be no effective exploitation of resources (Silva, 2024).

From an environmental perspective, the islands remain largely pristine, hosting fragile ecosystems and significant biodiversity. Vegetation ranges from herbaceous species to mangroves and coconut palms, while the fauna includes marine turtles, migratory birds, and coral reef systems. France has promoted the creation of nature reserves and invested in scientific research, using environmental conservation as an additional argument to support the maintenance of sovereignty.

It may thus be asserted that the disputes in question reflect a bipolarity between sovereignty itself and the exercise of a presence that guarantees the dominance and geostrategic use of the Islands. This form of “shared sovereignty” appears particularly difficult to achieve in practice. This historical trajectory continues, naturally, to shape the contemporary legal debate.

The main positions of States and international organizations regarding the status of the Scattered Islands are summarized in Appendix A.

3.2. On the maritime power triangle in the Indo-Pacific

The French presence in the Indian Ocean is based on a geostrategic configuration composed of the Scattered Islands, Mayotte, and Réunion. This maritime power triangle enables France to exercise control over vast oceanic areas, project regional influence, and secure privileged access to key commercial routes and natural resources. With a maritime area exceeding 640,000 km², this territorial architecture positions France among the main extra-regional actors in the Indo-Pacific (Wikiwand, 2022; CNES, n.d.).

The Scattered Islands, although uninhabited and of limited land area (43 km² in total), are key elements of this triangle. Comprising Bassas da India, Europa Island, the Glorioso Islands (including the Geysers Bank), Juan de Nova Island, and Tromelin Island, they are dispersed across the Mozambique Channel and administered by the French Austral Lands and Seas (TAAF). Their strategic location between Madagascar and the eastern coast of Africa enables France to monitor maritime flows, reinforce regional security, and assert sovereignty over disputed maritime spaces (France 24, 2025; The Week UK, 2025; Jaffrelot, 2023).

France has consolidated its presence in these territories through naval patrols, meteorological stations, scientific missions, and environmental conservation policies. The establishment of nature reserves and marine protected areas functions as an instrument of territorial legitimization, linking sovereignty to ecological responsibility. Mayotte, which became a French department in 2011, and Réunion, serving as an administrative and logistical hub, complete the operational structure of the triangle (CNES, n.d.; TAAF, 2023).

This positioning allows France to control the Mozambique Channel, a vital maritime corridor for the transport of hydrocarbons, natural gas, and goods between the Middle East, Asia, and Southern Africa. It is estimated that more than 5,000 vessels transit the channel annually and that its seabed may contain up to 12 billion barrels of oil and 5 billion cubic meters of natural gas (Lopes, 2015).

The consolidation of the French presence also constrains the expansion of other maritime powers, such as China, India, and Russia, which have invested in ports, naval bases, and strategic partnerships with African countries. This multipolar dynamic reinforces the geopolitical value of the Scattered Islands, which act as nodes for support, surveillance, and power projection.

Conversely, this model of territorial presence has attracted criticism, being at times interpreted as a form of neo-colonialism. Authors such as Randrianarisoa (2022) and Châtaigner (2015) emphasize the resistance of local populations and neighbouring States to the continued maintenance of overseas territories under European administration, particularly within post-colonial contexts.

In summary, the triangle formed by Réunion, Mayotte, and the Scattered Islands constitutes an architecture of influence that combines physical presence, legal legitimacy, scientific capital, and diplomatic projection. Its maintenance is essential for France to continue to play

a relevant role in the Indo-Pacific, in an era characterized by the growing strategic value of maritime spaces and intensifying global competition.

As in international strategy and the exercise of power “there are no empty spaces”, the opposite is equally valid. In fact, the assertion of a French presence constrains the expansion of other countries with maritime ambitions, such as China, India, and Russia, which have invested in ports, naval bases, and military exercises with African partners (RFI, 2025). It is argued that this posture, portrayed in some sources as a form of French “neo-colonialism”, encounters some resistance among populations in several African countries, particularly in Southern and Eastern Africa.

The French territorial argument is essentially grounded in administrative acts relating to the management of these territories, which appears insufficient, in itself, to substantiate and legitimize claims of sovereignty. In fact, since the 1960s, the fragmentation of colonial territories previously administered as unified entities has weakened this position, since such arrangements are neither recognized nor accepted by the newly independent States.

Strategic competition within this triangle directly affects maritime security in the Mozambique Channel. Portugal and the Community of Portuguese Language Countries (CPLP) may play a significant role in this context, particularly given that maritime security in the Channel also falls within the responsibility of Mozambique and is of direct relevance to that country as a guarantee for the exploitation of resources within its areas of jurisdiction (Silva, 2024, IORA, 2022).

3.3. Economic potential and environmental sustainability

The Scattered Islands, notwithstanding their uninhabited status, exhibit considerable economic and ecological potential, thereby attracting the interest of a range of regional and international actors. Their strategic positioning within the Mozambique Channel, coupled with the extensive maritime zones to which they are associated, affords France privileged access to fisheries and energy resources (DOALOS, n.d.).

Juan de Nova Island, in particular, was the subject of an offshore exploration license granted in 2013 to the Nigerian company Sapetro and the American company Marex Petroleum. The concession area, — approximately 52,990 km² — is located in proximity to the Rovuma Basin, where substantial natural gas reserves have been identified by companies such as ENI and Anadarko (Petroleum Africa, 2013; Légifrance, 2013; Légifrance, 2015). Although the results of the exploratory drilling have not been publicly disclosed, the expectation of significant discoveries further consolidates the strategic relevance of the region.

However, in 2017, the French Parliament enacted Law No. 2017-1839, which prohibits the granting of new hydrocarbon exploration licenses; subsequently, in 2020, the French government announced that it would not renew the Juan de Nova concession, thereby aligning with its ecological transition policy (Légifrance, 2017, Loi No. 2017-1839). This decision reflects a paradigmatic shift, privileging environmental conservation over energy exploitation.

From an ecological perspective, the Scattered Islands exhibit distinctive ecosystems and considerable biodiversity. Vegetation is scarce and varies across the territories, ranging from herbaceous cover (Tromelin) to euphorbia-dominated forests and mangrove systems (Europa and the Glorioso), and to coconut palms and Casuarina (Juan de Nova). Bassas da India, in turn, constitutes a submerged atoll without terrestrial vegetation. The fauna includes coral reef systems, marine turtles that nest on Europa and Tromelin, as well as significant seabird colonies, including frigatebirds, boobies, terns, and flamingos (IRD, 2016, 110–111; Villatoux, 2021, 121–122; Université de La Réunion, 2019; UICN France, 2020).

The exploitation of fishery resources is regulated under French legislation applicable to the French Austral Lands and Seas (TAAF), permitting fishing exclusively by authorized vessels (TAAF, n.d.). This regulatory framework is designed to preserve fragile ecosystems and to ensure the long-term sustainability of fishing activities.

Studies by the International Union for Conservation of Nature (IUCN) and the Centre National de la Recherche Scientifique (CNRS) confirm that the Scattered Islands constitute critical habitats for migratory and marine species, which justifies their classification as nature reserves of international significance (UICN France, 2020; Université de La Réunion, 2019). Although no formal UNESCO nomination has been submitted, France has invested in satellite monitoring, oceanographic data collection, and the protection of endemic species, reinforcing a discourse of “environmental sovereignty”.

Within the regional framework, particular attention is drawn to the proposal by The Nature Conservancy Brasil for the establishment of a Marine Protected Area encompassing maritime spaces under Mozambican jurisdiction, promoting integrated and sustainable coastal management (The Nature Conservancy Brasil (TNC), 2023). The assessment of demersal fish conducted by the National Institute for Fisheries Research (INIP) between 2016 and 2020 reinforces the ecological importance of the region and the necessity for scientific and environmental cooperation among coastal States (Mutombene et al., 2021).

A central aspect of resource utilization lies in hydrocarbon prospecting (Dias, 2018). Although the results of exploratory drilling remain undisclosed, the proximity to the gas fields of Cabo Delgado, Mozambique, has generated renewed expectations.

Juan de Nova Island was the subject of an offshore exploration licence granted in 2013 to Sapetro (Nigeria) and Marex Petroleum (United States) (Légifrance, 2013 (JORF/TAAF) (decree modifying the licence); Légifrance, 2015 (JORF No. 0225) (decree extending the license until 30 December 2018); Petroleum Africa, 2013 (“Transfer of Ownership for Exclusive Juan de Nova Permit Complete”). In 2017, the French Parliament prohibited the issuance of new exploration licenses (Légifrance, 2017, Law No. 2017-1839).

According to a statement dated 29.11.2013, South Atlantic Petroleum (SAPETRO) completed the transfer of the “Juan de Nova Maritime Deep” licence (together with ROC Oil) and the associated joint participation with Marex Petroleum, an operation included in the official acts of 25.09.2013 and 21.09.2015 (Petroleum Africa, 2013; Légifrance, 2013; Légifrance, 2015).

From this passage, it may be inferred that SAPETRO’s exploratory interest was closely aligned with ENI’s recent discoveries in the Rovuma Basin, under the jurisdiction of the

Republic of Mozambique. The importance of maritime security in the Mozambique Channel is also closely linked to the delineation of coastal States' jurisdiction over areas deemed essential to ensuring the free circulation of navigation and which may likewise be subject to the exploitation of resources in the water column, seabed, and subsoil (Silva, 2024).

Therefore, the importance of delimiting Mozambique's continental shelf in the border area adjacent to Juan de Nova Island is reaffirmed.

4. Outstanding issues concerning jurisdiction over the islands

4.1. The claim of sovereignty over the islands

The claim of sovereignty by Madagascar over the Scattered Islands dates back to 1972 (Mbaye, 2023) and is grounded in fundamental principles of international law, such as the right to self-determination of peoples and territorial integrity within the decolonisation process. United Nations General Assembly Resolutions 34/91 (1979) and 35/123 (1980) called upon France to negotiate the reintegration of the islands into Malagasy territory (United Nations General Assembly, 1979; United Nations General Assembly, 1980; Andriamiharisoa, 2022).

Mbaye (2023) emphasises sovereignty and an African interpretation of the Law of the Sea, including the cases of the Chagos Archipelago, Glorieuses, and Tromelin, and makes an indirect reference to the Scattered Islands within the context of African claims against France. The author raises questions regarding the legal nature of island formations and how such classification may affect the continental shelf of African coastal States.

The African Union also reaffirmed in 2023 its support for Madagascar's sovereignty over the Scattered Islands, calling for peaceful negotiations with France (Moov, 2023).

The administrative separation of the islands prior to Madagascar's independence in 1960, by decree of the French government, constitutes a violation of the principle of territorial integrity, as enshrined in UN Resolution 1514 (XV), which states:

"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." (United Nations General Assembly, 1960).

More recently, the advisory opinion of the International Court of Justice (ICJ) on the Chagos Archipelago, requested by the UN in 2019, has reinforced the legitimacy of territorial claims in decolonisation contexts. The ICJ concluded that the detachment of Chagos from Mauritius constituted a violation of the right to self-determination.

The ICJ opinion concluded that: "The separation of the Chagos Archipelago from Mauritius in 1965 was not based on the free and genuine expression of the will of the Mauritian people and was therefore contrary to the right to self-determination."

The same document determined that the United Kingdom should bring its administration of the archipelago to an end expeditiously, recognising that the decolonisation of Mauritius had not been lawfully completed owing to the violation of the principle of territorial integrity. Although not legally binding, this opinion is frequently invoked by Madagascar as a juridical precedent.

These same arguments may, therefore, be invoked by Madagascar, since the alleged “territorial separation”, against the expression of the principle of self-determination of colonised peoples, constitutes an inherent defect in the decolonisation process, arising from the violation of the principle of Territorial Integrity. Such cases illustrate how the principle of territorial effectiveness remains central to the determination of insular sovereignty.

Madagascar possesses a range of legal instruments through which to advance its claim, including the possibility of requesting an advisory opinion from the International Court of Justice (Article 96 of the United Nations Charter), as well as diplomatic mobilisation within the African Union, the Group of 77, and the General Assembly.

In fact, the International Court of Justice (2019) reinforces the centrality of territorial integrity in the decolonisation process, providing a particularly relevant interpretative parameter for the case of the Scattered Islands where the administrative separation of colonial territories precedes independence. Although non-binding, this precedent consolidates the argument for sovereign repositioning and underscores the need for caution in the projection of derived jurisdictions.

At the political level, the visit of the French President, Emmanuel Macron, to Antananarivo in April 2025 relit the debate, though without tangible progress. The official positions of France, Madagascar, and the African Union are summarised in the comparative table presented in Appendix A.

4.2. The legal status of the Scattered Islands for the purposes of UNCLOS

In addition to the sovereignty dispute, it is essential to consider the legal status of the Scattered Islands in light of Article 121 of UNCLOS. Paragraph 3 of this article establishes that:

“Rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone or continental shelf.”

The Scattered Islands are uninhabited and do not possess any form of autonomous economic life. Occasional scientific or military presence does not constitute sustainable economic activity. Consequently, these formations should be classified as “rocks”, thereby invalidating the generation of EEZ or continental shelf beyond 12 nautical miles.

In a partially different approach, certain strands of delimitation jurisprudence have opted to accord reduced (rather than entirely null) effect to small insular formations, depending on coastal configuration and the objective of achieving an equitable result. Nonetheless, this judicial practice reinforces the need to justify, on the basis of objective criteria, the weight to be attributed to the Scattered Islands in delimitation processes and to avoid disproportionate projections of maritime jurisdiction from micro-formations (International Court of Justice, 2009; International Court of Justice, 2012; ITLOS, 2012; ITLOS (Special Chamber), 2017).

In fact, the prevailing legal interpretation holds that Article 121(3) excludes from the definition of “island”, for the purposes of EEZ and the continental shelf, any formation that cannot sustain permanent human habitation or an economic life of its own. In this regard, the expression “economic life of their own” implies the existence of a sustainable economic activity, rather than merely occasional presence or external exploitation.

This interpretation is corroborated by recent jurisprudence and specialised doctrine, from authors such as Rafaly, Tanaka, and Mbaye, who emphasise the legal limits to the extension of maritime entitlements in respect of formations lacking habitability or autonomous economic life (Rafaly, 2020, Tanaka, 2024, Mbaye, 2023 e Rafaly, 2020, 530–544).

Thus, even if sovereignty is granted to either France or Madagascar, the legal status of the islands constrains the scope of rights over marine and energy resources. The delimitation of maritime zones must, therefore, be conducted in accordance with the criteria set out in UNCLOS, otherwise, international legality may be compromised and diplomatic disputes may arise.

4.3. The arguments to be drawn from the Chagos Archipelago case

The Advisory Opinion of the ICJ, dated 25.02.2019, held that the process of decolonisation of Mauritius had not been lawfully completed at the time of independence. For this reason, the United Kingdom is required to bring its administration of Chagos to an end “as rapidly as possible”, and all States have a duty to cooperate with the United Nations in completing the process of decolonisation (*erga omnes* obligations) (International Court of Justice, 2019).

On 22.05.2019, the UN General Assembly acted upon the Advisory Opinion by adopting Resolution 73/295 (116–6–56), which affirms that Chagos integrates Mauritius, urges the United Kingdom to withdraw its administration within a maximum period of six months, and calls upon States and international organisations to cooperate in completing the decolonisation process (United Nations General Assembly, 2019).

On 28.01.2021, the Special Chamber of the ITLOS in the Mauritius/Maldives case (Preliminary Objections) affirmed its jurisdiction to proceed with delimitation notwithstanding objections based on the sovereignty dispute, thus recognising the legal relevance of the ICJ Advisory Opinion and Resolution 73/295 in determining the status of Chagos within the delimitation context (ITLOS (Special Chamber), 2021 — Mauritius/Maldives (Preliminary Objections) – judgment).

In substantive terms of the Law of the Sea, the arbitral tribunal in the South China Sea Arbitration (PCA, 2016) clarified the interpretation of Article 121(3) of UNCLOS by requiring an objective capacity of the feature to sustain human habitation or an economic life of its own, distinguishing “islands” from “rocks” and avoiding the disproportionate projection of jurisdiction from micro-features lacking such capacity — a standard that is transferable when assessing the maritime effects of uninhabited insular formations such as the Scattered Islands (PCA, 2016 — South China Sea Arbitration (Philippines v. China), Award (12 July 2016) — interpretation of Article 121(3)).

From this body of legal arguments and within the framework of international law that supported the reintegration of the Chagos Archipelago into Mauritius (International Court of Justice, 2019 → United Nations General Assembly, 2019 → ITLOS, 2021), the following corollaries may be drawn, which are applicable to the Scattered Islands:

Reassessment of colonial territorial separations in light of territorial integrity and self-determination – In the case of the Scattered Islands, there was a separation of the French

colonial territory from the subsequent independent territory, thereby disrupting territorial unity without the consent of the newly independent State;

At the institutional level, the documents highlight the duties of cessation/cooperation between the parties (in the case at hand, with the United Kingdom) — France is under an obligation to revisit the case concerning the violation of territorial integrity during the colonial period;

Where maritime delimitation depends on a territorial status that has already been clarified by the United Nations, such status should be maintained in subsequent judicial decisions — if this status were to follow the same trajectory as Chagos, sovereignty over the Scattered Islands would clearly fall to the successor States to the colonial regime; and

The restrictive application of Article 121(3) to formations incapable of sustaining human habitation or economic life (without prejudice to those which, for historical reasons, have been placed under an environmental protection regime, and which are therefore inherently incompatible with the development of economic activity and the maintenance of a resident population).

4.4. In light of comparative law with the Selvagens Islands

The legal analysis of sovereignty over the Scattered Islands may be enriched through a comparative examination of the Selvagens Islands, located in the Atlantic Ocean and under Portuguese sovereignty as part of the Autonomous Region of Madeira. Both cases involve small insular formations with implications for the delimitation of the EEZ and the continental shelf.

Since the sixteenth century, the Selvagens Islands were privately owned and transmitted through inheritance, with the exploitation of natural resources such as fishing, hunting, and endemic flora. In July 1971, the Portuguese State acquired the islands from the heirs of Luiz da Rocha Machado and established the Selvagens Islands Nature Reserve, encompassing the surrounding maritime areas up to the 200-metre bathymetric line (Regional Legislative Decree No. 8/2022/M, preamble, Government of the Autonomous Region of Madeira, 2017).

This designation as a strict nature reserve took place prior to the signing of UNCLOS in 1982 and was long before the Convention entered into force on 16 November 1994.

It was this Convention that introduced the distinction between the legal nature of “islands” and “rocks”, excluding the latter from the entitlement to EEZ and a continental shelf on the grounds that they are unable to sustain human habitation or economic life of their own (UNCLOS, Article 121(3)).

Although a strict nature reserve is incompatible with the establishment of a permanent population, the Selvagens Islands were historically inhabited and, under normal circumstances, could be so again. This argument has been invoked by Portugal to exclude the classification of the Selvagens as “rocks”, securing their right to an exclusive economic zone and a continental shelf.

Jurisprudence and specialised doctrine, including the work of Quartin Graça (2015) and Lynce de Faria (2002), maintain that the Selvagens Islands satisfy the requirements set out under UNCLOS, in contrast to the Scattered Islands, which remain uninhabited and devoid

of any form of autonomous economic life (Quartin Graça, 2015; Lynce de Faria, D., 2002). The occasional scientific or military presence on the Scattered Islands does not constitute sustainable economic activity, reinforcing their classification as “rocks”.

In the case of the Selvagens Islands, and in order to reinforce the continuous presence of personnel on these insular formations, the National Maritime Authority undertook, from 2015 onwards, the modernisation and upgrading of the electrical supply system of the Pico da Atalaia lighthouse through the installation of solar panels. The lighthouse was also equipped with the “Costa Segura” system, comprising radar and surveillance camera technology.

The infrastructure at the Cagarras cove was also refurbished and substantially expanded in order to accommodate, on a permanent basis, two officers of the Maritime Police and one member of the militarised personnel of the “Troço do Mar”. These works included the installation of an emergency generator, solar panels, and battery systems for the supply of electrical power, as well as the construction of accommodation for assigned personnel and a facility for any detainees.

On Selvagem Grande, a branch of the Maritime Department of the Funchal Harbourmaster’s Office, as well as a branch of the Local Command of the Maritime Police of Funchal, was likewise established.

The works also included the comprehensive upgrading of the access ramp to the sea, enabling the launching and recovery of a Maritime Police vessel that has since operated on a permanent basis. A dedicated structure was also built to house the vessel, together with a breakwater designed to protect this facility and to ensure calmer waters in the surrounding area of the head of the ramp. Mooring systems for the vessel were also installed in the Cagarras cove. Finally, satellite communications, comprising voice, data, and image transmission, were established on a permanent basis.

On Selvagem Pequena, a 360-degree camera was installed which, when linked to Selvagem Grande, enables the surveillance of the islands and their surrounding areas. The radar and camera systems transmit information in real time to the station on Selvagem Grande, as well as to the Funchal Harbourmaster’s Office and the Local Command of the Maritime Police of Funchal.

Shortly after the installation of these systems, the Maritime Police detained a Spanish vessel and its crew while engaged in illegal fishing activities within the area of maritime jurisdiction, which led to the immediate ending of illegal fishing within the Selvagens Islands Nature Reserve.

This recent activity within the perimeter of the Selvagens Islands reflects an intensification of the exercise of sovereignty and jurisdiction by the Portuguese State, reinforcing the legal status of these insular formations as “islands” under Article 121(3) of UNCLOS.

This distinction is essential for the delimitation of maritime spaces, also with regard to the Scattered Islands and, in particular, the Mozambique Channel. The absence of permanent human habitation and sustained economic activity on the Scattered Islands limits the

maritime zones that may be generated from those formations by France, or by any State that may succeed it in sovereignty, in accordance with UNCLOS.

The legal analysis of sovereignty over the Scattered Islands may be enriched through a comparison with the case of the Selvagens Islands, located in the Atlantic Ocean within the Autonomous Region of Madeira. Both situations involve small insular formations with implications for the delimitation of the EEZ and the continental shelf, and the arguments differ significantly.

Since the sixteenth century, as privately owned territory, the Selvagens Islands were transferred through inheritance, whose owners derived substantial income from the exploitation of wild flora, fishing, and hunting (Lynce de Faria, D., 2002; Quartin Graça, 2015, pp. 107–125).

In 1959, the owners of the islands were the heirs of Luiz da Rocha Machado, represented by his son, who had the same name, and by Luiz Alberto Pestana, a partner in “Casa Rocha Machado e C., Lda.” In Funchal, a plot of land was donated to the State for this purpose.

In July 1971, the Portuguese State acquired the Selvagens Islands from a national (Rocha Machado), and on 29 October of the same year a nature reserve was established, encompassing the surrounding maritime areas up to the 200-metre bathymetric line. Since 1971, the islands have thus been under the territorial administration of the Autonomous Region of Madeira and classified as Strict Nature Reserves.

And so, the Selvagens Islands were classified as a strict nature reserve as early as 1971, well before the entry into force of UNCLOS in 1982, whose Article 121 establishes the criteria for distinguishing between “islands” and “rocks”.

At that time, in 1971, the dichotomy (now embodied in Article 121 of UNCLOS) between “islands” and “rocks” had not yet been articulated; consequently, the designation as a strict nature reserve effectively excluded, in conventional terms, the demonstration that the archipelago was capable of sustaining “human habitation or economic life of its own” (Article 121(3)).

Beyond the fact that designation as a strict nature reserve is incompatible with the establishment of a permanent population, the Selvagens Islands were historically inhabited and, under normal circumstances, could be so again. This argument has been invoked by Portugal to preclude the classification of the Selvagens as “rocks”, securing their entitlement to the delimitation of an exclusive economic zone and a continental shelf.

This comparative assessment of the legal nature of both groups of insular formations may likewise reinforce their differentiated classification. The comparison between the Selvagens Islands and the Chagos Archipelago allows for the application of objective criteria derived from UNCLOS and recent jurisprudence, highlighting the similarity of the Scattered Islands to formations classified as “rocks”.

5. The consequences of the legal nature of the islands

Article 121 of UNCLOS has direct implications for the delimitation of maritime spaces arising from the Scattered Islands. The absence of permanent population and of sustainable economic activity on these islands—such as Bassas da India, Europa, Glorioso Islands, Juan

de Nova, and Tromelin—reinforces their classification as “rocks”, limiting entitlements to a 12-nautical-mile territorial sea (and, potentially, allowing for the establishment of a contiguous zone extending from 12 to 24 nautical miles for the purposes of fiscal, customs, and sanitary control, in accordance with UNCLOS).

Although France promotes scientific, environmental, and military activities on these islands, such activities do represent “economic life of their own” within the meaning of UNCLOS. International jurisprudence and specialised doctrine, including that of Rafaly (2020) and others, maintain that occasional or functional presence is insufficient to generate a EEZ or continental shelf (Rafaly, 2020; Tanaka, 2024; Mbaye, 2023; Rafaly, 2020, 530–544).

The comparison with the case of the Selvagens Islands, under Portuguese jurisdiction, is both illustrative and contrasting. Although classified as a strict nature reserve since 1971—and so, at the time, excluding the requirement of “economic life of their own” and effectively excluding their qualification as “rocks”—the Selvagens Islands were historically inhabited and possess economic potential, enabling Portugal to defend their classification as “islands”. By contrast, the Scattered Islands have never had a resident population nor any autonomous economic activity, which weakens, from a legal perspective, any claim to the extension of maritime jurisdiction in respect of the EEZ and the continental shelf.

Moreover, since at least the 1930s, the Selvagens Islands have not given rise to any genuine sovereignty disputes, in contrast to the Scattered Islands. This characteristic likewise reinforces the principle of territorial unity within the Autonomous Region of Madeira, in contrast to the “fragmented sovereignty” asserted by various countries claiming the Scattered Islands.

The distinction between islands and rocks (reinforced by the absence of territorial unity) is essential for the delimitation of maritime spaces in the Mozambique Channel. The classification of the Scattered Islands as “rocks” implies that any claim to an exclusive economic zone or continental shelf based on these formations is legally untenable—whether by France or by any State that may succeed it in sovereignty.

On the other hand, maritime delimitation must respect the principles of equity and proportionality, avoiding any distortion in the distribution of marine resources caused by uninhabited formations. The jurisprudence of the International Court of Justice and the International Tribunal for the Law of the Sea has consistently reiterated that islands lacking economic life should not exert a significant influence on the delimitation of maritime boundaries (International Court of Justice, 2019; ITLOS, 2012).

It may therefore be stated that the legal nature of the Scattered Islands, under Article 121 of UNCLOS, limits their capacity to serve as a basis for the delimitation of maritime spaces predicated on the economic exploitation of a resident population, namely in respect of the exclusive economic zone and the continental shelf. This reality underscores the need for a rigorous legal approach and for transparent diplomatic negotiation in the redefinition of maritime spaces in the region.

It should be noted that some of the Scattered Islands are subject to scientific and environmental conservation activities promoted by France. However, even the presence of minimal infrastructure and the ecological significance of their ecosystems are not, in themselves, sufficient to preclude their classification as “rocks”, particularly as it remains historically uncertain whether they have ever sustained forms of economic life of their own. This uncertainty weakens the legal position of those advocating for the delimitation of an exclusive economic zone and an associated continental shelf, insofar as the absence of habitability entails a corresponding limitation of maritime entitlements (Rafaly, 2020, pp. 530–536).

Does the absence of permanent human habitation and sustained economic activity, without justification during the period of UNCLOS’ validity (or at least since its signature in 1982), limit the delimitation of those maritime spaces? This legal tension emphasizes the need for a thorough technical and diplomatic assessment of the status of the Scattered Islands in international law (Rafaly, 2020, 540–544).

This legal understanding of the nature of the Scattered Islands may have a decisive influence on the position of African states regarding jurisdiction over coastal maritime areas.

6. Conclusions

Contextualisation: The results and legal-strategic implications of the study are summarised below, in line with the starting question and the objectives defined in the “Introduction” chapter.

Methodological approach: This was based on a qualitative approach comprising (i) geopolitical analysis (structural and conjunctural factors) and (ii) comparative legal analysis (UNCLOS, jurisprudence, and analogous cases).

Key results: This study combined two complementary strands: geopolitical analysis (structural geographical and institutional factors, as well as conjunctural dynamics) and comparative legal analysis (UNCLOS and relevant jurisprudence), with the aim of characterising the legal nature of the Scattered Islands and their implications for maritime delimitation and sovereignty disputes in the Mozambique Channel. The delimitation of the scope (temporal and spatial) and the clarification of the object of study allowed the research to remain focused on the practical effects of the legal classification of insular formations.

As an answer to the research question (RQ), it may be stated that, considering Article 121(3) of UNCLOS, the Scattered Islands do not exhibit permanent human habitation or economic life of their own and should therefore be classified as “rocks”. This regime does not generate EEZ or continental shelf (beyond the territorial sea) for such insular formations.

This results in an objective limitation on the projection of maritime jurisdiction based on the Scattered Islands, regardless of the sovereign title-holder, which also suggests a reduced effect in equitable maritime delimitation.

With regard to the responses to the specific objectives, the following may be stated:

On the classification of the formations: The formations comprising the Scattered Islands do not demonstrate, under the terms of Article 121(3), an objective capacity to sustain human

habitation or economic life of their own; their legal status under the law of the sea is therefore that of “rocks”.

On the effects on jurisdictional projection and equity: Such classification as rocks precludes the generation of an exclusive economic zone and a continental shelf, and anchors equitable solutions (Articles 74 and 83 of UNCLOS) in the attribution of reduced or null weight to uninhabited micro-formations, preventing distortions of proportionality in relation to mainland coasts.

Regarding the contributions of recent judicial decisions concerning the Chagos Archipelago: The sequence International Court of Justice, 2019 → United Nations General Assembly, 2019 → ITLOS, 2021 (Mauritius/Maldives) densifies parameters of territorial integrity/self-determination, and duties of cessation and cooperation, which are particularly relevant in insular disputes.

Finally, regarding the geostrategic impacts of the non-generation of EEZ/CS. The absence of such maritime entitlements from the Scattered Islands discourages maximalist projections and favours cooperative arrangements in maritime security and environmental conservation, separating environmental governance from logics of spatial expansion.

Contributions: The legal scope of Article 121(3) of UNCLOS is clarified in relation to small insular formations, as well as its articulation with the criteria of equitable delimitation (Articles 74 and 83).

Study limitations: The limitations of this study are twofold. First, in spatial terms, it focuses primarily on the two Scattered Islands located in the Mozambique Channel. Second, in temporal terms, it essentially aims to analyse the impact of political, judicial, and doctrinal developments, as well as the decision-making processes of newly independent African States following the 1960s, particularly in contrast with the positions of former colonial powers. Finally, the recent body of jurisprudence and doctrine on the classification of “islands” and “rocks” in the Indian Ocean remains limited.

Future investigations: It is recommended that further legal-cartographic modelling of delimitation scenarios be developed, as well as a deeper examination of the regional impact in terms of maritime security, conservation, and governance.

Practical recommendations: The promotion of diplomatic mechanisms and regional cooperation is encouraged in order to mitigate tensions and strengthen maritime security and environmental conservation, without prejudice to the legal positions of the parties.

Proposal for the settlement of the Scattered Islands dispute (summary): Reactivate and schedule the France–Madagascar joint commission, with a clearly defined agenda (sovereignty, environmental management, maritime security, and resources); Establish a functional co-management regime (scientific and environmental) for the uninhabited islands, without prejudice to the legal positions of the parties regarding sovereignty; Provide for a joint mechanism for the management of marine resources and monitoring (fisheries/marine protected areas), with rules ensuring transparency and data-sharing; Establish a provisional framework for resource exploitation and benefit-sharing (for example, a joint development zone) for permissible economic activities, subject to sustainability requirements and

international legality; Define, as a closing clause, a mechanism for peaceful dispute settlement (mediation, conciliation, arbitration, or a request for an advisory opinion), should negotiations fail to produce results.

Epigraph: As “servants” of the law, one must seek its correct interpretation based on the various hermeneutical elements as an expression of freedom, recalling Marcus Tullius Cicero, Roman politician and philosopher who lived in a turbulent period - much like the one we are currently experiencing in the field of international law:

“Magistrates are the servants of the laws; judges, their interpreters; in short, we are all servants of the laws so that we may be free.” (*Legum ministri magistratus... legum denique idcirco omnes servi sumus, ut liberi esse possimus.*) (Cicero, Pro Cluentio, 53.146).

Is this the “freedom” to which we aspire, in upholding international law? We believe, more than ever, that the answer is affirmative!

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APPENDICES

Appendix A — Geographical and Political Framework and Comparative Analysis of the Scattered Islands

Table 1 – Geographical and Political Data

Island	Location	Area (km ²)	Population	Observations
Bassas da Índia	21°30'S 39°50'E	0.2	0	Submerged atoll, nature reserve
Europa island	22°20'S 40°22'E	28	0	Weather station
Glorioso island	11°33'S 47°20'E	5	0	Includes Geyser Bank
Juan de Nova	17°03'S 42°45'E	4.4	0	Monitoring station
Tromelin	15°53'S 54°31'E	1	0	Tropical cyclone station

Table 2 – Comparison of the political and legal positions regarding the Scattered Islands

Country/ Organisation	Official Position	Legal/Political Basis	Relevant Notes
France	Claims full sovereignty and direct administration over the Scattered Islands (TAAF).	Based on continuous occupation since the 19th century and on the administrative integration of the islands within the French Austral Lands and Seas (TAAF).	Has established nature reserves and invokes scientific presence as a form of effective occupation.
Madagascar	Claims sovereignty over Europa, Bassas da Índia, Juan de Nova, and the Glorioso Islands.	Invokes the principle of territorial integrity (UN General Assembly Resolutions 34/91 and 35/123) and the notion of incomplete decolonisation.	France–Madagascar Joint Commission, established in 2019, to negotiate a diplomatic solution.
African Union (AU)	Supports the position of Madagascar and calls for peaceful negotiations with France.	Based on the AU Charter and United Nations principles on decolonisation and territorial integrity.	The 2023 Assembly decision reaffirms support for Madagascar and recognises the continental dimension of the dispute.

Appendix B — Literature review

Table 3 – Summary of the Literature Review (since 2009)

Author (year)	Main Focus	Contribution to the Study of the Scattered Islands
Lopes (2015)	Geostrategic and environmental	Highlights the Scattered Islands as strategic and ecological “treasures” in the Mozambique Channel, linking them to French military and scientific presence.
Randrianarisoa (2022)	Diplomacy and post-colonialism	Analyses the diplomatic obstacles to resolving the dispute between France and Madagascar, highlighting the influence of regional alliances.
Jaffrelot (2023)	French strategy in the Indian Ocean	Emphasises the military and economic importance of the Scattered Islands within France’s maritime power triangle.
Fernández & Philippe (2015)	Natural resources and geopolitics	Identify the importance of natural resources and the international claims made by third countries over the Scattered Islands.
Silva (2024)	Maritime security and the CPLP	Addresses the importance of the islands in delimiting maritime jurisdictions and controlling strategic routes, with a focus on the Mozambique Channel.
Châtaigner (2015)	Sovereignty and co-management	Discusses co-management as a viable, albeit controversial, solution for the Scattered Islands.
Villatoux (2021)	International relations	Emphasises the strategic importance of the Scattered Islands for France and the diplomatic challenges of the dispute.
Dias (2018), Muianga (2019), Mutombene et al. (2021)	Natural resources in Mozambique	Analyse scenarios for the exploitation of energy and fishery resources, relevant to the economic framework of the dispute.
Tanaka (2024)	United Nations Convention on the Law of the Sea (UNCLOS)	Distinguishes between “islands” and “rocks”, applying recent jurisprudence (South China Sea, Chagos) to the case of the Scattered Islands.
Mbaye (2023)	African international law	Examines African maritime sovereignty and the classification of insular formations in the Indian Ocean.
DOALOS (s.d.)	UN technical report	Refers to Franco-African Island disputes, situating the Scattered Islands within the global context of maritime delimitation.
Andriamiharisoa (2022)	International relations	Analyses the geostrategic importance of the Scattered Islands and the sovereignty disputes.
Rafaly (2020)	Legal status	Provides a detailed overview of the legal limits to the extension of maritime rights over the Scattered Islands.
Quartin Graça (2015)	Comparative law (Selvagens Islands)	Provides a useful comparative basis for understanding the legal nature of the Scattered Islands.
Oxford Public International Law, 2009	Legal encyclopaedia	Presents a synthesis of the legal status of the Scattered Islands and its international implications.