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Artificial Islands in the International Law of the Sea as a Possible Solution for "Sinking States"

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ABSTRACT

The rising level of seas and oceans, a key indicator of climate change, is a direct factor contributing to the phenomenon of climate-induced deterritorialization. This poses a risk of submerging islands and flooding low-lying littoral zones. As a result, a progressive loss of terrestrial territory for coastal, island, and archipelagic states is becoming a tangible reality. Small Island Developing States (SIDS) are highly vulnerable to natural forces and disasters, possessing very limited capacity to respond to and recover from such events. Despite bearing the least responsibility for climate change, they are undoubtedly the ones that will suffer the most from its negative impacts. The loss of physical territory could render some of these nations uninhabitable, making material and financial aid, along with technological solutions, essential for their survival. Island nations are often searching for extremely innovative methods to counter climate-induced deterritorialization. Anote Tong, the former Prime Minister of The Republic of Kiribati, even contemplated relocating the country's population to an artificial island. Nevertheless, Article 60, paragraph 8 of UNCLOS presents an impediment, as it states that artificial islands, installations, and structures do not qualify as islands. They are not entitled to their own territorial sea, and their existence does not impact the demarcation of the territorial sea, the exclusive economic zone, or the continental shelf. Should no action be taken, UNCLOS as currently worded will lead to the disappearance of the maritime zones of small island states from maps, first by shifting the baselines, and ultimately when the land territory is submerged. These are called 'Sinking States'. In this address, the following will be presented: the current standing of international law concerning artificial islands, examples of relevant initiatives being pursued by 'Sinking States,' and suggested de lege ferenda amendments to international law designed to meet the needs of 'Sinking States.' Our presentation will also take up the topic of international legal responsibility for climate deterritorialization and the conceptualization and implementation of potential solutions regarding the use of artificial island construction technology for the 'Sinking States.'

Keywords: *Artificial islands, International law of the sea, "Sinking States", Climate change.*