



CHAPTER SIX

**LAW AND RISING SEAS:  
NAVIGATING OCEAN CHANGE**

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*‘Oceania’ connotes a sea of islands with their inhabitants. The world of our ancestors was a large sea full of places to explore, to make their homes in, to breed generations of seafarers like themselves. People raised in this environment were at home with the sea.*

— Epeli Hau'ofa, *Our Sea of Islands*, 1993

**Abstract**

Pacific Island nations, facing an existential threat to their statehood and maritime sovereignty due to climate change-induced sea level rise, are taking innovative legal action. This chapter examines their strategic use of international legal mechanisms, focusing on the deposition of maritime boundaries with the United Nations under the United Nations Convention on the Law of the Sea. It underscores the unique challenges island nations face and their potential to influence global legal developments concerning climate change and state sovereignty.

**Introduction**

“Ocean change,” a term preferred over the more commonly used “climate change,” underscores the severe consequences of anthropogenic climate change on the world’s largest marine body—the Pacific Ocean. This chapter examines the unprecedented legal practice adopted by some states in Oceania to protect their sovereignty and the human security of their populations. By depositing maps of their maritime boundaries with the United Nations (UN), these nations are preserving their territorial claims and actively participating in the evolution of international law. This

approach reflects the urgent need to address human security concerns in the face of relentless climate change.

Constructivist international relations theory, which emphasizes the dynamic relationship between state actions and evolving norms, informs the theoretical framework for this analysis. As small island nations face existential threats from rising sea levels and increased natural disasters, they forge a path toward legal innovations that may set precedents for global environmental governance. This chapter explores how these pioneering efforts by Oceania states might influence the broader landscape of international law, answering the critical question: How are these microstates leveraging their limited but unique positions to shape international norms and secure their future against ocean change?

This question is not merely academic. It sheds light on a region often sidelined in global discussions yet stands at the frontline of one of our time's most pressing global challenges. The analysis covers the legal responses of the South Pacific region's microstates, focusing on their strategic use of international legal mechanisms to assert and maintain their territorial integrity and sovereignty. By integrating theory with practical experiences gained during a recent scientific expedition aboard the *Statsraad Lehmkuhl*, this chapter aims to bridge the gap between legal principles and the lived realities of Pacific Islanders.<sup>1</sup> From this vantage point of practical engagement, I advocate for a more proactive approach to international law, one that not only respects but actively promotes the resilience and sovereignty of small island states confronting global environmental change.

### **Geographical and Environmental Context**

The geographical scope of this analysis covers the South Pacific region, known as Oceania, which is divided into three subregions: Micronesia, Polynesia, and Melanesia. This distinction is crucial as

each subregion faces unique challenges and has developed distinct strategies to address the impacts of ocean change.

Despite the global acknowledgment of climate change's effects on various ecosystems, research on ocean change, specifically in Oceania, is surprisingly scant. This oversight could be attributed to the region's distance from the world's decision-making centers, its relatively minor role in global political and economic arenas, or simply the lack of specialized researchers in the narrow field of the legal consequences of ocean change in Oceania. Regardless of the cause, this gap in research undermines the ability of microstates in the South Pacific to counter the devastating effects of climate change on their lands and seas effectively, to protect their statehood, sovereignty, peace, and stability at regional and global levels, and to fortify themselves against any exploitation of their vulnerability.

### **The Immediate Impact of Ocean Change**

Oceania's small island states are already experiencing severe environmental damage: new weather patterns, including sudden changes, flooding, and droughts, are becoming more frequent and intense. These changes pose a real and immediate threat to their territories, central to their statehood and national identity. If current meteorological and geological forecasts prove accurate, these nations risk losing significant portions of their territory permanently.

### **Socio-Economic Challenges and Global Invisibility**

The least developed countries in Oceania, which also have some of the highest poverty rates globally, are among the most vulnerable to the effects of climate change. These nations often lack a significant voice in international forums such as the United Nations. This absence of influence has led them to seek legal protections at regional forums independent of global actions. These island nations, identified collectively as Small Island Developing States (SIDS)

and, more specifically, in Oceania as Pacific Small Island Developing States (PSIDS), have contributed minimally to global warming due to their negligible industrialization levels. Yet, they endure the most severe consequences.

The Federated States of Micronesia (FSM) exemplifies the acute challenges faced by the region. For two decades, FSM has combated the destructive impacts of strong tides and significant flooding of atolls, which not only cause extensive material damage but also lead to geochemical changes affecting agriculture and animal husbandry. Daily realities include coastal erosion, the destruction of food crops, limited access to potable water, and damage to marine species due to rising sea temperatures and acidification.<sup>2</sup>

### **Regional Legal Responses**

In response to these multifaceted challenges, Oceania states have begun to assert their sovereignty and protect their populations through innovative legal strategies. These strategies include depositing maps of their maritime boundaries with the United Nations to secure their territorial claims against the physical and legal uncertainties posed by ocean change. This proactive approach reflects a broader, strategic legal and political framework that aims to ensure the survival and sovereignty of these nations in the face of environmental upheaval.

While these regional efforts mark significant progress, critics might argue that such unilateral actions could complicate international legal consensus or lead to inconsistencies in maritime law enforcement. However, the urgency of the environmental threats faced by these nations necessitates immediate action, underscoring the need for flexible and responsive legal mechanisms at the international level.

## **The Law and the Sea and Climate Change in Oceania**

The Pacific Ocean, covering one-third of the Earth's surface, is not only the largest body of water in the world but also a central element of life for over 10 million people spread across 25,000 islands and islets. These inhabitants, known collectively as Pasifika, or "people of the sea,"<sup>3</sup> view the ocean as more than just a vast aquatic expanse. It embodies their very essence, holding a deep metaphysical and spiritual significance.<sup>4</sup> This profound connection is pivotal as the ocean is also a vital source of sustenance for many, with tuna being a primary, and sometimes sole, source of protein.<sup>5</sup> Thus, the relationship between Pasifika and the ocean underscores the critical importance of legal and cultural issues associated with marine areas, from fishing rights and territorial claims to broader environmental stewardship.

### *Legal Implications of Ocean Change*

Essential to the survival of these communities is the Law of the Sea, one of the oldest branches of international law, which governs a range of critical issues, from fishing rights to territorial and open ocean zones. The legal framework is essential for defining the Exclusive Economic Zone (EEZ), which extends 200 nautical miles (nm) from the coast, where a state has special rights regarding the exploration and use of marine resources. However, rising sea levels disrupt these definitions by altering reference points to determine these zones. As sea levels rise, islands, atolls, and other low-lying areas shrink, necessitating the reevaluation of where these zones begin and end. Such a change could lead to significant reductions in the size of EEZs, with profound implications for the legal rights and economic opportunities of the states concerned.

### *Stability and Disproportionality in Maritime Zones*

The archipelagic nature of Oceania means these islands have been afforded disproportionately large maritime zones relative to their

landmass. This is because the United Nations Convention on the Law of the Seas (UNCLOS) defines maritime zones based on coastlines and baselines.<sup>6</sup> For example, an island without a close maritime neighbor (i.e., another state's territory within 400 nautical miles) can claim an extensive area—up to 125,664 nm<sup>2</sup> [431,014 km<sup>2</sup>] of territorial sea, EEZ, and continental shelf.<sup>7</sup> Whereas a “rock” can only generate a claim to a territorial sea of 452 nm<sup>2</sup> [1,550 km<sup>2</sup>]. As a result, this disproportionality becomes particularly contentious as physical changes caused by ocean change threaten the land that qualifies these nations for their extensive maritime claims, potentially reducing them to the status of “rocks” with much smaller maritime entitlements.

### *Challenges to Legal Stability*

Ocean change and the resulting shifts in coastlines and baselines introduce fundamental instability to the legal order governing maritime zones. As the physical landscape of these islands evolves, so too must the legal landscape that defines their territorial and economic zones. Measuring and defining EEZs amid dynamic geographical changes is becoming increasingly urgent. The international legal community faces the challenge of adapting legal norms and practices to these realities without undermining the rights and sovereignty of the affected states.

### **Human Security and Climate Resistance**

The intimate and intrinsic connection between the Pasifika people and their surrounding marine environment underscores how even minor changes in land territory due to rising sea levels can significantly impact maritime boundaries and threaten state security. This natural association between the statehood and sovereignty of the Pasifika and their ocean is profound—without the sea, Oceania's inhabitants' very existence and identity are at risk. This relationship reflects the “Pacific worldview,” which emphasizes solving

problems in the “Pacific way”—a concept that may seem elusive to those from other continents.<sup>8</sup>

The prevailing solution to rising sea levels has often been relocating populations to countries like Fiji, New Zealand, and Australia. However, Pasifika communities are deeply resistant to such moves, questioning how their statehood, national heritage, and cultural identity can be preserved and cultivated in foreign lands. In response, there is a significant legal and cultural push within Oceania to safeguard their land and maritime territories and maintain their national identities.

Ocean change threatens territorial integrity and diminishes the ocean’s capacity to provide essential services crucial for human survival. This includes food provisions, carbon dioxide storage, and oxygen production. Additionally, less acknowledged yet vitally important are the ocean’s natural defenses against environmental hazards, such as coral reefs, seagrasses, and mangroves,<sup>9</sup> which are increasingly jeopardized by climate change. The International Union for Conservation of Nature emphasized in a 2017 report that the sustainable management, protection, and restoration of these coastal and marine ecosystems are pivotal for maintaining the ecosystem services essential for human life and health.<sup>10</sup>

A proactive, low-carbon strategy is more crucial than ever to sustain marine and human health. The ocean has been critical in mitigating climate change by absorbing over 90% of human-induced atmospheric warming since the 1970s.<sup>11</sup> Thus, the overall health of Oceania’s inhabitants is directly linked to the ocean’s health, particularly its temperature and acidity levels.

### **Sea Level Rise and Statehood of Oceania States**

Scientific research and political discourse consistently acknowledge the rising sea levels, which are causing extensive damage to land and maritime environments. Yet, the precise extent and pace at which sea levels will rise remains uncertain, posing grave threats to

populations and the very existence of states as recognized international legal entities. According to the 1933 Montevideo Convention, the existence of a state is contingent upon three elements: a permanent population, a defined territory, and an effective government.<sup>12</sup> The prospect of losing territory threatens these fundamental aspects of statehood, particularly in the Pacific. Notably, low-lying countries such as Kiribati, the Marshall Islands, Tokelau, and Tuvalu face the dire prediction of losing most, if not all, of their territory by the end of the 21st century.<sup>13</sup>

Moreover, environmental changes such as flooding, drought, and extreme weather will likely gradually render coastal areas uninhabitable. The socio-economic impacts of these changes pose additional security threats to PSIDS populations. Large-scale migrations, often referred to as movements of “climate refugees”—a term widely used but not legally recognized—represent a significant consequence of these environmental changes.<sup>14</sup> The flooding of urban centers exacerbates existing challenges such as overpopulation, high unemployment rates among youth, and lack of education, further destabilizing these regions.<sup>15</sup>

The vulnerability of Oceania’s population is often described as being on the “front line of global ocean change.”<sup>16</sup> This vulnerability is compounded by three main interrelated factors: geographical smallness, isolation, and regional fragmentation. These island nations’ confined land and marine environments are inherently fragile and heavily dependent on the ocean, making them increasingly susceptible to many threats that impact state and human security. These threats include inadequate waste management, population of land and sea, soil erosion, rapid population growth and overcrowded coastal areas, and international migration pressures. Additionally, these states face economic and infrastructural challenges, including dependence on foreign remittances, a lingering reliance on post-colonial foreign aid, volatile market prices, and underdeveloped infrastructure in ports and airports.



These multifaceted challenges underscore the urgent need for robust international cooperation and innovative legal solutions to ensure the survival and sovereignty of these states within the global community. The ongoing legal and political efforts aim to mitigate these immediate threats and preserve the Pasifika people's cultural heritage and national identity against these unprecedented global changes.

### **Unprecedented Solution to Unprecedented Problem**

Faced with an urgent and unique set of challenges, PSIDS cannot afford to wait for the slow churn of international decision-making, especially within frameworks like the United Nations. To secure their existence as sovereign states, these nations have taken the initiative to develop legal solutions at a regional level that are closer to their immediate realities and needs. This approach involves various legal mechanisms, including soft and hard law, tailored to address the unprecedented impacts of ocean change.

The existential threat of rising sea levels has precipitated a series of legal dilemmas. These include questions about the very nature of statehood as defined by the 1933 Montevideo Convention: Can a population without a defined territory still be recognized as a state? What happens to a state's rights and obligations if it becomes deterritorialized? These questions extend into practical issues concerning the demarcation of maritime zones: Should the EEZ baselines be ambulatory to reflect changing shorelines, or should they remain fixed despite environmental transformation?<sup>17</sup>

Further complicating matters is the status of displaced populations. Should individuals from nations submerged by rising waters be considered climate migrants, and what would their legal status be in host countries? The absence of an international agreement addressing "climate change refugees" or "climate change displaced persons" highlights a significant gap in current international law. This gap prompts a critical discussion on whether

the UN should develop new agreements or whether a shift in the interpretation of existing laws, such as UNCLOS, is necessary.

These legal inquiries only scratch the surface of the dire situation facing PSIDS. The intent of this chapter is not only to provide definitive answers to these complex issues, as opinions among even the leading experts and stakeholders vary widely. However, considering their unique perspectives and needs, it is crucial to raise awareness of the potential and existing legal consequences of ocean change for Oceania's microstates.

The challenges are not merely theoretical. The potential loss of territorial and maritime jurisdiction under UNCLOS could strip these states of their rights to access and use marine resources, including migratory species and minerals crucial for their economies—resources that are vital for their survival and economic independence. This scenario could lead to significant losses, including access to valuable rare raw materials essential for modern technologies, such as battery production in electric vehicles and potentially critical components in future technologies.

By proactively addressing these issues through regional legal frameworks, PSIDS are striving to safeguard their territories and resources and setting precedents that could influence global legal practices concerning environmental resilience and state sovereignty in the face of climate change.

### **Regional Custom**

The Pacific Islands Forum (PIF), the principal regional organization in Oceania,<sup>18</sup> issued the “Declaration on Preserving Maritime Zones in the Face of Climate Change-related Sea-Level Rise” on August 6, 2021 (hereafter referred to as the PIF Declaration).<sup>19</sup> This declaration marked a decisive step from waiting for global consensus or action. From the perspective of international lawyers and relations experts, regional approaches often prove faster, more cost-effective, and more productive than their global counterparts.

The innovative approach embedded in the PIF Declaration is based on the declarative theory of international law, which posits that the declaration of a state's intent is essential for maintaining its status as a basic unit of international law.<sup>20</sup>

In the PIF Declaration, member states clearly articulated that their maritime zones, as established and notified to the UN Secretary-General per UNCLOS, would maintain their rights derived from that place without reduction, despite any physical changes brought about by sea level rise.<sup>21</sup> Additionally, the declaration calls for the United Nations to recognize a newly adopted international custom stemming directly from the practices initiated by these Pacific states.

Interestingly, the release of the PIF Declaration coincided with the conclusion of the 72nd meeting of the UN International Law Commission, a session that, for the first time, addressed sea level rise from an international law standpoint.<sup>22</sup> While the outcome of this meeting was more of an opinion-forming document rather than one with legal authority, it highlighted the diverse legal and political views regarding the potential consequences of ocean change. Not surprisingly, states less affected by ocean change were more reluctant to amend UNCLOS or to establish new legal frameworks.

Given the lack of a definitive resolution at the international level, the PIF nations have taken it upon themselves to safeguard their statehood and maritime territories through a regional initiative. By interpreting UNCLOS to their advantage, these nations have used Article 76(8), which stipulates that the limits of the continental shelf established by a coastal state "shall be final and binding." By depositing maps and lists of geographical coordinates delineating their baselines and the external boundaries of maritime zones at the United Nations, these states ensure that these coordinates are not subject to further review or changes, regardless of the physical alterations due to climate change. This transparency in defining maritime boundaries ensures the international community can

reliably use the data and inform legal decisions, practical navigation, and research.<sup>23</sup>

The depositary authority is the UN Secretary-General through the UN Commission on the Limits of the Continental Shelf (CLCS) in the Division of Ocean Affairs and the Law of the Sea. Currently, 13 Oceania countries have individually or collectively submitted their maritime border coordinates: the Cook Islands, Fiji, the Federated States of Micronesia, Papua New Guinea, the Solomon Islands, Palau, Tonga, Tuvalu, Tokelau, and Kiribati, as well as Australia, New Zealand, and France (on behalf of French Polynesia).<sup>24</sup>

This regional practice aims to establish a new international custom acknowledged as a source of law in the doctrine of international law, standing on an equal footing with more formalized treaty laws. “International custom, as evidence of a general practice accepted as law”<sup>25</sup> must be based on two elements to be recognized as a source of law: *usus* and *opinio juris sive necessitatis*. The first element, derived from Latin, is *usus*. It refers to a consistent and widespread state practice where multiple states demonstrate a particular behavior over an extended period. This practice should apply to all states equally, toward everyone (*erga omnes*), not limited to select groups or states. The second element, *opinio juris*, is the belief in the legal validity of this practice and, therefore, the attribution of legal force to the practiced custom. This belief transforms the practice into a binding legal norm, creating rights and obligations for all states.

This dual criterion helps solidify the legal actions taken by the PSIDS as not only necessary for their survival but as legitimate contributions to the evolution of international law, particularly in a world where the impacts of climate change pose unique and disproportionate threats to maritime nations.

The development of this regional custom not only aims to secure the legal sovereignty of Pacific Island states but also contributes to

the broader goal of maintaining global peace and stability by adapting international law to contemporary challenges.

### **Conclusion**

As we navigate the early decades of the 21st century, the escalating impacts of climate change, driven by human activity, are met with evolving legal responses, particularly from the Oceania states. These nations have begun crafting a regional practice that progressively leans toward establishing international law custom dedicated to protecting the statehood and sovereignty of entities threatened not by war or aggression but by environmental changes—a domain not yet adequately addressed by existing international law.

The practice of South Pacific states depositing maritime borders with the United Nations is unprecedented. It responds to the unique threat of losing statehood due to environmental factors rather than political conflict. This development is crucial for maintaining international peace and stability as the stability of both land and maritime borders for islands, low-lying, and deltaic states becomes even more critical. Sovereign rights over territorial seas, exclusive economic zones, and continental shelves enable these states to exploit natural resources vital for economic development, such as oil, gas, and other valuable materials.

In alignment with the UN Convention on the Law of the Sea, the submission of maps and geodetic data marking the continental shelf effectively “freezes” the state borders, safeguarding them against the encroaching sea. Diplomatic efforts by the PIF encourage the precise definition of base points and baselines, thereby legitimizing the maritime zones under international law: the 12 nm territorial sea limit, the 24 nm contiguous zone, and the 200 nm EEZ.

The emerging custom in Oceania not only fortifies the legal standing of these states but also sets a precedent that could inspire other maritime regions, such as those in the Indian Ocean or the Caribbean Sea, to adopt similar measures without waiting for an

amendment to UNCLOS or new international agreements. This proactive stance by the Pacific microstates, still grappling with vulnerabilities from their postcolonial legacies, positions them as pioneers in a new chapter of public international law. They exemplify how the targeted interpretation of treaty law, specifically UNCLOS, in the context of climate resilience can preserve statehood and enhance global stability. This approach promotes a model of close legal cooperation that supports human and state security in the face of climate-induced challenges.

## **Endnotes**

- <sup>1</sup> In July and August 2023, I embarked on a scientific expedition across the Pacific Ocean aboard the Statsraad Lehmkuhl, Norway's largest training ship. During this voyage, I had the privilege of lecturing on topics close to my heart and central to this discussion—the law of the sea and sustainable development of the ocean. This journey was not only an academic endeavor but also a profound personal experience, as it allowed me to engage directly with the realities faced by maritime communities.

My time spent in regions like Fiji, Palau, and Hawaii provided invaluable insights into the practical implications of oceanic law and the tangible effects of climate change on these unique ecosystems and cultures. These experiences have deeply influenced the perspectives and proposals I present in this chapter. The firsthand observations of environmental changes and their impacts on local communities underscored the urgency of the legal measures discussed herein and reinforced my conviction in the necessity for innovative legal responses to climate-related challenges.

By integrating theory with practical experiences gained during this expedition, this chapter aims to bridge the gap between abstract legal principles and the on-the-ground realities that define the daily lives of Pacific Islanders. It is from this vantage point of practical engagement that I advocate for a proactive approach to international law, urging a shift toward legal frameworks that not only respect but actively promote the resilience and sovereignty of small island states in the face of global environmental changes.

- <sup>2</sup> Michael B. Gerrard and Gregory E. Wannier, eds., *Threatened Island Nations: Legal Implications of Rising Seas and a Changing Climate* (Cambridge: Cambridge University Press, 2013); Robin Warner and Clive H. Schofield, ed., *Climate Change and the Oceans: Gauging the Legal and Policy Currents in the Asia Pacific and Beyond* (Cheltenham: Edward Elgar Publishing, 2012).
- <sup>3</sup> Epeli Hau'ofa, "Our Sea of Islands," *The Contemporary Pacific* 6, no. 1 (1994): 148–161.
- <sup>4</sup> Brij V. Lal and Kate Fortune, eds., *The Pacific Islands: An Encyclopedia* (Honolulu: University of Hawai'i Press, 2000), 406.
- <sup>5</sup> Paul D'Arcy, *The People of the Sea: Environment, Identity, and History in Oceania* (Honolulu: University of Hawai'i Press, 2006).
- <sup>6</sup> UN General Assembly, Convention on the Law of the Sea, 10 December 1982.
- <sup>7</sup> Clive H. Schofield, "Shifting Limits? Sea Level Rise and Options to Secure Maritime Jurisdictional Claims," *Carbon and Climate Law Review* 3 (2009): 405–416, <https://doi.org/10.21552/CCLR/2009/4/111>.
- <sup>8</sup> Joanna Siekiera, *Regional Policy in the South Pacific* (Warsaw: Warsaw University Press, 2021).
- <sup>9</sup> Dan Laffoley and John M. Baxter, eds., *Explaining Ocean Warming: Causes, Scale, Effects and Consequences* (Gland: IUCN Publications, 2016), <https://portals.iucn.org/library/node/46254>.
- <sup>10</sup> International Union for Conservation of Nature (IUCN), *The Ocean and Climate Change. Issues Brief* (November 2017).
- <sup>11</sup> IUCN, *The Ocean and Climate Change*.
- <sup>12</sup> Convention on Rights and Duties of States, art. 1, adopted by the Seventh International Conference of American States, December 26, 1933.
- <sup>13</sup> Gerrard and Wannier, *Threatened Island Nations*; Warner and Schofield, *Climate Change and the Oceans*.
- <sup>14</sup> Legal Definitions Note: There are no legal definitions for "environmental refugees," "climate refugees," or "climate migrants," as the main actors in international law, namely states and intergovernmental organizations (IGO), have not yet codified these

terms. Even the major global IGOs involved with displaced persons—the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IMO)—adhere to this absence of formal definitions.

- <sup>15</sup> Robert J. Nicholls and Anny Cazenave, “Sea-Level Rise and Its Impact on Coastal Zones,” *Science* 328, no. 5985 (2010): 1517–1520, <https://doi.org/10.1126/science.1185782>.
- <sup>16</sup> Phillip H. Muller, former Ambassador of the Marshall Islands to the United Nations, described the Pacific Small Island Developing States (PSIDS) as “the canary of global warming and rising sea levels.” See the foreword to *Threatened Island Nations: Legal Implications of Rising Seas and a Changing Climate*, ed. Michael Gerrard and Gregory E. Wannier (Cambridge: Cambridge University Press, 2015), 147-151.
- <sup>17</sup> Mara R. Wendebourg, “Interpreting the Law of the Sea in the Context of Sea-Level Rise: The Ambulatory Thesis and State Practice,” *Journal of Environmental Law* 35, no. 3(2023): 499–507.
- <sup>18</sup> Participation in PIF Summit: The author participated in the 51st Pacific Islands Forum (PIF) Summit in Suva, Fiji, in July 2022. As usual, the key topic was ocean change and the prevention of its consequences in the region. For more details, see the Report Communique of the 51st Pacific Island Forum Leaders Meeting, accessed January 10, 2024, <https://www.forumsec.org/2022/07/17/report-communique-of-the-51st-pacific-islands-forum-leaders-meeting/>.
- <sup>19</sup> Declaration on Preserving Maritime Zones in the Face of Climate Change-related Sea-Level Rise, <https://www.forumsec.org/2021/08/11/declaration-on-preserving-maritime-zones-in-the-face-of-climate-change-related-sea-level-rise>.
- <sup>20</sup> Note on Unilateral Acts and State Recognition: Such a unilateral act of declaring statehood does not finalize the process of self-determination of a state. International recognition by other states is required. There are several well-known examples of entities that, despite declaring independence and meeting the criteria set out in the Montevideo Convention, were not recognized as states.
- <sup>21</sup> Frances Anggadi, “Establishment, Notification, and Maintenance: The Package of State Practice at the Heart of the Pacific Islands



Forum Declaration on Preserving Maritime Zones,” *Ocean Development and International Law* 53, no. 1 (2022): 19–36, <https://doi.org/10.1080/00908320.2022.2033143>.

- <sup>22</sup> UN International Law Commission, “Summaries of the Work of the International Law Commission: Sea-Level Rise in Relation to International Law, last updated July 16, 2024, [https://legal.un.org/ilc/summaries/8\\_9.shtml](https://legal.un.org/ilc/summaries/8_9.shtml).
- <sup>23</sup> Clive H. Schofield, “A New Frontier in the Law of the Sea? Responding to the Implications of Sea Level Rise for Baselines, Limits and Boundaries,” in *Frontiers in International Environmental Law: Oceans and Climate Challenges: Essays in Honour of David Freestone*, ed. Richard Barnes and Ronán Long (Leiden, Brill, 2021), 190.
- <sup>24</sup> UN, “Submissions to the Commission on the Limits of the Continental Shelf, pursuant to article 76, paragraph 8, of the United Nations Convention on the Law of the Sea of 10 December 1982,” accessed January 10, 2024, [https://www.un.org/depts/los/clcs\\_new/commission\\_submissions.htm](https://www.un.org/depts/los/clcs_new/commission_submissions.htm).
- <sup>25</sup> United Nations, *Statute of the International Court of Justice*, April 18, 1946, art. 38(1)(b).