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CLIMATE CHANGE, STATELESSNESS, AND DIGITAL SOVEREIGNTY: SAFEGUARDING ISLAND NATIONHOOD

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ABSTRACT: As climate change accelerates the existential threat facing Small Island Developing States (SIDS), the case of Tuvalu represents a profound legal and moral challenge to international law. Tuvalu has pledged to maintain its sovereignty “in perpetuity,” even if rising seas render its territory uninhabitable. This research interrogates a central question: How can international law accommodate a state’s sovereign continuity in the absence of physical territory, and what transformative legal frameworks are necessary to support post-territorial statehood in climate-vulnerable contexts? This inquiry situates Tuvalu’s constitutional commitment to sovereignty within broader debates on climate justice, environmental displacement, and the postcolonial dimensions of international law. This paper explores how climate-induced statelessness reveals structural inequities embedded in doctrines of statehood, territorial integrity, and recognition. The paper draws upon relevant international legal instruments, including the 1933 Montevideo Convention, the United Nations Convention on the Law of the Sea (UNCLOS), the Paris Agreement, and emerging jurisprudence from the International Court of Justice (ICJ), particularly the 2023 advisory opinion proceedings initiated by Vanuatu. The research also critically examines Tuvalu’s Future Now Project, a pioneering initiative that seeks to preserve Tuvalu’s cultural, legal, and governmental identity through a digitised state apparatus hosted on cloud infrastructure. This novel strategy challenges traditional understandings of sovereignty, legal personality, and state continuity. In doing so, it introduces the concept of “digital sovereignty” as both a technological and legal innovation aimed at resisting erasure in an international system slow to adapt to ecological collapse. Furthermore, the paper considers the decolonial implications of Tuvalu’s stance.

Keywords: Sovereignty, Climate Displacement, Tuvalu, Digital Statehood, UNCLOS, Decolonial International Law

1. Introduction

Climate change presents an unprecedented existential threat to small island states, forcing a re-examination of fundamental concepts like statehood and sovereignty. If rising seas submerge an entire nation, does it cease to exist as a legal person?¹ This article asks precisely that: How can international law recognise and safeguard a state's continuity when its physical territory disappears, and what novel tools (such as digital sovereignty) can forestall climate-induced statelessness? To address this, we undertake a doctrinal analysis of treaties and case laws. We examine traditional criteria for statehood under the Montevideo Convention, recent state practice (especially by Pacific Island Forum members) preserving maritime claims despite inundation, and new legal instruments (including the 2025 ICJ advisory opinion on climate change). We also explore emerging concepts like digital statehood, exemplified by Tuvalu's Future Now project, as a form of cyber-sovereignty. Finally, we situate these developments in a climate-justice framework, highlighting how principles like common but differentiated responsibility (CBDR) and decolonial perspectives demand that the rights and identity of vulnerable peoples endure even if their land is lost. Our methodology blends treaty analysis (UNFCCC, UNCLOS, Paris Agreement), judicial pronouncements, and scholarly commentary to propose how international law might evolve – through new treaties, declarations or custom – to explicitly protect sinking states and their peoples.

2. Climate-Induced Statelessness & Statehood

The disappearance of territory challenges the classic Montevideo criteria: a state must have a permanent population, a defined territory, an effective government, and capacity for foreign relations.² Total inundation would plainly frustrate the defined territory requirement. Doctrinally, nothing in the Montevideo Convention or customary

¹ Jane McAdam, 'Preserving Statehood through Population and Government: Safeguarding Nationality and Franchise in the Context of Sea-Level Rise and Mobility' (2022) 20 NZ YB Intl L 3.

² International Law Commission, 'Chapter X: Sea-level rise in relation to international law', *Report of the International Law Commission: Seventy-fifth session (29 April–31 May and 1 July–2 August 2024)*, UN Doc A/79/10, <<https://legal.un.org/ilc/reports/2024/english/chp10.pdf>> accessed 31 October 2025.

law explicitly addresses a state with no land. Yet scholars note that no minimum land area is required – even a tiny or de facto space can suffice to meet the criterion.³

As long as there is some physical remnant or symbolic claim, the territory element may be stretched. The more vexing issue is population: if a state's citizens relocate elsewhere, their link to their nation persists via nationality law.⁴ International law provides no neat answer for a population without land, but raises analogies to governments-in-exile, which have historically retained recognition when overthrown.⁵

2.1 Montevideo Criteria & Territorial Loss

Under Montevideo, territory and population are core statehood elements. A disappearing island state literally loses its land, calling into question whether it still has a defined territory.⁶ Even a few remaining rocks could preserve this element. Others argue that entirely submerged land cannot fulfil Montevideo's intent – leading to at least legal ambiguity. Likewise, if all inhabitants must evacuate, the permanent population is in exile.⁷

However, international practice offers precedents: in cases of state collapse or diaspora (e.g. governments-in-exile), state continuity has often been presumed where there is political will and recognition. Thus, even if Tuvalu's land vanished, its citizens and institutions remain, pointing to continuity despite territorial loss.⁸ The key doctrinal question is whether Montevideo's language should be rigidly applied. Many experts

³ Michael B Gerrard, 'Statehood and Sea-Level Rise: Scenarios and Options' (2023) 17 *Charleston L Rev* 579.

⁴ Michel Rouleau-Dick, 'Sea Level Rise and Climate Statelessness: From 'Too Little, Too Late' to Context-Based Relevance' (2021) 3 *Statelessness & Citizenship Review* 287.

⁵ Bruce Burson, Walter Kälin and Jane McAdam, 'Statehood, Human Rights and Sea-Level Rise: A Response to the International Law Commission's Second Issues Paper on Sea-Level Rise in Relation to International Law' (2023) 4 *YB Intl Disaster Law Online* 265.

⁶ Emma Allen and Mario Prost, 'Ceci n'est pas un État: The Order of Malta and the Holy See as precedents for deterritorialised statehood?' (2022) 31 *Review of European, Comparative & International Environmental Law* 171.

⁷ Alex Green, 'Three Reconstructions of 'Effectiveness': Some Implications for State Continuity and Sea-level Rise' (2024) 44 *OJLS* 201.

⁸ Yejoon Rim, 'State Continuity in the Absence of Government: The Underlying Rationale in International Law' (2021) 32 *E J Intl L* 485.

now stress flexibility: the disappearance of territory need not automatically annul statehood.⁹

2.2 Presumption of Continuity

State practice and emerging jurisprudence have moved towards a presumption of continuity even if territory is lost. Pacific leaders and scholars insist international law does not contemplate the extinction of an existing state due to sea-level rise.¹⁰ The Pacific Islands Forum's 2023 Declaration affirms that once established, a state will continue to exist and endure despite climate-related loss, rooted in principles of equity and people's self-determination.¹¹

Crucially, the 2025 ICJ advisory opinion echoed this: it explicitly held that once a State is established, the disappearance of one of its constituent elements would not necessarily entail the loss of its statehood.¹² Thus, despite Montevideo's silence, emerging legal consensus is that established states enjoy a status quo stability: existing legal personality and rights survive land loss. This presumption of continuity aims to protect vulnerable SIDS against a legal vacuum and potential statelessness.¹³

2.3 Maritime Baselines & Declarations

SIDS have also taken unorthodox steps to safeguard maritime entitlements. International law grants islands large exclusive economic zones (EEZs) and continental shelves (UNCLOS Arts. 57, 76, 121). Under traditional law, these zones

⁹ International Law Commission, *Study Group on Sea-level rise in relation to international law: Report* UN Doc A/CN.4/L.1002 (15 July 2024), <<https://docs.un.org/en/A/CN.4/L.1002>> accessed 31 October 2025.

¹⁰ United Nations, *Sea-level rise in relation to international law — Additional paper to the second issues paper* (International Law Commission, UN Doc A/CN.4/774, 19 February 2024), <<https://docs.un.org/en/A/CN.4/774>> accessed 31 October 2025.

¹¹ Pacific Islands Forum, 2023 Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-Related Sea-Level Rise (6 August 2023) <<https://forumsec.org/sites/default/files/2024-05/2023%20Declaration%20on%20the%20Continuity%20of%20Statehood%20and%20the%20Protection%20of%20Persons.pdf>> accessed 31 October 2025.

¹² Frances Anggadi, 'What States Say and Do about Legal Stability and Maritime Zones, and Why It Matters' (2022) 71 ICLQ 767.

¹³ International Court of Justice, *Obligations of States in respect of Climate Change, Advisory Opinion*, 23 July 2025, General List No. 187, para 363, <https://3vb.com/wp-content/uploads/2025/07/Advisory-Opinion.pdf?utm_campaign=news&utm_medium=miragenews&utm_source=miragenews> accessed 31 October 2025.

fluctuate with baselines set at the low-tide coastline.¹⁴ To prevent shrinkage from erosion, Pacific states unilaterally fixed their baselines. In 2021 and 2023, the Pacific Islands Forum declarations explicitly proclaimed that maritime zones established and notified shall continue to apply, without reduction, notwithstanding any climate change-related sea-level rise.¹⁵

For example, Tuvalu and neighbours have maintained that their 200-mile boundaries remain frozen even if the supporting islets submerge.¹⁶ These acts, though not binding under current law, aim to create state practice supporting stable baselines. They signal a collective effort to bind UNCLOS rights to historical baselines, preventing loss of fishing and resource zones.¹⁷

3. International Legal Obligations

3.1 Climate Regime & Rights

The global climate regime embodies obligations that implicate SIDS' survival. The UNFCCC and Paris Agreement reaffirm that states must mitigate emissions and support vulnerable nations under common but differentiated responsibilities (CBDR).¹⁸ UNFCCC Article 3 imposes a general duty to ensure that activities do not cause damage to the environment of other States, reflecting a no-harm rule for climate pollution.¹⁹

The Paris Agreement further sets a binding goal of limiting warming to 1.5°C and mandates adaptation support and finance tailored to those most at risk (e.g.

¹⁴ Tsung-Han Tai and Wenxian Qiu, 'Assessing the impact of sea level rise on maritime entitlement and delimitation: an interdisciplinary investigation through legal and technical analysis' (2024) 11 *Frontiers in Marine Science* 1, <<https://doi.org/10.3389/fmars.2024.1448292>>.

¹⁵ Pacific Islands Forum, Declaration on Preserving Maritime Zones in the Face of Climate Change-Related Sea-Level Rise (6 August 2021) <<https://forumsec.org/sites/default/files/2024-03/2021%20Declaration%20on%20Preserving%20Maritime%20Zones%20in%20the%20face%20of%20Climate%20Change-related%20Sea-level%20rise.pdf>> accessed 31 October 2025.

¹⁶ Matthias Nouvet, 'Maintaining Maritime Entitlements in Troubled Waters: Assessing the Influence of the 2021 Pacific Island Forum Declaration' (2023) 36 *Hague YB Intl L* 119.

¹⁷ Frances Anggadi, 'Establishment, Notification, and Maintenance: The Package of State Practice at the Heart of the Pacific Islands Forum Declaration on Preserving Maritime Zones' (2022) 53 *Ocean Development & Intl L* 19.

¹⁸ Michalis I Vousdoukas and others, 'Small Island Developing States under threat by rising seas even in a 1.5 °C warming world' (2023) 6 *Nature Sustainability* 1552.

¹⁹ Lavanya Rajamani, 'Interpreting the Paris Agreement in its Normative Environment' (2024) 77 *CLP* 167.

Arts. 2, 4, 8). Its preamble expressly acknowledges obligations on human rights and the special needs of highly vulnerable countries.²⁰

3.2 ICJ Advisory Opinion

In 2025 the International Court of Justice's advisory opinion on climate change made two key findings. First, it confirmed that statehood survives land loss.²¹ It stresses that even if an entire landmass were lost and its people displaced, the state should still be presumed to continue as a legal entity; once statehood is achieved, losing territory does not automatically strip a state of its sovereign status. Thus, the Court endorsed the presumption of continuity articulated by SIDS.²²

Second, the ICJ emphasised that states have binding duties to curb climate harm. It affirmed a general obligation of due diligence to prevent, mitigate, and remedy climate harm, flowing from treaties (UNFCCC, Paris, UNCLOS) and custom, and linked to rights such as life and a healthy environment.²³ Failure to honour these duties (e.g. by excess emissions) would amount to an internationally wrongful act under general international law. The advisory thus reinforced both the continuing legal personality of disappearing states and the climate obligations of all states.²⁴

3.3 Law of the Sea & UNCLOS

The UNCLOS is central to protecting SIDS' maritime rights. Under UNCLOS Art. 121, islands generate full EEZs (200 nm) and continental shelves, affording rich fishery and mineral entitlements.²⁵ Sea-level rise itself was not envisaged in 1982, but the Convention imposes general duties relevant to climate threats: Article 192 obliges

²⁰ Alice L Venn, 'Rendering International Human Rights Law Fit for Purpose on Climate Change' (2023) 23 Human Rights L Rev 1.

²¹ Zana Sylva and Avidan Kent, 'Statehood in the Climate Crisis: The ICJ's Climate Advisory Opinion and the Presumption of State Continuity' (Columbia Law School Climate Law Blog, 21 August 2025) <<https://blogs.law.columbia.edu/climatechange/2025/08/21/statehood-in-the-climate-crisis-the-icjs-climate-advisory-opinion-and-the-presumption-of-state-continuity/>> accessed 31 October 2025.

²² ICJ, Obligations of States in respect of Climate Change (n 13) para 363.

²³ Alexandra L Phelan, 'The ICJ Advisory Opinion: a legal mandate for planetary health' (The Lancet, 28 August 2025) <[www.thelancet.com/journals/lancet/article/PIIS0140-6736\(25\)01725-8/abstract](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(25)01725-8/abstract)> accessed 31 October 2025.

²⁴ Susan McCluskey, 'Calibrating states' emissions reduction due diligence obligations with reference to the right to life' (2022) 31 Review of European, Comparative and International Environmental Law 483.

²⁵ Harry Hobbs and Donald Rothwell, 'Towards a Legal Era of Islands: The International and Constitutional Legal Status of Island Territories' (2024) 73 ICLQ 609.

every State to protect and preserve the marine environment, and Article 300 requires parties to honour rights in good faith without abuse.²⁶ Pacific declarations invoke Article 300 to argue that fixed baselines and associated zones must be respected in good faith. While UNCLOS contains no express sea-level rule, these principles imply that deliberate loss of EEZ via SLR (if caused by others' emissions) could violate the duty not to abuse rights.²⁷

Moreover, the exclusive zone itself is a form of resource sovereignty – Pacific leaders have underscored that recognition of permanent maritime jurisdiction follows from their continuing statehood.²⁸ UNCLOS entitles island states to vast maritime areas, and coupled with duties of cooperation (Art. 123) and no harm, it buttresses claims to an enduring exclusive zone even if physical baselines shift.²⁹

4. Digital Sovereignty and Nation Continuity

The prospect of disappearing homelands has spawned the concept of digital or cyber sovereignty: preserving a nation's identity and government function in cyberspace when its territory vanishes. This involves creating a virtual state – a digital twin of government, culture, and populace – so the nationhood endures online. This is seen as a radical reimagining of sovereignty.³⁰ Tuvalu's plan is described as forming a 'digital nation' supported by a deterritorialised government, to preserve its statehood into the future. Such ideas, they caution, remain nascent but carry profound implications for how democracy and sovereignty operate in the Anthropocene.³¹

²⁶ International Tribunal for the Law of the Sea, *Advisory Opinion on the Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law*, Advisory Opinion, 21 May 2024, <https://itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_orig.pdf> accessed 31 October 2025.

²⁷ Chris Armstrong and Jack Corbett, 'Climate Change, Sea Level Rise, and Maritime Baselines: Responding to the Plight of Low-Lying Atoll States' (2021) 21 *Global Environmental Politics* 89.

²⁸ VC Tilot and all, 'The Concept of Oceanian Sovereignty in the Context of Deep Sea Mining in the Pacific Region' (2021) 8 *Frontiers in Marine Science* 1, <<https://doi.org/10.3389/fmars.2021.756072>>.

²⁹ Mara R Wendebourg, 'Interpreting the Law of the Sea in the Context of Sea-Level Rise: The Ambulatory Thesis and State Practice' (2023) 35 *JEL* 499.

³⁰ Sebastián Lehuedé, 'An alternative planetary future? Digital sovereignty frameworks and the decolonial option' (2024) 11 *Big Data & Society* 1 <<https://doi.org/10.1177/20539517231221778>>

³¹ Delf Rothe and others, 'Digital Tuvalu: state sovereignty in a world of climate loss' (2024) 100 *International Affairs* 1491.

In Tuvalu's case, the indigenous notion of *fenua* (land-people-culture nexus) is being extended into virtual space: the goal is to digitally rebuild Tuvalu's islands and traditions, thereby regaining agency in the face of existential climate threats. Digital sovereignty encompasses governmental data archiving (blockchain passports, remote courts, online parliaments) and preserving intangible heritage (language, customs, archives).³²

The developing field of metaverse diplomacy and initiatives like blockchain-backed national identity illustrate this shift. Digital sovereignty clashes with the power of global tech platforms – yet Tuvalu's state-led approach repurposes these tools to bolster its nationhood (e.g. digital broadcasting, NFT citizenship projects).³³

4.1 Tuvalu's Future Now Project

Tuvalu's government has pioneered digital-state strategies. In 2021 it launched the Future Now (*Te Ataeao Nei*) project to prepare for worst-case climate loss. Foreign Minister Simon Kofe famously declared at COP27 that Tuvalu will become the world's first digital nation.³⁴ Under this plan, Tuvalu will recreate every aspect of the state online. One initiative is a digital government system: key functions (records, ministries, communication) would be hosted on secure digital infrastructure so the government can relocate or continue operations virtually. Vital cultural assets – historical archives, language databases, traditional knowledge – are being digitised to preserve national heritage for future generations.³⁵

These plans have even been enshrined in the country's constitution, embedding digital continuity as national policy. The aim is that, should Tuvalu's territory sink, its online avatar (e.g. government websites, digital citizenship registers) will keep the state alive in the international system.³⁶ The digital nation will replace our

³² Alfonso Hegde, 'Digital Nations and the Future of the Climate Crisis' (2024) 18 *Intl J Communication* 755.

³³ Mawaki Chango, 'Building a Credential Exchange Infrastructure for Digital Identity: A Sociohistorical Perspective and Policy Guidelines' (2022) 4 *Frontiers in Blockchain* 1, <<https://doi.org/10.3389/fbloc.2021.629790>>.

³⁴ Liam Saddington, 'Climate change, bodies and diplomacy: Performing watery futures in Tuvalu' (2024) 50 *Transactions of the Institute of British Geographers* <<https://doi.org/10.1111/tran.12731>>.

³⁵ Leighton Evans, 'The Digital Twinning of Tuvalu: deep ecology in the age of virtual reproduction' (2025) 27 *New Media & Society* 4499.

³⁶ Kelly Buchanan, *Tuvalu: Constitutional Amendment Enshrines Statehood in Perpetuity in Response to Climate Change* (Law Library of Congress, 28 September 2023), <www.loc.gov/item/global-legal-

physical presence and allow us to continue to function as a state. Tuvalu also pursues bilateral assurances – communiqués with other states recognising Tuvalu’s permanent maritime boundaries – and multilateral backing (Pacific Forum declarations) as part of Future Now’s multi-pronged approach.³⁷

4.2 Concept of Digital/Cyber Sovereignty

Digital sovereignty broadly refers to a state’s control over digital infrastructure and identity independent of physical territory. In the climate context, it means reconfiguring sovereignty in virtual space.³⁸ Digital sovereignty in this sense is in an embryonic stage but reshapes traditional statehood. Tuvalu’s model frames the fenua concept relationally: land, sea, people, and culture are linked in one digital ecosystem.³⁹ While commercial notions of cyber-sovereignty (e.g. digital borders) often focus on data control, here the emphasis is on continuity of identity and legal personality online.⁴⁰

This overlaps with e-governance trends: for example, Estonia’s e-Residency (since 2014) created a virtual nation of remote entrepreneurs, illustrating how citizenship and services can be partially relocated into cyberspace. However, Estonia’s case still assumes a physical homeland; Tuvalu pushes further, aiming for full virtualisation if needed.⁴¹

Key features of digital sovereignty include: digital identity (blockchain IDs, dispersed embassies), digital assets (NFT land deeds, cultural archives), and digital diplomacy (virtual courts, online UN presence).⁴² The goal is to sustain state functions and national self-determination via technology. For instance, experts describe Tuvalu’s plan as developing a deterritorialised government – a state form where sovereignty is

monitor/2023-09-28/tuvalu-constitutional-amendment-enshrines-statehood-in-perpetuity-in-response-to-climate-change/> accessed 31 October 2025.

³⁷ Alex Green and Douglas Guilfoyle, ‘The Australia–Tuvalu Falepili Union Treaty: Statehood and Security in the Face of Anthropogenic Climate Change’ (2024) 118 AJIL 684.

³⁸ S Fratini and others, ‘Digital Sovereignty: A Descriptive Analysis and a Critical Evaluation of Existing Models’ (2024) 3 Digital Society 59.

³⁹ M Vaha, ‘Indigenous values in international law and politics: The perpetual state of Tuvalu’ (2025) 8 Small States & Territories 205.

⁴⁰ Samuele Fratini and others, ‘Digital Sovereignty: A Descriptive Analysis and a Critical Evaluation of Existing Models’ (2024) 3 Digital Society 59.

⁴¹ Piia Tammpuu and Anu Masso, ‘Transnational Digital Identity as an Instrument for Global Digital Citizenship: The Case of Estonia’s E-Residency’ (2019) 21 Information Systems Frontiers 621.

⁴² H Stublić, M Bilogrivić and G Zlodi, ‘Blockchain and NFTs in the Cultural Heritage Domain: A Review of Current Research Topics’ (2023) 6 Heritage 3801.

maintained without fixed geography. If recognised, such digital sovereignty could prompt new legal recognition (e.g. rights to participate in international forums, retain membership in organisations) even absent land.⁴³

4.3 Comparative Initiatives

Other states have toyed with analogous ideas. Beyond Tuvalu, Estonia's e-Residency program has been cited as an early digital nation model: over 100,000 e-residents can form companies and access digital services under Estonian law without living there. While not prompted by climate, Estonia's experience shows how a state can grant legal belonging virtually.⁴⁴

In contrast, Kiribati has pursued a physical strategy: in 2014 it purchased land in Fiji as a refuge for its people. Some micronations (e.g. Sealand, Liberland) have experimented with blockchain IDs or virtual territories. Nevertheless, Tuvalu's case is unique in explicitly tying digital nationhood to survival of statehood.⁴⁵ The metaverse embassy of Vanuatu or plans for a Martian colony are far afield; the closest parallels are UN-supported dialogues on climate refugees and statelessness, but no other country has formalised a digital sovereign plan as part of law and policy.⁴⁶

5. Climate Justice & Decolonial Perspectives

5.1 Historical Responsibility & CBDR

Climate-driven land loss is fundamentally a justice issue. Affected states insist that those who did the least to cause the crisis should not suffer first – invoking established principles. The UNFCCC explicitly embeds common but differentiated responsibilities (CBDR) and equity: Article 3 declares that parties must act in accordance with their common but differentiated responsibilities. The Paris Agreement reaffirms this,

⁴³ Alexandra Giannopoulou, 'Digital Identity Infrastructures: A Critical Approach of Self-Sovereign Identity' (2023) 2 *Digital Society* 18.

⁴⁴ Anna Blue, 'Evaluating Estonian E-residency as a tool of soft power' (2021) 17 *Place Branding and Public Diplomacy* 359.

⁴⁵ P Howson and others, 'Crypto/Space: Computational parasitism, virtual land grabs, and the production of Web3 Exit zones' (2024) 115 *Political Geography* 103210, <<https://doi.org/10.1016/j.polgeo.2024.103210>>.

⁴⁶ John P Cauchi, Ignacio Correa-Velez and Hilary Bambrick, 'Climate change, food security and health in Kiribati: a narrative review of the literature' (2019) 12 *Global Health Action* 1603683, <<https://doi.org/10.1080/16549716.2019.1603683>>.

affirming equity and emphasising the urgent needs of developing countries particularly vulnerable to climate impacts. This means high emitters owe historical debt: the polluter pays notion is implicit in calls for compensation.⁴⁷

International law does not yet quantify this debt, but SIDS invoke human rights instruments (right to life, health, development) and even anti-colonial norms to press claims. For example, Pacific and African LDCs framed climate loss as a form of structural injustice at COP venues and before UN bodies. Ultimately, climate justice demands that responsibility for climate-induced statelessness not fall on victims alone. Tools like the 2022 Loss and Damage Fund, enhanced climate finance, or even reparation schemes can be seen as partial legal recognition of historical responsibility.⁴⁸

5.2 Global South Solidarity

The struggle of SIDS resonates across the Global South. African, Asian and Latin American states often form coalitions (G77+China, AOSIS, African Group, LDCs) to demand ambitious cuts by major emitters and long-term support for climate victims. This solidarity has legal expression: for instance, group interventions in UN fora, and joint statements in the ICJ or UNGA, assert an equitable international order.⁴⁹

South-south cooperation initiatives, like the Bridgetown Initiative by Caribbean and African finance ministers, call for debt relief and new development financing as climate justice tools. Doctrinally, these voices push for recognition that colonial development patterns imposed different capabilities and debts, thus only a unified Global South front can re-balance climate obligations.⁵⁰

⁴⁷ Lavanya Rajamani and others, 'National 'fair shares' in reducing greenhouse gas emissions within the principled framework of international environmental law' (2021) 21 *Climate Policy* 983.

⁴⁸ Ike Uri and others, 'Equity and Justice in Loss and Damage Finance: A Narrative Review of Catalysts and Obstacles' (2024) 10 *Current Climate Change Reports* 33.

⁴⁹ Paula Castro, 'National interests and coalition positions on climate change: a text-based analysis' (2021) 42 *International Political Science Review* 95.

⁵⁰ Amar Bhattacharya and others, *Raising Ambition and Accelerating Delivery of Climate Finance: Third report of the Independent High-Level Expert Group on Climate Finance* (Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science, November 2024) <www.lse.ac.uk/granthaminstitute/wp-content/uploads/2024/11/Raising-ambition-and-accelerating-delivery-of-climate-finance_Third-IHLEG-report.pdf> accessed 31 October 2025.

5.3 Rights of People and Culture

Beyond states, climate law must uphold the rights of individuals and cultures whose homelands vanish. Human rights law protects related interests: the Universal Declaration guarantees everyone a nationality; the 1954 Refugee Convention forbids rendering people stateless. If a state loses land, its citizens face potential statelessness, violating norms of nationality and non-discrimination. Indigenous and cultural rights also loom large. UNESCO's conventions safeguard intangible heritage, and human rights instruments (ICCPR, ICESCR) imply rights to life, culture, language, and community. The Pacific Declaration on continuity explicitly links state survival to peoples' self-determination and cultural integrity.⁵¹

Thus, climate-displaced persons have claims under existing rights law: for example, resettlement should preserve their cultural identity and gender/nationality rights. A decolonial climate justice approach emphasises that wiping out an island is erasing a people's history and dignity. International law must therefore ensure that even if lands disappear, the community's identity, governance and cultural rights are legally recognised – effectively extending human-rights protections to the novel domain of collective climate justice.⁵²

6. Conclusion

Climate change demands that international law evolve to save states from extinction. Doctrinally, the Montevideo criteria and UNCLOS must be reinterpreted or amended to accommodate non-territorial sovereignty. States such as Tuvalu show how far this evolution must go: converting a physical nation into a persistent digital one requires fresh legal recognition. The paper proposes several avenues: first, a new international instrument (treaty or declaration) explicitly guaranteeing state continuity in extremis, akin to a climate statelessness convention. Such an instrument could codify the Pacific practice of frozen baselines and enshrine the presumption that loss of land does not

⁵¹ Michelle Foster and others, *The Future of Nationality in the Pacific: Preventing Statelessness and Nationality Loss in the Context of Climate Change* (Peter McMullin Centre on Statelessness, Melbourne Law School, May 2022) <https://law.unimelb.edu.au/__data/assets/pdf_file/0010/4119481/The-Future-of-Nationality-in-the-Pacific_May2022.pdf> accessed 31 October 2025.

⁵² Alejandra Mancilla and Patrik Baard, 'Climate Justice and Territory' (2024) 15 WIREs Climate Change e870 <<https://doi.org/10.1002/wcc.870>>.

nullify sovereignty. Second, states could agree on a custom or protocol that permits alternative seat-of-government arrangements (e.g. government-in-exile rules) for submerged nations, along with reserved rights (UN membership, citizenship) for their peoples. Third, the climate justice imperatives of CBDR should be operationalised by legalising reparations – for example through binding loss-and-damage treaties or climate liability mechanisms – thereby affirming historic polluter-payer responsibilities. Finally, cyberspace institutions must adapt: international organisations (UN, courts, maritime tribunals) should recognise digital embodiments of nations as legitimate participants. By fusing traditional sovereignty with digital innovation, and embedding equity and human rights into the legal architecture, the international community can ensure that disappearing states like Tuvalu remain intact entities under international law. The law of the Anthropocene must thus embrace flexibility over strict territoriality, upholding both the identity and entitlements of nations in extremis.

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