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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