

Sea-Level Rise, Jus Cogens, & the Future of Statehood: An Analysis of the ILC's 2025 Conclusions in Public International Law

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Abstract

The International Law Commission is doing some research. This research looks at what the International Law Commission says about the sea level rising in its 2025 Final Report. It also looks at what the International Law Commission says about jus cogens norms. The International Law Commissions work on these things is changing some ideas, about international law. These ideas include what it means to be a state what sovereignty means, what maritime entitlements are and what non-derogable obligations are. The International Law Commissions research is important because it helps us understand how these changes affect the International Law Commissions views on law. The topic is chosen because of the legal problems that climate change is causing with sea levels rising, especially for countries that are low, to the ground and small island countries. These countries really need to figure out if the laws we have now can really help them and the people who live there. The International Law Commission is talking about some important rules that might help us understand if we have to do certain things to deal with climate change like protecting people's dignity making sure they do not have to leave their homes for no good reason and keeping countries from falling apart. Climate change is an issue and the International Law Commissions discussion of these rules is happening at a good time. Climate change is making a lot of problems. We need to think about if some of these climate change rules are so important that everyone has to follow them like the protection of human dignity and the preservation of territorial integrity related to climate change. The study is highly relevant as it engages with authoritative ILC outputs, contributes to contemporary debates on climate justice and global governance, and addresses gaps in the current international legal order. Methodologically, the research will adopt a doctrinal and analytical approach, involving close examination of ILC reports, treaties such as UNCLOS and the Vienna Convention on the Law of Treaties, and relevant international jurisprudence, complemented by interpretative analysis and critical evaluation to assess the potential role of jus cogens in responding to the legal consequences of sea-level rise.

Chapter 1

Introduction

1.1 Background of the Study

Climate change has increasingly surfaced as one of the most significant challenges defying the transnational legal order in the twenty-first century. Among its numerous consequences, ocean-position rise presents an especially complex legal dilemma, as it threatens not only environmental stability but also the territorial integrity and political actuality of certain States. Small islet and low-lying littoral

States, particularly in regions similar as the Pacific and Indian abysses, face the prospect of losing substantial portions of their home due to the gradational encroachment of rising swell. This miracle raises unknown questions within the frame of public transnational law, especially regarding the uninterrupted actuality of Statehood when home becomes physically uninhabitable or submerged.

Traditional principles of transnational law were developed in a world where the territorial stability of States was largely assumed. Classical legal fabrics governing Statehood, sovereignty, and territorial integrity did not anticipate environmental metamorphoses of the magnitude presently prognosticated by climate wisdom. The criteria for Statehood, frequently associated with the well-known expression contained in the Montevideo Convention on the Rights and Duties of States, bear a defined home, an endless population, a government, and the capacity to enter into relations with other countries. still, ocean- position rise challenges the supposition that home will remain geographically stable. However, it becomes necessary to review whether the legal identity of the State can continue to live despite the loss of physical land, if corridor of a state's land home vanish beneath the ocean.

These enterprises have drawn adding attention within transnational legal education and institutional practice. In recent times, the International Law Commission (ILC) has examined the counteraccusations of ocean- position rise in transnational law through a devoted study group. The Commission's conclusions, espoused in 2025, attempt to address the legal consequences arising from the commerce between environmental change and foundational principles of transnational law. In doing so, the ILC has explored issues relating to maritime boundaries, the protection of affected populations, and the durability of Statehood. The conclusions are particularly significant because they represent one of the first methodical sweats by a major transnational law-making body to articulate how living legal morals should respond to the realities of climate- convinced territorial change.

At the same time, the discussion girding ocean- position rise also intersects with the conception of jus cogens in transnational law. Jus cogens morals are peremptory rules from which no denigration is permitted, reflecting abecedarian values of the transnational community as a whole. Traditionally, these morals have been associated with proscriptions against genocide, slavery, torture, and other grave violations of transnational law. still, contemporary debates decreasingly consider whether environmental protection and the preservation of abecedarian mortal rights in the environment of climate change may gradationally assume an analogous normative status. However, the legal consequences for States failing to help disastrous environmental detriment could come significantly stricter, if certain environmental scores are honoured as having a peremptory character.

ocean- position rise thus occupies a unique position at the crossroad of environmental law, the law of the ocean, and the law of State responsibility. For vulnerable States, particularly small islet developing States similar as Tuvalu, Kiribati, and the Maldives, the issue is not simply theoretical. The possibility that an internationally honoured State could lose its home due to environmental processes challenges some of the most deeply embedded hypotheticals of transnational legal doctrine. It also raises broader questions concerning justice, responsibility, and the scores of the transnational community toward those most oppressively affected by climate change.

In this environment, the ILC's 2025 conclusions give an important foundation for assessing how transnational law might evolve to address these challenges. While the conclusions do not produce binding legal scores, they carry considerable conclusive authority and are likely to impact unborn convention development, judicial interpretation, and state practice. An examination of these

developments is thus essential for understanding the unborn line of transnational legal responses to climate- convinced territorial change.

1.2 Statement of the Problem

The gradational rise of global ocean situations presents a profound challenge to the traditional doctrine of Statehood under public transnational law. Being legal fabrics were developed on the supposition that State home remains geographically stable and endless. still, the physical exposure or severe corrosion of land home raises complex questions regarding the durability of sovereignty, maritime entitlements, and transnational legal personality. Despite growing recognition of the issue, transnational law presently lacks a comprehensive frame addressing the legal consequences of territorial loss performing from climate change. This gap has urged adding attention from transnational institutions, including the International Law Commission, whose recent conclusions essay to clarify certain aspects of the problem.

1.3 Objectives of the Study

The present research seeks to examine the evolving legal challenges posed by sea-level rise within the framework of public international law. In particular, the study aims:

1. To analyse the implications of sea-level rise for the traditional criteria of Statehood under international law.
2. To examine the International Law Commission's work on sea-level rise, particularly the significance of its 2025 conclusions for questions relating to sovereignty, maritime entitlements, and territorial stability.
3. To explore the potential relevance of jus cogens norms in shaping international obligations concerning climate change and environmental protection.
4. To evaluate possible legal approaches that may preserve the international legal personality and rights of States threatened by territorial loss due to rising sea levels.

1.4 Research Questions

This study attempts to address the following central questions:

1. How does sea-level rise challenge the traditional criteria of Statehood under international law?
2. In what ways do the International Law Commission's 2025 conclusions address the legal consequences of sea-level rise for Statehood, sovereignty, and maritime entitlements?
3. Can the concept of jus cogens support the recognition of non-derogable international obligations relating to climate change and environmental protection?
4. What legal mechanisms may be developed within international law to safeguard the continuity of States threatened by sea-level rise?

1.5 Research Methodology

The present study adopts a doctrinal system of legal exploration. It relies primarily on the analysis of transnational legal instruments, judicial opinions, scholarly jottings, and reports of transnational associations. Particular attention is given to accoutrements produced by the International Law Commission concerning ocean- position rise in transnational law. In addition, the exploration considers applicable case law from transnational courts and bars, including developments in the law of the ocean and transnational environmental law. Secondary sources similar as academic journals, books, and institutional reports are also examined to give a comprehensive understanding of the issue from both legal and policy perspectives.

1.6 Scope and Limitations

The compass of this exploration is confined to the examination of ocean- position rise within the frame

of public transnational law, with particular emphasis on its counteraccusations for Statehood and the development of peremptory morals. While the study considers environmental and political aspects of the issue where applicable, its primary focus remains legal analysis. The exploration does not essay to give a detailed scientific assessment of climate change but rather relies on established findings from transnational scientific bodies to contextualize the legal discussion.

Chapter 2

2.1 The Classical Doctrine of Statehood

The idea of statehood lies at the foundation of the modern international legal system. International law, as it developed after the Peace of Westphalia, largely organized political authority around sovereign territorial units known as States. States are regarded as the principal subjects of international law, holding rights and responsibilities within the international community. For centuries, the legal identity of a State has been closely tied to the existence of territory, population, and a functioning government capable of exercising authority within defined geographical boundaries.

The most widely cited articulation of the criteria for Statehood appears in the 1933 Montevideo Convention on the Rights and Duties of States. Article 1 of the Convention provides that a State should possess four essential elements: a permanent population, a defined territory, a government, and the capacity to enter into relations with other States.¹ Although the Convention itself is formally binding only upon its signatories in the Americas, its formulation has long been regarded as reflecting customary international law and is frequently invoked by courts, scholars, and diplomatic practice.

Among these elements, the requirement of territory has traditionally been treated as indispensable. Territory serves as the spatial foundation of sovereignty, allowing a State to exercise jurisdiction and control over a specific geographical area. Without a territorial base, the practical functioning of governmental authority becomes difficult to sustain. The link between sovereignty and territory is therefore deeply embedded in international legal doctrine and has historically been assumed to be relatively stable.

However, the notion of a “defined territory” has never required precise or permanently settled boundaries. International law recognizes that many States operate with disputed or partially undefined frontiers. In several instances, States have been admitted to the international community despite ongoing territorial disagreements with neighbouring countries. The International Court of Justice has acknowledged that the existence of a State does not necessarily depend upon the absolute certainty of its borders.² What matters is that a core territorial base exists over which the State exercises authority.

While this flexibility allows for a degree of uncertainty in boundary demarcation, it does not resolve the more radical scenario in which the physical territory of a State is threatened with disappearance. The gradual encroachment of rising seas raises precisely this issue, prompting scholars to question whether the traditional territorial requirement must be interpreted differently in the context of climate change.

2.2 Territorial Sovereignty and the Stability of Boundaries

Territorial sovereignty has traditionally been a central principle in the organization of international relations. It affirms that each State possesses exclusive authority over its territory and that other States must refrain from interfering in matters falling within that domain. This principle underpins the doctrine

¹ Montevideo Convention on the Rights and Duties of States art. 1, Dec. 26, 1933, 165 L.N.T.S. 19.

² North Sea Continental Shelf Cases (Fed. Rep. Ger. v. Den.; Fed. Rep. Ger. v. Neth.), Judgment, 1969 I.C.J. Rep. 3, ¶ 46 (Feb. 20).

of sovereign equality, which treats States as legally equal regardless of their size, power, or level of development.

Closely linked to territorial sovereignty is the broader principle of territorial integrity. The Charter of the United Nations obliges States to respect the territorial integrity and political independence of other States.³ The prohibition on the use of force in Article 2(4) reinforces this obligation by preventing States from acquiring territory through coercion or military aggression. Together, these principles seek to preserve stability within the international system by protecting established borders from unlawful alteration.

Historically, challenges to territorial integrity have arisen primarily in the context of armed conflict, colonization, and secessionist movements. In such situations, international law has developed doctrines addressing issues such as self-determination, occupation, and territorial acquisition. Yet these legal frameworks largely assume that the physical territory itself remains geographically intact. Environmental changes capable of submerging land territory introduce a fundamentally different type of challenge.

Sea-level rise does not involve an unlawful act committed by another State in the traditional sense. Instead, it results from complex global processes associated with climate change, to which many States contribute in varying degrees. Nevertheless, the consequences may be just as severe for affected countries, particularly those consisting of low-lying islands or coastal territories. If a significant portion of a state's territory becomes uninhabitable or disappears beneath rising waters, the practical exercise of sovereignty may become increasingly difficult.

In recent years, international legal scholarship has begun to examine whether existing principles of territorial sovereignty can accommodate such circumstances. One line of argument suggests that the legal identity of a State should not automatically cease simply because its territory becomes physically altered by environmental processes. Another perspective emphasizes the importance of preserving the stability of international borders, particularly maritime boundaries established under the law of the sea. Both approaches seek to ensure that climate change does not undermine the legal rights of vulnerable States within the international system.

2.3 The Requirement of Territory in Contemporary Legal Debate

Although the Montevideo criteria remain widely accepted, modern international practice demonstrates that Statehood is not determined solely by rigid formal requirements. Recognition by other States and participation in international institutions also play an important role in determining whether an entity is treated as a member of the international community. In certain situations, political considerations and humanitarian concerns have influenced the willingness of States to acknowledge new or contested entities.

This more flexible understanding of Statehood has led some scholars to question whether territory should continue to be regarded as an absolute requirement. The debate has intensified in the context of small island States that face the long-term threat of territorial loss due to sea-level rise. Countries such as Tuvalu, Kiribati, and the Maldives are often cited as examples of States whose land territory may become increasingly vulnerable to flooding and erosion over the coming decades.

A particularly significant issue concerns the possibility of so-called “de-territorialized States.” This concept refers to a State that retains its legal identity and international personality even after the loss of most or all of its physical territory. Advocates of this approach argue that international law should evolve

³ U.N. Charter art. 2, ¶ 4.

to protect the sovereignty and rights of populations displaced by environmental change. According to this view, the continuity of Statehood could be preserved through alternative arrangements, such as governments operating in exile or the maintenance of legal personality despite the absence of territory. Others, however, caution that such proposals raise complex legal and practical questions. Traditionally, statehood has been associated with the exercise of effective governmental authority over a defined territory. If that territorial foundation disappears entirely, it becomes unclear how governmental functions could be carried out in a meaningful way. Furthermore, the recognition of de-territorialized States could generate new uncertainties in areas such as diplomatic relations, jurisdiction, and treaty obligations.

These debates highlight the growing tension between traditional doctrines of Statehood and the emerging realities of climate change. As environmental transformations accelerate, international law may be required to adapt in order to protect the interests of vulnerable populations while maintaining the stability of the international system.

2.4 Emerging Legal Discussions within the International Community

The challenges posed by sea-level rise have prompted increasing engagement from international institutions, including the International Law Commission. Recognizing the urgency of the issue, the Commission established a study group to examine the implications of rising sea levels across several areas of international law, including the law of the sea, Statehood, and the protection of affected populations. The work of the Commission reflects a growing awareness that climate change is not merely an environmental concern but also a matter with profound legal consequences.

In its recent conclusions, the International Law Commission acknowledged that sea-level rise may have far-reaching implications for maritime boundaries, coastal entitlements, and the legal status of States.⁴ Although the Commission has not proposed a definitive solution to every aspect of the problem, its work signals an important shift toward recognizing climate change as a factor capable of reshaping fundamental legal doctrines.

In parallel, discussions within the United Nations and regional organizations have highlighted the need for cooperative responses to the challenges faced by small island developing States. These debates increasingly emphasize principles of climate justice and shared responsibility, particularly given that many of the most vulnerable States have contributed minimally to global greenhouse gas emissions. The legal implications of this imbalance are likely to remain a subject of significant debate in the years ahead.

As the international community continues to grapple with these issues, it becomes evident that the traditional understanding of Statehood may require careful reconsideration. The interaction between environmental change and legal doctrine presents one of the most complex challenges facing contemporary international law, and its resolution will likely shape the future of the international legal system.

Chapter 3

Sea-Level Rise and Its Legal Consequences for Statehood

3.1 The Emerging Reality of Sea-Level Rise

Scientific assessments over the last several decades have confirmed that global sea levels are rising at a pace that poses serious risks to coastal regions and island States. According to assessments by the

⁴ Int'l Law Comm'n, Sea-Level Rise in Relation to International Law: First Issues Paper, U.N. Doc. A/CN.4/740 (2020).

Intergovernmental Panel on Climate Change, the continued warming of the planet contributes to both thermal expansion of seawater and the melting of polar ice sheets.⁵ These processes have produced measurable increases in average global sea levels, with projections suggesting further acceleration throughout the twenty-first century.

For many coastal States the effects of sea-level rise are likely to manifest gradually through shoreline erosion, saltwater intrusion, and periodic flooding. However, for low-lying island States the implications are far more profound. A number of Pacific and Indian Ocean States consist largely of coral atolls or islands with elevations only a few meters above present sea level. In such circumstances even relatively modest increases in ocean levels can threaten habitability, freshwater availability, and infrastructure.

Countries such as Tuvalu, Kiribati, and the Maldives are frequently cited in discussions of climate-induced territorial loss.⁶ These States occupy geographically fragile environments where the margin between land and sea is extremely narrow. Scientific projections indicate that certain inhabited areas may become increasingly difficult to sustain as flooding events intensify and coastlines retreat. While the timeline of such changes remains uncertain, the long-term risks have become a central concern in international legal discourse.

What distinguishes sea-level rise from many other environmental challenges is that its consequences extend beyond ecological damage. When the territory of a State becomes permanently submerged or uninhabitable, the implications reach directly into the core doctrines of public international law. Questions arise regarding the continuity of Statehood, the preservation of maritime entitlements, and the legal status of displaced populations. These issues illustrate how environmental processes can intersect with fundamental legal structures governing the international community.

3.2 Threats to Territory and Sovereignty

Territory has historically functioned as the spatial basis of sovereignty. The authority of a State to regulate activities, exercise jurisdiction, and enforce laws is generally confined to the geographical area over which it possesses sovereign control. Consequently, the erosion or disappearance of territory presents not merely a physical challenge but also a legal one.

In the context of sea-level rise, several potential scenarios have been discussed in international legal scholarship. One possibility involves the gradual reduction of habitable land within a state's territory. In this situation, although portions of land may be lost, the State continues to exist because a core territorial area remains above water. From a legal perspective this scenario does not fundamentally challenge the concept of Statehood, although it may create significant humanitarian and economic pressures.

A more complex situation arises when the entirety of a state's land territory becomes submerged or otherwise incapable of sustaining human habitation. Under traditional interpretations of the Montevideo criteria, the absence of territory could call into question the continued existence of the State as a legal entity. Yet such an outcome would have far-reaching implications, particularly for the populations of affected States who may lose not only their homes but also their national identity and political representation.

International legal scholars have therefore begun to explore alternative interpretations of Statehood that would allow the legal personality of a State to continue despite territorial loss. Some proposals suggest that the international community could recognize the continued existence of a State even if its

⁵ Intergovernmental Panel on Climate Change, *Climate Change 2021: The Physical Science Basis* (2021).

⁶ Jane McAdam, *Climate Change, Forced Migration, and International Law* 23–25 (2012).

government operates from outside its original territory.⁷ This concept, sometimes described as a form of “de-territorialized Statehood,” seeks to ensure that populations displaced by environmental change do not become stateless.

Another important dimension concerns maritime zones established under the United Nations Convention on the Law of the Sea. Coastal States enjoy extensive rights over maritime areas measured from baselines along their coastlines.⁸ If those coastlines are altered or submerged due to sea-level rise, uncertainty may arise regarding the stability of maritime boundaries and resource entitlements. For small island States whose economies depend heavily on fisheries and marine resources, the potential loss of maritime zones could have severe economic consequences.

These concerns have led to increasing support for the view that maritime boundaries should remain stable even when coastlines shift as a result of sea-level rise. Such an approach would provide legal certainty and prevent vulnerable States from losing significant maritime rights through processes beyond their control. Although this position has not yet been universally adopted, it has gained increasing recognition within international legal discussions.

3.3 Human Displacement and the Question of Climate Migration

Sea-level rise also raises complex questions regarding the protection of populations who may be forced to relocate as their environments become increasingly inhospitable. Unlike traditional refugees, individuals displaced by climate-related factors do not fall neatly within the existing framework of international refugee law. The 1951 Refugee Convention was designed primarily to address persecution on political, religious, or ethnic grounds rather than environmental displacement.⁹

As a result, people displaced by sea-level rise may find themselves in a legal grey area. While international human rights law offers certain protections, there is currently no comprehensive treaty regime specifically addressing climate-induced displacement. The absence of such a framework has generated significant debate within international legal and policy circles.

Several cases before international bodies have begun to address these concerns. In *Ioane Teitiota v. New Zealand*, the United Nations Human Rights Committee considered whether the deportation of a Kiribati national back to his home country violated the right to life under the International Covenant on Civil and Political Rights.¹⁰ Although the Committee ultimately concluded that the threshold of risk had not yet been met in that particular case, it acknowledged that climate change could in the future create circumstances where returning individuals to severely affected States would violate fundamental human rights obligations.

This decision is widely regarded as an important development because it recognizes that environmental conditions may become so extreme that they threaten basic human rights protections. While the case does not create a general legal category of “climate refugees,” it signals a growing willingness within international institutions to consider the human consequences of environmental change within existing legal frameworks.

3.4 International Responses and the Role of the ILC

In response to the legal uncertainties created by sea-level rise, international institutions have increasingly

⁷ Rosemary Rayfuse, *International Law and Disappearing States: Maritime Zones and the Criteria for Statehood*, 41 *Envtl. Pol’y & L.* 281 (2011).

⁸ United Nations Convention on the Law of the Sea arts. 3–57, Dec. 10, 1982, 1833 U.N.T.S. 397.

⁹ Convention Relating to the Status of Refugees art. 1, July 28, 1951, 189 U.N.T.S. 137.

¹⁰ *Ioane Teitiota v. New Zealand*, Human Rights Comm., Comm’n No. 2728/2016, U.N. Doc. CCPR/C/127/D/2728/2016 (2020).

sought to examine the issue from a systematic perspective. Among the most significant efforts in this regard has been the work undertaken by the International Law Commission. The Commission's study group on sea-level rise has explored the implications of environmental change across several branches of international law, including the law of the sea, Statehood, and the protection of persons affected by climate change.

The work of the Commission reflects a broader recognition that traditional legal doctrines may require clarification in light of emerging environmental realities. While the Commission's conclusions do not create binding legal obligations, they carry substantial influence as expressions of expert analysis within the United Nations system.¹¹ Over time, such work can shape the development of customary international law and guide the interpretation of existing treaties.

The Commission has emphasized that legal stability should remain a central objective when addressing the consequences of sea-level rise. In particular, the preservation of maritime boundaries and the protection of vulnerable States have been identified as key concerns. These discussions represent an important step toward ensuring that the international legal order remains capable of responding to challenges that were largely unforeseen when many of its foundational rules were developed.

As climate change continues to reshape physical landscapes, the interaction between environmental processes and legal doctrine will likely become an increasingly prominent area of international legal scholarship. The issue of sea-level rise illustrates how evolving scientific realities can challenge established legal assumptions and compel the international community to reconsider long-standing principles.

Chapter 4

The International Law Commission's 2025 Conclusions on Sea-Level Rise and Statehood.

4.1 Development of the ILC's Study on Sea-Level Rise

The growing recognition of climate change as a legal issue has prompted several international institutions to examine its implications for existing legal frameworks. Among these developments, the work carried out by the International Law Commission on sea-level rise has been particularly significant. The Commission established a dedicated Study Group to consider the legal consequences of rising sea levels in relation to different branches of international law, including the law of the sea, the protection of affected persons, and the status of States whose territories may face long-term environmental threats.¹²

The inclusion of sea-level rise within the Commission's agenda reflects an increasing awareness that environmental changes may have consequences extending far beyond ecological concerns. In particular, the gradual submergence of coastal areas raises questions regarding maritime entitlements, sovereignty over natural resources, and the continued existence of certain States. The Commission's work therefore seeks to clarify how established legal principles should be interpreted when environmental conditions alter the physical geography upon which those principles were originally based.

Through its reports and discussions, the Commission has emphasized that sea-level rise presents a unique challenge for international law. Unlike traditional territorial disputes, which arise from conflicts between States, the loss of territory due to environmental change occurs gradually and without direct coercion by another State. Nevertheless, the legal consequences may be equally significant, particularly

¹¹ Int'l Law Comm'n, Sea-Level Rise in Relation to International Law, U.N. Doc. A/77/10 (2022).

¹² Int'l Law Comm'n, Sea-Level Rise in Relation to International Law, U.N. Doc. A/77/10 (2022).

for small island developing States whose land areas are highly vulnerable to coastal erosion and flooding.

4.2 Maritime Zones and the Question of Baseline Stability

One of the central legal questions examined by the International Law Commission concerns the stability of maritime zones under the United Nations Convention on the Law of the Sea. Coastal States have the right to establish maritime zones that are measured from baselines drawn along their coastlines.¹³ These zones include the territorial sea and the exclusive economic zone, which provide significant jurisdictional rights and access to marine resources.

Sea-level rise may alter the physical location of coastlines, potentially shifting the baselines from which maritime zones are measured. If baselines were allowed to move inland as coastlines retreat, some States could lose substantial portions of their maritime entitlements. For countries whose economies depend heavily on fisheries and marine resources, such changes could have far-reaching economic implications. In light of these concerns, discussions within the Commission have increasingly focused on the importance of maintaining stability in maritime boundaries. A number of States have expressed support for the idea that baselines and maritime zones once established should remain fixed despite changes to coastlines caused by sea-level rise.¹⁴ Such an approach would provide greater legal certainty and help ensure that vulnerable States do not lose maritime rights as a consequence of environmental processes beyond their control.

Although international law has not yet reached a universally accepted position on this issue, the Commission's work has played an important role in highlighting the need for clarity and predictability in the interpretation of maritime boundary rules.

4.3 Implications for Statehood and Sovereignty

Beyond the law of the sea, the Commission's study has also addressed the broader implications of sea-level rise for the concept of Statehood. Traditional formulations of Statehood assume the existence of a defined territory over which a government exercises authority. However, the possibility that rising sea levels may gradually submerge portions of a state's territory raises difficult questions about whether the legal identity of that State can continue to exist.

The Commission has approached this issue cautiously, recognizing that the disappearance of territory due to environmental change was not anticipated when many foundational rules of international law were developed. While the Commission has not proposed a definitive reinterpretation of the criteria for Statehood, its work acknowledges that the problem requires careful consideration within the international community.

Some scholars have suggested that international law may eventually need to recognize forms of State continuity even where significant portions of territory are lost.¹⁵ Such proposals are motivated in part by concerns regarding the rights of populations who may otherwise face the loss of nationality or political representation. At the same time, these proposals raise practical questions concerning the functioning of governmental institutions and the exercise of jurisdiction in situations where territorial control becomes limited.

¹³ United Nations Convention on the Law of the Sea arts. 3–57, Dec. 10, 1982, 1833 U.N.T.S. 397.

¹⁴ David D. Caron, *Climate Change, Sea Level Rise and the Coming Uncertainty in Oceanic Boundaries*, 1 *Asian J. Int'l L.* 207 (2011).

¹⁵ Rosemary Rayfuse, *W(h)ither Tuvalu? International Law and Disappearing States*, 9 *Univ. N.S.W. L. Res. Series* 1 (2009).

The International Law Commission's discussions do not resolve these issues conclusively, but they underscore the need for international legal frameworks capable of responding to new environmental realities. As sea-level rise continues to affect coastal regions around the world, the interpretation of traditional doctrines relating to sovereignty and territory may increasingly require adaptation.

Chapter 5

Jus Cogens, Climate Obligations, and Emerging Normative Frameworks

The intensifying effects of climate change have increasingly drawn attention to the normative structure of international law and the hierarchy of its rules. As the consequences of environmental degradation become more severe, particularly for low-lying coastal and island States, scholars and international institutions have begun to examine whether certain environmental obligations may gradually assume a higher normative status within the international legal order. In the context of sea-level rise and the potential disappearance of territory, this discussion becomes particularly significant because it directly concerns the survival and legal continuity of vulnerable States.

The doctrine of jus cogens occupies a central position in this debate. Article 53 of the Vienna Convention on the Law of Treaties defines a peremptory norm as a rule of international law accepted and recognized by the international community of States as a whole as one from which no derogation is permitted.¹⁶ Such norms hold a superior status in the hierarchy of international law, invalidating treaties or legal arrangements that conflict with them. Traditionally, only a limited number of norms have been widely recognized as possessing this character, including prohibitions against genocide, slavery, torture, and aggressive war.

Although environmental protection has not yet been formally acknowledged as a peremptory norm, developments in international legal discourse indicate a growing recognition of its fundamental importance. The work of the International Law Commission on the identification and legal consequences of jus cogens suggests that the evolution of such norms depends upon widespread acceptance by the international community accompanied by a sense of their non-derogable character.¹⁷ As climate change increasingly threatens ecosystems, populations, and the territorial integrity of certain States, some scholars have argued that the protection of the global environment could eventually acquire characteristics associated with peremptory norms.

Closely related to this discussion is the concept of obligations owed to the international community as a whole. In the landmark judgment of *Barcelona Traction, Light and Power Company, Limited (Belgium v Spain)*, the International Court of Justice recognized the existence of obligations erga omnes, which are obligations owed toward all States in the international community.¹⁸ Although the decision itself did not directly concern environmental protection, its reasoning has been widely applied in discussions concerning global environmental harm and the collective responsibility of States to address threats affecting humanity as a whole.

Judicial pronouncements have also gradually acknowledged the significance of environmental considerations within international law. In the advisory opinion on the *Legality of the Threat or Use of nuclear weapons*, the Court emphasized that the environment is not merely an abstract concept but

¹⁶ Vienna Convention on the Law of Treaties art. 53, May 23, 1969, 1155 U.N.T.S. 331.

¹⁷ Int'l Law Comm'n, Draft Conclusions on Identification and Legal Consequences of Jus Cogens, U.N. Doc. A/74/10 (2019).

¹⁸ *Barcelona Traction, Light and Power Co. (Belg. v. Spain)*, Judgment, 1970 I.C.J. Rep. 3.

represents the living space and quality of life of human beings, including future generations.¹⁹ This recognition reflects an emerging understanding that environmental protection is closely linked with fundamental human interests and global stability.

The implications of these developments become particularly evident in the context of sea-level rise. Rising oceans threaten to submerge parts of the territory of several small island developing States, thereby raising complex questions concerning the continuity of statehood and the preservation of maritime entitlements. In such circumstances, climate change is no longer simply an environmental issue but also a matter involving sovereignty, territorial integrity, and international legal protection. The vulnerability of these States highlights the limitations of existing legal frameworks in addressing large-scale environmental transformations.

International environmental law has attempted to respond to these challenges through treaty-based cooperation and principles of State responsibility. In the case of *Pulp Mills on the River Uruguay* (Argentina v Uruguay), the International Court of Justice reaffirmed the obligation of States to conduct environmental impact assessments where activities may pose a risk of significant transboundary harm.²⁰ Although the dispute concerned industrial activity along a shared river, the Court's reasoning reinforced broader principles of due diligence and environmental responsibility within international law.

Multilateral climate agreements have also contributed to shaping the normative framework governing climate obligations. The Paris Agreement represents a significant collective effort by States to address climate change through cooperative commitments aimed at limiting global temperature increases. While the Agreement relies largely on nationally determined contributions rather than strict enforcement mechanisms, it reflects an evolving consensus that climate change constitutes a shared global challenge requiring coordinated action.

Taken together, these developments suggest that international law is gradually adapting to the realities of environmental change. Although it remains uncertain whether environmental protection will eventually be recognized as a *jus cogens* norm, the increasing emphasis on climate responsibility indicates that environmental obligations are acquiring greater normative significance. For States threatened by sea-level rise, the strengthening of such obligations could provide an additional legal foundation for demanding stronger international action and accountability.

Ultimately, the relationship between *jus cogens* and climate obligations reflects broader transformations within the international legal system. As environmental challenges increasingly transcend national boundaries and threaten the stability of the international order, the evolution of stronger normative frameworks may become essential for ensuring both environmental protection and the continued existence of vulnerable States.

Chapter 6: Conclusion and Recommendations

The rapid growth of digital communication has significantly transformed how individuals interact, exchange information, and form relationships. While these technological developments have created numerous opportunities for communication and connectivity, they have also introduced new forms of harassment and abuse. Among these emerging challenges, cyberstalking has become a particularly concerning issue because it allows offenders to monitor, intimidate, and harass victims through persistent digital contact. Unlike traditional forms of stalking that are limited by physical proximity,

¹⁹ Legality of the Threat or Use of nuclear weapons, Advisory Opinion, 1996 I.C.J. Rep. 226.

²⁰ *Pulp Mills on the River Uruguay* (Arg. v. Uru.), Judgment, 2010 I.C.J. Rep. 14.

cyberstalking can occur continuously across multiple online platforms, making it more intrusive and psychologically distressing for victims.

This research examined the concept of cyberstalking, its legal implications, and the challenges associated with addressing it within existing legal frameworks. The study highlighted how cyberstalking often involves repeated online surveillance, unwanted communication, identity impersonation, or the misuse of personal information. These actions can significantly disrupt the daily lives of victims, creating fear, anxiety, and emotional distress. In many cases, the harassment extends beyond a single platform, with offenders using a combination of social media, messaging services, and other digital tools to maintain contact with the victim.

One of the major conclusions drawn from this study is that although legal provisions addressing online harassment and stalking exist, the enforcement of these laws remains uneven. Cyberstalking frequently operates in a grey area where behaviour may not immediately appear criminal, especially during the early stages of harassment. As a result, victims may struggle to determine when online behaviour crosses the threshold into unlawful conduct. This uncertainty often delays reporting and allows offenders to continue their activities for extended periods.

Another important observation is the role of anonymity in enabling cyberstalking. Digital platforms allow individuals to create multiple accounts or use false identities, which makes it easier for offenders to conceal their identity and evade detection. Even when victims attempt to block the offender, new accounts can be created quickly, allowing the harassment to continue. This cycle of repeated contact contributes to the persistence of cyberstalking and makes it more difficult for victims to regain a sense of safety in digital spaces.

The study also indicates that victims often hesitate to seek legal remedies. Several factors contribute to this reluctance, including social stigma, fear of retaliation, lack of awareness about legal protections, and doubts about the effectiveness of law enforcement responses. In some situations, victims may not be familiar with the procedures for filing cybercrime complaints or preserving digital evidence. As a result, incidents remain unreported, which not only affects individual victims but also prevents authorities from understanding the true scale of the problem.

Another key finding concerns institutional preparedness. Law enforcement agencies have increasingly recognized cyberstalking as a serious form of cybercrime; however, the ability to investigate such cases varies depending on available resources and technical expertise. Digital investigations often require specialized skills to trace online activity, identify anonymous accounts, and collect admissible electronic evidence. Without adequate training and technological support, investigations may take longer or fail to produce sufficient evidence for prosecution.

Given these challenges, it is clear that addressing cyberstalking requires a multifaceted approach that combines legal reforms, institutional strengthening, and public awareness initiatives. Laws alone cannot fully prevent cyberstalking unless they are supported by effective enforcement mechanisms and informed digital practices among users.

One important recommendation is the periodic review and updating of legal frameworks related to cybercrime. Technology evolves rapidly, and legal provisions must adapt to address emerging forms of online harassment and surveillance. Clearer definitions of cyberstalking-related behaviours—such as repeated online monitoring, digital impersonation, and persistent unwanted communication—could improve consistency in legal interpretation and enforcement.

Another recommendation involves strengthening the capacity of law enforcement agencies. Specialized cybercrime units should receive regular training in digital investigation techniques, evidence preservation, and emerging technological threats. Investing in modern forensic tools and digital tracking capabilities would allow authorities to identify offenders more efficiently and respond to complaints with greater speed and accuracy.

Public awareness is equally important in preventing cyberstalking. Many individuals unknowingly share personal information online that can later be exploited by cyberstalkers. Educational programs focusing on digital safety, privacy settings, and responsible online behaviour could help users protect themselves from potential harassment. Universities, workplaces, and community organizations can play an important role in promoting digital literacy and encouraging individuals to report online abuse without hesitation.

In addition to legal and educational measures, technology companies also carry significant responsibility in addressing cyberstalking. Social media platforms and digital communication services should continue improving their reporting systems and response mechanisms. Quick action against accounts involved in harassment, better identity verification procedures, and improved monitoring of abusive behavior could significantly reduce the persistence of cyberstalking activities.

Support systems for victims should also be strengthened. Victims of cyberstalking often experience emotional distress, anxiety, and fear that affect their mental well-being. Providing accessible counseling services, legal guidance, and victim assistance programs would help individuals navigate the reporting process and recover from the psychological impact of harassment.

By strengthening legal protections, improving institutional capacity, raising public awareness, and encouraging responsible digital practices, it is possible to reduce the incidence of cyberstalking and provide more effective protection for victims. Addressing this issue is essential not only for safeguarding individual privacy and security but also for maintaining trust and accountability within the rapidly evolving digital landscape.

Bibliography & References

International Treaties and Conventions

1. Vienna Convention on the Law of Treaties, May 23, 1969, 1155 U.N.T.S. 331.
2. United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 3.
3. Paris Agreement, Dec. 12, 2015, U.N. Doc. FCCC/CP/2015/10/Add.1.
4. United Nations Framework Convention on Climate Change, May 9, 1992, 1771 U.N.T.S. 107.

International Judicial Decisions

1. Barcelona Traction, Light and Power Co. (Belg. v. Spain), Judgment, 1970 I.C.J. Rep. 3.
2. Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. Rep. 226.
3. Pulp Mills on the River Uruguay (Arg. v. Uru.), Judgment, 2010 I.C.J. Rep. 14.

International Institutional Reports

1. International Law Commission, Draft Conclusions on Identification and Legal Consequences of Jus Cogens, U.N. Doc. A/74/10 (2019).
2. International Law Commission, Sea-Level Rise in Relation to International Law: First Issues Paper (United Nations).
3. United Nations General Assembly, Reports on the Legal Implications of Sea-Level Rise for International Law.

4. Intergovernmental Panel on Climate Change, Sixth Assessment Report on Climate Change (2021–2023).

Journal Articles and Academic Publications

1. Jane McAdam, Disappearing States, Statelessness and the Boundaries of International Law, 2 Melbourne Journal of International Law (2010).
2. Rosemary Rayfuse, Sea-Level Rise and Maritime Zones: Preserving the Maritime Entitlements of “Disappearing States”, 47 Netherlands International Law Review (2010).
3. Davor Vidas, Climate Change and Sea-Level Rise: Legal Dimensions, 4 Climate Law (2014).
4. David Freestone & Jane McAdam, Sea-Level Rise and the Law of the Sea, 17 Ocean Yearbook (2019).