THE RISING SEA LEVEL: A THREAT TO STATEHOOD
BREAKDOWN OF THE PAPER

- Climate Change (concept, causes and effects)
- The rise in sea level against statehood
  - The rise in sea level versus a defined territory
  - The rise in sea level versus a permanent population
- Recommendations
Statehood

Theories of Statehood: Declaratory and Constitutive Theory

Montevideo Convention on the Rights and Duties of States (1933), article 1:

- A defined territory.
- A permanent population.
- An effective government.
- Capacity to enter into relations with other states.
Rise in sea level vs defined territory/ Water Territory/ Maritime Zones

- Fixed Baselines or Ambulatory Baselines
  Case Concerning Territorial and Maritime Dispute between Nicaragua and Honduras in the Caribbean Sea (Nicaragua v Honduras) [2007] ICJ Judgment, para 278
- Uncertainty of maritime boundaries -> conflicts, renegotiation of agreements
- Change in legal status of maritime zones -> impede certain freedoms
- Use of resources to artificially maintain features (Japan’s Okinotorishima point)
- Loss of maritime zones
- Advantage – resolution of disputes -> South China Sea
Effects of sea level rise on the land territory

- Reclassification of islands from islands to rocks – art 121 LoSC 1982 – Rockall Island
- Submersion of small low-lying islands (submersion) – Ghoramara island, India.
- Dissolution/Extinction of statehood -> assets & liabilities
- Law of State Succession-> Merger (Yemen – North and South), Absorption into an existing state -> Germany (East & West), Dismemberment (Czechoslovakia -> Slovakia & Czech Republic)
- What about Total Extinction?
- Can States exist separately from their territory? State in exile?
Rise in sea level vs permanent population

- Inundation, flooding and submersion of highly-populated coasts.
- Interference with fresh water supply and agricultural land in coasts of low-lying islands.
- Rational solution will be migration – climate refugees or stateless persons
  Not protected under the 1951 UN Convention Relating to the Status of Refugees, article 1A.
- Permanent population – settled, some degree of permanence
Suggested resolutions

- Relocation to territory of another state -> integrated and given portion of territory.
  Sovereign Military Order of St Joseph of Jerusalem, Rhodes and Malta

- Creation of artificial structures
  Hulhumale Island by Maldives

- Universal adoption of fixed baseline system through UNGA Resolution or a Supplementary Agreement to the LoSC
QUESTIONS/ COMMENTS