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Governing Without Territory: A Framework for Deterritorialized Statehood and Climate-Induced Displacement in Small Island Developing States

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ABSTRACT: Small Island Developing States (SIDS) face climate impacts projected to depopulate islands and render them uninhabitable, raising questions about how statehood and legal identity can persist when populations relocate and land disappears. This paper interrogates limits of existing legal categories and proposes a governance model that enables SIDS to maintain core sovereign functions and protect their people's rights, positioning mobility as planned adaptation. The framework centres on regional governance hubs through which governments operate transnationally with host states, regional organisations, and international actors preserving the legal status of statehood within the current international order. Drawing on doctrinal and critical approaches to international law, the paper argues that any institutional solution within that order is limited by its foundational assumptions about territory, sovereignty, and self-determination, and by the distributive injustices these produce. Lasting solutions therefore require not only institutional creativity but a reimagining of sovereignty decoupled from territory and redistributed equitably in a system centred on human and environmental needs. This broader critique underpins the governance proposal rather than standing apart from it: the hub model acts as a bridge between existing institutions and deterritorialised statehood. Meaningful progress will require conceptual innovation and sustained multilateral cooperation.

KEYWORDS: climate change, deterritorialized sovereignty, self-determination, Small Island Developing States, statelessness

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1. Introduction

Small Island Developing States (SIDS) face a challenge with no clear precedent in international law. Rising sea levels threaten to submerge their territories, displace their populations, and dissolve the physical foundations on which statehood has historically depended.

The scientific evidence is stark. Research on atoll islands shows that wave-driven flooding, combined with sea-level rise, will render most atoll islands uninhabitable well before the end of this century. The global average rate of sea level rise increased from 1.3 mm per year between 1901 and 1971 to 3.7 mm between 2006 and 2018 (IPCC, 2023). The IPCC (Intergovernmental Panel on Climate Change) also identified reduced habitability as a threat to small islands, alongside "loss of terrestrial, marine and coastal biodiversity and ecosystem services, loss of lives and assets, risk to food security and economic disruption due to destruction of settlements and infrastructure" (IPCC, 2022). Under high-emissions scenarios, potable groundwater on atoll islands could reach a tipping point as early as the 2040s, and annual flooding may disrupt infrastructure from the 2060s onward (Barnett & Adger, 2003; Vousdoukas et al., 2023).

This is not a distant hypothetical. Countries such as Tuvalu and Kiribati are already taking legal, constitutional, and diplomatic steps to manage the prospect of territorial loss, largely without a coherent international legal framework capable of addressing their situation.

International law was not designed for this scenario. The frameworks governing statehood, refugee protection, climate finance, and the law of the sea each address parts of the problem, but none addresses it as a whole (Gerrard & Wannier, 2013). The Montevideo Convention defines statehood by a permanent population, defined territory, effective government, and the capacity to enter international relations (Montevideo Convention, 1933). Climate agreements focus on mitigation and adaptation. Refugee law requires persecution. Statelessness conventions address individuals, not entire peoples. Taken together, these frameworks are structurally ill-equipped to preserve the statehood, governance, and rights of populations facing climate-induced territorial loss.

This paper seeks to address that gap. Its methodology combines qualitative doctrinal and comparative legal research with institutional analysis. The former examines and compares substantive legal frameworks; the latter investigates the institutions and mechanisms through which they are interpreted, monitored and implemented. Sources include treaties, comparative examples and institutional analogies, official reports, and academic scholarship.

The comparative examples and institutional analogies were selected because each shows that a structural feature the SIDS case requires has already existed, in some form, in law or political practice. These features are governance of a population separated from its territory, representation of a people across multiple jurisdictions, and the persistence of sovereign functions and legal personality without a fixed territorial base. Governments-in-exile, the Order of Malta and the Holy See show the continuity of sovereign functions and legal personality without effective territorial control. The Sami Parliament shows cross-border representation of a culturally distinct people, and weighted voting systems show how decision-making authority is allocated among parties of unequal size and contribution. Together, they establish that seemingly improbable legal or political arrangements have precedents, though none maps neatly onto the SIDS case: none involves a democratic popular government maintaining statehood after permanently losing all national territory. These divergences are treated as limits on the analogy rather than as endorsements and are examined in Section 6.7.

Building on and significantly expanding a framework proposed in an earlier article (Aggarwal & Freihardt, 2025), the paper develops a menu of institutional configurations for deterritorialized governance for SIDS

populations. The goal is not to prescribe a single solution, but to give policymakers and scholars a range of options adaptable to different political, legal, and demographic realities.

The paper thus operates at two levels. At the first, it develops a near-term institutional framework, drawing on existing legal instruments, treaty precedents, and governance models, to give policymakers and SIDS governments workable options within the current international system. At the second, it examines the systemic conditions that make any such framework insufficient on its own: the territorial assumptions embedded in international law since the 1648 Peace of Westphalia, the distributive injustices of the current international order, and the failure of existing frameworks to reflect the nature-human interdependencies that rapidly increasing climate-induced crises have made stark. These levels are not in contradiction. The institutional proposal addresses what can be achieved under present constraints; the systemic critique identifies what must change for any such solution to be durable and just. Both are necessary. Without the institutional layer, SIDS are left with no near-term protection, given the slow response of the international system. Without the systemic critique, the paper would leave unchallenged the very frameworks that produced this gap.

The paper is therefore intended primarily as a governance framework with policy recommendations, while also contributing to normative political theory through its critique of territorialised statehood and sovereignty for SIDS. Through institutional design and doctrinal analysis, it explains how SIDS governance may be addressed within existing international institutions (short- to medium-term solutions). It also critiques the limitations of the current international order to show how SIDS sovereignty and statehood may be addressed beyond those institutions (medium- to long-term solutions). The hub model connects these objectives, bridging existing institutions and the deterritorialised statehood and sovereignty needed for SIDS governance in the long term.

Section 2 sets out the physical, demographic, and legal dimensions of the problem. Section 3 examines gaps in existing international legal frameworks. Section 4 develops the core proposed governance framework, and Section 5 discusses institutional design options that could be adapted from other contexts. Section 6 identifies implementation challenges, and Section 7 addresses self-determination under deterritorialized governance as a more fundamental conceptual limitation of the proposed model. Section 8 concludes.

2. The Legal Implications of Climate-Induced Land Loss and Depopulation

2.1 Physical Dimensions

The physical threat to SIDS is severe and increasing rapidly. Global sea levels are rising and will keep rising throughout the twenty-first century, with many tropical low-lying islands acutely exposed due to their limited elevation and high dependence on coastal ecosystems (IPCC, 2021; IPCC, 2019). Many atoll islands average less than two metres above present sea level, with maximum elevations below four metres. Coral reef accretion rates of two to six millimetres per year are projected to fall short of expected sea-level rise under many climate scenarios, reducing the long-term capacity of reefs to maintain island habitability and provide coastal protection (IPCC, 2019; Perry et al., 2018).

Research on Roi-Namur Island in the Marshall Islands shows that earlier projections of island survivability[1] were too optimistic because they did not account for wave-driven overwash (Storlazzi et al., 2018). Once wave

[1] Survivability here refers to the capacity of an atoll island to maintain the physical and hydrological conditions necessary to sustain human habitation, including freshwater availability, infrastructure integrity, and land surface above sea level. The term is used in the natural science literature to assess the physical viability of island territory under projected sea-

dynamics are included, critical infrastructure is projected to flood annually at a sea-level increase of just 0.4 metres, at least half the island at one metre, and more than 90 percent of the surface area at 1.8 metres.

The most immediate threat on Roi-Namur is freshwater. Wave-driven flooding contaminates the thin freshwater lens atoll islands depend on, and after two consecutive years of annual flooding, freshwater does not recover to potable levels. The tipping point for potable groundwater on Roi-Namur is projected before 2030 under the highest emissions scenario, by the 2040s under a high-emissions scenario, and by the 2060s under a medium-emissions scenario (Storlazzi et al., 2018). The study notes that Roi-Namur is representative of, and even higher in elevation than, most atoll islands globally. The implications extend across the Marshall Islands, Kiribati, Tuvalu, the Maldives, the Cook Islands, the Caroline Islands, and others.

2.2 Demographic Dimensions

Physical uninhabitability does not simply produce refugees in the conventional sense; it threatens the dissolution of entire political communities. Displaced SIDS populations will not be persecuted minorities fleeing oppression in the sense of the 1951 Convention Relating to the Status of Refugees. They will be entire national populations, with governments, languages, legal systems, and cultural identities, whose homeland is becoming uninhabitable through no fault of their own.

Displacement is also unlikely to be sudden. Evidence from Kiribati, Tuvalu, and other SIDS suggests that populations will move gradually over years and decades, forming diaspora communities in host countries while maintaining ties to their islands of origin. This creates complex governance challenges (Pacific Islands Forum Secretariat, 2023): maintaining coherent authority over dispersed populations, delivering services, preserving cultural identity, and making collective decisions.

For Pacific Island peoples, connections to land and sea carry deep cultural, spiritual, and historical significance. Displacement severs these connections in ways existing legal frameworks cannot readily remedy, threatening not only physical residence but the intergenerational transmission of cultural heritage and identity (Drazewska, 2026). Yet legal continuity of statehood is one of the few instruments in the international system through which a displaced people can collectively assert and protect these ties. A state with continuing legal personality retains standing to claim rights on behalf of its people in international forums, including rights to culture, language, and ancestral identity. Without that legal anchor, cultural and spiritual claims become the private concerns of dispersed individuals rather than the recognised entitlements of a people as a whole.

2.3 Legal Dimensions

Each of the criteria in the 1933 Montevideo Convention is placed under stress by climate-induced territorial loss. Territory is the most obvious casualty. But also a “permanent population” is threatened as communities disperse across multiple host countries. Governance becomes difficult to sustain across dispersed locations. Crucially, international law provides no criteria for determining when a state ceases to exist, as distinct from when one comes into being. The Montevideo criteria are criteria of creation, not extinction. This gap means there is no agreed legal threshold at which SIDS statehood is extinguished, but also no agreed legal mechanism by which it is preserved in light of territorial loss.

The International Court of Justice (ICJ) Advisory Opinion on climate change obligations of 23 July 2025 addresses this issue directly (International Court of Justice, 2025). In paragraph 363, the Court held that once

level rise scenarios (Storlazzi et al., 2018). It is distinct from "habitability," which in some literature incorporates social, cultural, and psychological dimensions of whether a place remains liveable for a given community.

a state is established, the disappearance of one of its constituent elements would not necessarily entail the loss of its statehood. This is the clearest affirmation yet by the world's highest court that statehood can persist despite territorial loss. However, the Court gave no reasoning and elaborated no legal framework for deterritorialized statehood. The International Law Commission's (ILC) May 2025 final report on sea-level rise in relation to international law more clearly favoured continuing statehood even after complete territorial loss, but it too lacks binding legal effect (International Law Commission, 2025).

2.4 The UNCLOS Dimension

Maritime zones including the territorial sea, the contiguous zone, and the exclusive economic zone (EEZ) are measured from a state's baseline, typically its coastline. As sea levels rise and coastlines recede, baselines shift landward, potentially shrinking or eliminating maritime zones that represent critical economic resources for SIDS.

The ICJ Advisory Opinion addressed this in paragraph 362, holding that states parties to the United Nations Convention on the Law of the Sea (UNCLOS) need not update their baselines or maritime zone coordinates once duly established. The 2021 Pacific Islands Forum (PIF) Declaration on Preserving Maritime Zones, supported by over 100 states and international organisations, declared that Forum members would maintain their maritime zones without reduction notwithstanding sea-level rise (Pacific Islands Forum, 2021). This position rests on a three-part package of state practice: establishing maritime zones using fixed coordinates, notifying the UN Secretary-General, and maintaining those zones without review.

But even if maritime zones are legally preserved, their value depends on the continuing existence of the state entitled to manage them. Without statehood, maritime entitlements lose their legal anchor. SIDS therefore have a strong strategic incentive to secure legal continuity of statehood as the foundation for any longer-term solution involving maritime resource revenues.

2.5 Case Studies: Tuvalu and Kiribati

Tuvalu exemplifies both the urgency and the creativity of emerging responses. A 2023 NASA assessment projects that much of Tuvalu's land area and critical infrastructure will sit below high tide by 2050 (Adams et al., 2023). Tuvalu's Future Now Project, launched in 2021, simultaneously pursues legal permanency of statehood, values-based diplomacy, and digital nation-building (Tuvaluan Ministry of Justice, Communication and Foreign Affairs, 2021). In October 2023, Tuvalu amended its constitution to affirm permanent statehood and sovereignty. In November 2023, it signed the Falepili Union Treaty with Australia, the first legally binding instrument to recognise a state's continuing statehood notwithstanding sea-level rise, which also created a special mobility pathway for Tuvaluan citizens (Australia-Tuvalu Falepili Union Treaty, 2023).

The treaty has also attracted criticism. It grants Australia significant influence over Tuvalu's security and defence arrangements with third parties (see Section 6.2)[2], and its annual cap of 280 visa places has been noted as insufficient for a population of approximately 11,000. Critics, including Maina Talia, former director of the Tuvalu Association of NGOs, warn that framing migration as a climate solution risks signalling to the international community that territorial loss is inevitable and acceptable.

[2] Art. 4(4) covers security and defence-related matters including policing, border protection, cyber security, and critical infrastructure such as ports, telecommunications, and energy (Green & Guilfoyle, 2024). These subject matters reflect Australian security priorities and were designed in the context of concern about China's increasing security presence in the Pacific following the Solomon Islands-China security agreement of 2022.

Kiribati illustrates a different approach. Its "migration with dignity" policy sought to prepare citizens for voluntary relocation abroad, but it later pivoted toward land development and adaptation, reflecting many Pacific populations' strong preference to remain in place. These cases underscore the need for governance frameworks that preserve optionality, assuming neither that displacement is inevitable nor that adaptation will always succeed.

3. Gaps in Existing Legal Frameworks

3.1 The Statelessness Conventions

The two principal international instruments on statelessness are the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The 1954 Convention defines a stateless person as an individual "not considered as a national by any State under the operation of its law" (Article 1). This definition, now widely regarded as part of customary international law, was designed for individual cases arising from the operation of national laws, such as gaps at birth, revocation of citizenship, or the failure of successor states to confer nationality (Dobrić, 2019, p. 45). Some scholars read Article 1 narrowly, as presupposing statelessness caused by a state's active legal operation rather than by the state's disappearance, so that a population left without a state may not straightforwardly qualify as stateless under that definition (Dobrić, 2019, p. 58). The 1961 Convention seeks to prevent and reduce statelessness over time by requiring states to build safeguards into their nationality laws. It imposes only a negative duty to avoid creating new statelessness and does not guarantee a right to nationality (Dobrić, 2019, p. 60).

Neither convention was designed for the disappearance of an entire state. The drafters did not contemplate a whole national population losing its state through territorial submergence rather than political dissolution or succession (Venkov, 2022). For SIDS facing complete inundation, this creates a foundational gap. The conventions activate only once statelessness has materialised at the individual level. They offer no mechanism for preserving collective nationality in advance, no framework for governance continuity, and no pathway for a people to maintain legal identity as a group when their state ceases to exist in the conventional territorial sense.

3.2 Climate Agreements

The principal international climate agreements, the Paris Agreement and the Loss and Damage Fund, operate on a different plane from the governance and legal continuity questions SIDS face. The Paris Agreement centres on mitigation and adaptation: it binds states to progressively ambitious nationally determined contributions (NDCs) toward the 1.5 degrees Celsius target, now confirmed as legally binding by the ICJ Advisory Opinion No. 187 (2025), and establishes cooperation obligations on adaptation. The Loss and Damage Fund, created for harms beyond adaptation, offers affected states a financial mechanism but is reactive in design. Neither instrument addresses what happens to a state's governance structures, legal identity, or population when territory becomes uninhabitable. The Opinion also confirmed that climate treaty obligations and general rules of state responsibility operate concurrently, as the lex specialis principle does not generally exclude other rules of international law. The climate regime therefore does not displace a state's broader obligations, but nor does it create new protections for statehood continuity (International Court of Justice, 2025). For SIDS, the climate framework, however significant in holding emitting states to account, offers no legal pathway to preserve collective governance or nationality.

3.3 Refugee and Forced Migration Law

The refugee and forced migration framework presents a similar problem. The 1951 Refugee Convention defines a refugee as a person with a well-founded fear of persecution on one of five grounds: race, religion, nationality, membership of a particular social group, or political opinion. Slow-onset sea-level rise and other climatic impacts do not fit this definition, as they lack a persecutor, a discriminatory element, and the immediacy persecution implies (Todd, 2025; Salama-Robino, 2025). This was confirmed in Ioane Teitiota v. New Zealand (UN Human Rights Committee, 2020), where the Committee found the threat to the applicant neither specific nor discriminatory, and a 10-to-15-year timeframe before uninhabitability too distant to establish the required imminence (Todd, 2025). Because SIDS populations are likely to leave pre-emptively, before conditions become life-threatening, proving the necessary nexus to persecution is even harder (Todd, 2025). Soft law efforts to fill this gap, including the Nansen Initiative's Protection Agenda and its successor, the Platform on Disaster Displacement, have produced useful normative frameworks for cross-border disaster displacement but carry no binding legal force (Salama-Robino, 2025; Todd, 2025). Proposals to amend the 1951 Convention to include climate refugees face substantial political resistance, and reopening the Convention in negotiation risks weakening existing protections (Todd, 2025).

4. The Proposed Governance Framework: Deterritorialized Sovereignty

The central premise of our proposed framework is that sovereign functions can be maintained without a fixed, contiguous territory. This is not a novel idea in international law. The Sovereign Order of Malta retained recognition by many states despite losing its territory in 1798. The Holy See was recognised without any territory between 1870 and 1929. Governments-in-exile, from Kuwait's government during the Gulf War to the Baltic states' governments during Soviet occupation, continued to exercise sovereign functions extraterritorially. These historical precedents suggest that the strict equation of sovereign legal personality with territory, while dominant, is not absolute in international law (Todd, 2025; Bílková, 2017). The status of the Order of Malta and the Holy See is contested, however, and their value as precedents should not be overstated. Both are better understood as sui generis non-State sovereign entities that possess international legal personality but not statehood in the full sense. These precedents therefore demonstrate that sovereign functions and legal personality can persist without territory, rather than that statehood in the full sense can. Deterritorialized statehood proper remains a proposition for which there is, as yet, no genuine historical precedent (Allen & Prost, 2022; Bílková, 2017).

More recently, the concept of the "nation ex situ" proposes a status that allows the continued existence of a sovereign state, with all the rights and benefits of sovereignty, in perpetuity, through a government framework that exercises authority over a dispersed people (Burkett, 2011). This reframes the loss of territory not as the end of statehood, but as a transformation of its form.

Applied to SIDS, the nation ex situ model would see a government elected by and accountable to a dispersed population, acting as trustee of the state's remaining assets, including its maritime zones. Resource revenues from those zones would fund the relocation and continued livelihood of displaced populations (Rayfuse, 2011; 2022). The state would continue to participate in international relations and protect the rights of its citizens in host states, including rights to nationality, culture, and language.

That said, the concept remains legally untested. None of the historical precedents involve the permanent physical submergence of an entire territory. Further, states might resist extending recognition to

deterritorialized entities given concerns about potential implications for secessionist claims elsewhere (Todd, 2025).

Building on the nation ex situ model and historical precedents, this paper proposes a framework built around four interconnected elements: rotational regional governance hubs, multilateral resettlement agreements, joint financing models, and dual citizenship pathways.

Figure 1 - Regional governance hub model for Small Island Developing States facing climate-induced depopulation

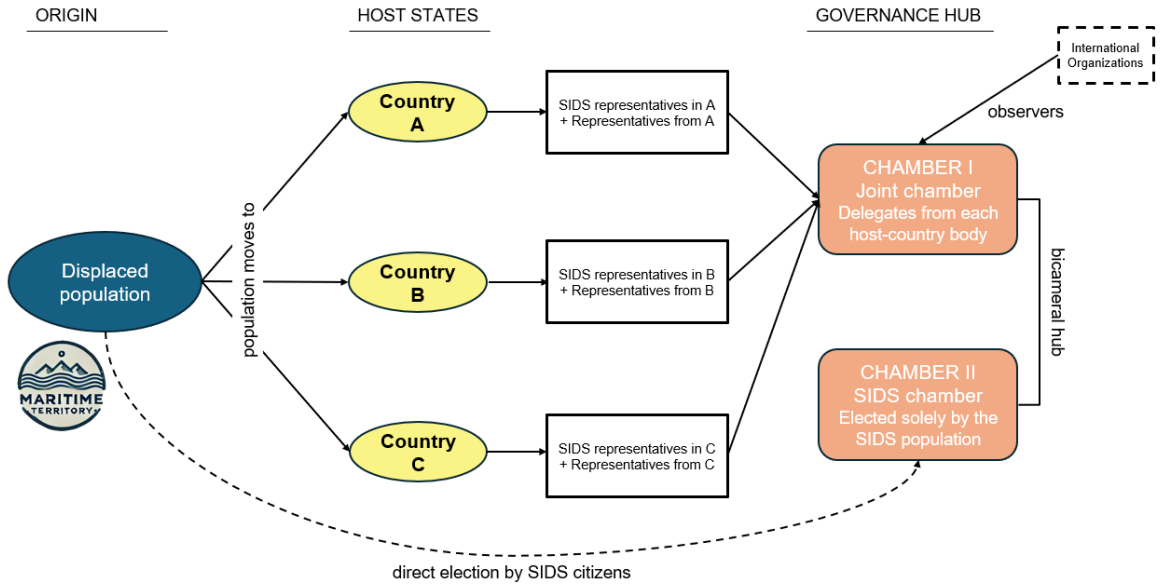


Figure 1: Regional governance hub model for Small Island Developing States facing climate-induced depopulation (adapted and extended from Aggarwal & Freihardt, 2025). The governance hub is structured bicamerally. Chamber I comprises delegates drawn from the joint host-country representative bodies, giving host states a structured but bounded role. Chamber II is elected solely by the displaced SIDS population, wherever its members reside, preserving the political community across territory. The hub rotates its physical seat among host countries on an annual cycle and is supplemented by digital governance tools. International organizations participate as observers, mediators, and sources of technical support, without decision-making authority. The maritime territory remains a persistent legal and symbolic anchor.
Source: *Author's own elaboration.*

4.1 Rotational Regional Governance Hubs (Figure 1)

A central element of the framework is the establishment of regional governance hubs (Figure 1). Each hub consists of official representatives from three sets of stakeholders: the government of the displaced SIDS, each host country where displaced populations are resettled, and relevant regional and international organizations. Unlike conventional governance models that align government, territory, and population within a unified physical space, this model operates across dispersed locations where these three elements are geographically separated.

The hub's key functions concern cross-border governance rather than traditional service delivery, which remains the responsibility of host states. They include representing the displaced population in legal, cultural, and diplomatic matters, thereby maintaining the legal identity of both the population and the state; managing shared resources such as maritime zones within the SIDS's EEZ to generate revenue for displaced populations; advocating for and coordinating funding from international mechanisms such as the Loss and Damage Fund;

and preserving cultural identity through education programmes, language preservation, and community cohesion activities.

Rotation is integral to the model's inclusivity. Each host country would physically host the hub for a set period, such as one calendar year, before it rotates to the next, ensuring distributed responsibility and shared involvement across host countries. Digital governance tools, such as the digital state infrastructure Tuvalu is developing (Rothe et al., 2024), complement rotation by enabling consistent communication and operations regardless of the hub's physical location.

The hub is designed to complement and support existing SIDS governmental structures, not to replace them as a sovereign body. One structural option is for the hub to function as one chamber within a bicameral system, akin to the chamber representing states or provinces in federal structures, with a second chamber elected solely by the SIDS population. In this design, the hub operates as a mediating and administrative body. Host countries receive structured participation, but their influence is confined to domains directly affecting integration, infrastructure, and economic alignment, with no authority over SIDS national identity, self-governance decisions, or international relations.

The hub is also transitional rather than permanent. Initially, it serves as a support mechanism for gradual and structured relocation. Over time, as SIDS governments negotiate new arrangements, its role may shift, scale down, or dissolve entirely. Should full relocation occur, it could become an operational extension of SIDS governance, ensuring continuity of administrative, legal, and diplomatic functions. At that stage, the SIDS population would determine how to adapt its governing structures.

Cross-border governance arrangements for minority or indigenous populations, such as the Sami Parliament in Scandinavia (see Section 5.3), offer partial precedents for how decentralised but cohesive governance can function effectively without a unified territorial base.

4.2 Multilateral Resettlement Agreements

Multilateral resettlement agreements are essential to give displaced SIDS populations legal access to land, services, and integration opportunities in host countries. SIDS governments should lead in deciding resettlement locations, drawing on existing bilateral or multilateral agreements as frameworks for negotiation. These choices should be guided by meaningful consultation that reflects the priorities and cultural values of affected populations, rather than being externally imposed.

Such agreements could be limited to one or a maximum of three host countries. This keeps the governance model coherent and manageable, strengthens ties between displaced populations and host communities, and makes cultural preservation more practical.

Existing frameworks offer relevant models. The Compacts of Free Association (COFA) show how relocation and state cooperation can be embedded in frameworks of mutual benefit. The Pacific Agreement on Closer Economic Relations Plus (PACER Plus) fosters regional economic integration among Pacific nations and could expand to include resettlement and migration cooperation. The Falepili Union Treaty and the Kiribati-New Zealand Pacific Access Category Visa set precedents for tailored relocation frameworks that could scale into broader regional arrangements. The Pacific Regional Framework on Climate Mobility, endorsed by PIF leaders in 2024, promotes rights-based and people-centred approaches to climate mobility while firmly acknowledging the priority of Pacific peoples to remain in place.

4.3 Joint Financing Models

The framework can draw on two primary funding streams. The first is SIDS maritime revenues, particularly from EEZ fishing rights. Negotiating these rights into resettlement agreements offers host countries additional economic benefits while ensuring SIDS retain a stake in the process. Rayfuse's model of a deterritorialized state authority acting as trustee of maritime zone revenues, to fund relocation and benefit displaced populations, provides a useful conceptual anchor (Rayfuse, 2011; 2022).

The second is international climate finance. The Loss and Damage Fund, the Green Climate Fund, and other mechanisms can supplement maritime revenues. As noted in Section 3, the ICJ Advisory Opinion confirmed that the climate regime, including the Article 8 loss and damage mechanism, does not displace general rules on state responsibility, and so does not close off other legal avenues for SIDS. Under general international law, states responsible for internationally wrongful acts must make reparation to injured states, so SIDS may in principle bring compensation claims against high-emitting states for harm caused by their failure to reduce emissions, separately from and in addition to whatever is channelled through climate funds.

Incentives for host countries must, however, go beyond financial support. Diplomatic benefits, including increased recognition on global platforms and preferential trade agreements, can further encourage participation, while cultural exchange partnerships, capacity-building initiatives, and long-term infrastructure investments would strengthen collaboration.

Transparency and accountability mechanisms, such as independent audits and shared oversight committees, are essential to build trust and mitigate resistance. Collaborative resource governance models, including the Great Limpopo Transfrontier Park and the Coral Triangle Initiative, show how equitable distribution and transparent fund allocation can be achieved in shared resource management.

4.4 Dual Citizenship Pathways

Dual citizenship offers a mechanism to preserve the legal identity and rights of displaced SIDS populations while facilitating integration into host countries. Displaced individuals would retain their original citizenship while acquiring legal rights in host countries. This preserves the nationality bond that serves as the legal foundation for human rights claims.

The primary challenge is the willingness of host countries to grant dual citizenship. Historical instances where dual citizenship was extended to migrant or refugee populations, often under international pressure, humanitarian imperatives, or strategic agreements, provide relevant lessons. Early engagement with host countries through the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) can facilitate these discussions and ensure that dual citizenship frameworks are developed in alignment with international norms and local contexts.

Tribal sovereignty models from the United States, Canada, and other regions offer further insights. While they do not involve dual citizenship arrangements, they demonstrate how distinct governance structures can be maintained within shared legal and political frameworks. The ability of indigenous peoples to maintain separate governance, education systems, and cultural practices within broader national frameworks offers design principles potentially transferable to the SIDS context.

The European Court of Human Rights' decision in Sejdic and Finci v. Bosnia and Herzegovina (2009) is relevant as a design constraint. The Court held that power-sharing arrangements, even those embedded in internationally brokered peace agreements, cannot compel citizens to identify with a particular ethnic or national group as a condition of political participation. For any deterritorialized governance hub, this means

representative structures cannot lawfully require displaced persons to identify with the majority group of the host country in order to access governance or rights.

5. Comparative Institutional Design Options

In designing the regional governance hub proposed in Section 4, SIDS and host countries can draw on lessons from other institutional contexts.

5.1 Weighted Voting Systems

The hub will require decision-making structures that balance the interests of the displaced SIDS population, host country governments, and international organizations. The International Monetary Fund (IMF) and World Bank use weighted voting systems in which representation reflects financial contributions and institutional stakes. Adapted to the hub, such a model could balance contributions to governance and operational costs with direct representation of the displaced SIDS population. Transparent fund management would be essential, as the Green Climate Fund's guidelines and accountability mechanisms demonstrate.

5.2 Dual-Tiered Decision-Making

As set out in Section 4.1, the hub could adopt a dual-tiered decision-making framework: host countries influence domestic integration policies, including housing, healthcare, education, and employment, while SIDS retain authority over national identity, self-governance decisions, and international relations. International organizations would hold no decision-making authority but could serve as observers, mediators, and providers of financial and technical assistance in dispute resolution.

5.3 Transnational Representative Bodies

The Sami Parliaments of Norway, Sweden, and Finland offer the most directly relevant precedent for cross-border governance of a culturally distinct people. Cooperating through the Sami Parliamentary Council, they represent the cultural and governance interests of the Sami people and show that decentralised yet cohesive governance structures can function effectively across state boundaries. A key limitation of the analogy is that the Sami are indigenous peoples within their traditional territories, not displaced peoples in host states, and the Sami Parliaments operate within established constitutional frameworks rather than in response to impending state extinction.

5.4 Governments-in-Exile and Extraterritorial Governance

Section 4 noted that governments-in-exile, such as those of Kuwait during the Gulf War and the Baltic states during Soviet occupation, maintained legal continuity and international recognition without territorial control. As a design model, however, they have a critical limit: they are premised on the expectation of return to a physical territory. For SIDS facing permanent territorial loss, the analogy breaks down precisely where it matters most. The proposed governance model must therefore be designed not as a temporary arrangement pending return, but as a potentially long-term or permanent structure.

The Order of Malta and the Holy See, also discussed in Section 4, are similarly limited. Neither involves a displaced popular government. While both confirm that international law does not categorically require territorial control as a condition of legal recognition, they support the theoretical possibility of the model rather than providing operational design guidance.

5.5 The Framework as a Menu of Configurations

The arrangements in this section and in Section 4 are not prescriptive solutions. Different SIDS will face different combinations of demographic scale, host country relationships, existing legal arrangements, cultural practices, and political preferences. A small SIDS of a few thousand people may negotiate a simple bilateral arrangement with a single host country and a streamlined governance structure, while a larger SIDS with populations dispersed across multiple countries may require a more complex multilateral hub with bicameral design features. The framework should thus be seen as adaptive, not uniform.

6. Implementation Challenges

The practical implementation of this framework faces several complex challenges. This section addresses operational and practical challenges. Deeper normative and conceptual critiques are addressed in Section 7.

6.1 Securing Host Country Participation

Convincing host countries to enter multilateral resettlement agreements requires a combination of well-designed incentives and credible international support. Access to maritime resources, funding from international climate finance mechanisms, capacity-building support, and potential trade or diplomatic benefits form the core package. The ICJ Advisory Opinion confirms that obligations to cooperate in addressing sea-level rise are legal obligations, not merely moral preferences. This may strengthen the normative case for host country participation, though legal obligations do not automatically translate into political compliance.

From a rights-based perspective, there are many reasons why states may agree to host a parallel governance structure within their borders. According to UN Secretary-General António Guterres (UN, 2026), the adoption of the landmark General Assembly resolution on 20th of May 2026 is “a powerful affirmation” of international law, climate justice and science that makes clear Member States’ responsibility to protect their own people from what is an “escalating climate crisis”.

However, this paper takes a critical perspective and assumes that the international system will not prioritise human rights when making decisions on issues of climate justice affecting SIDS. The incentive that appears the most likely to motivate states is self-interest. States may calculate their bargaining power and trade space in their host country and paths to permanent residency or citizenship for the remaining resources or potential for SIDS peoples to be a source of cheap labour in the host country’s economy. Such economic and resource incentives are likely to manifest in the form of exploitation legislated into domestic laws and entrenched in treaties binding the SIDS and host countries by international law.

6.2 Power Asymmetries

The Falepili Union Treaty provides a concrete illustration of how power asymmetries can manifest even within a framework designed to protect a smaller state. Article 4(4) of the Treaty effectively gives Australia a veto over Tuvalu's security and defence arrangements with third parties, including infrastructure such as ports, telecommunications, and energy. While legal analysis suggests this does not compromise Tuvalu's sovereign statehood in international law, it does represent a significant constraint on Tuvalu's practical freedom of action in foreign policy. Any governance hub model must be designed with explicit safeguards against similar power asymmetries, including clear limits on host country authority over SIDS external relations, robust dispute resolution mechanisms, and the involvement of neutral international mediators.

6.3 Negotiating Decision-Making Authority

Voting rights within the hub must balance equality with practical considerations including financial contributions, the size of the displaced population hosted, and strategic stakes in the arrangement. Drawing on weighted voting models from existing multilateral institutions, the hubs could implement hybrid models where representation is balanced with contributions to governance and operational costs. The dual-tiered decision-making structure described in Section 5 is one approach to managing this tension.

6.4 Aligning SIDS and Host Community Preferences

Existing research highlights that many SIDS populations strongly prefer to remain on their islands. Success of the model will depend on transparent and inclusive decision-making processes, meaningful consultation with SIDS populations, and support for diaspora networks and cultural exchange programmes. Governance structures must not presuppose displacement as inevitable or irreversible.

Domestic populations of host countries may see SIDS populations as a threat or burden due to concerns about cultural integration, resource allocation, and social cohesion, resulting in discrimination in terms of SIDS peoples' access to services and democratic participation. Populist politicians might take advantage of this as seen in the rising anti-immigrant sentiments in far-right political parties observed in countries such as the UK, USA, Australia, New Zealand and the EU. Domestic pressures such as the cost-of-living crises, housing shortages, and legal and regulatory barriers may also add to these pressures, preventing the populations of SIDS being able to participate on equal or equitable terms within the host countries.

6.5 The Risk of Democratic Accountability Deficits

Democratic accountability depends on a government being answerable to the people it governs through regular, accessible and meaningful processes. The population is dispersed across multiple host countries, subject to different legal systems and at varying distances from the hub's physical location. Voter participation, civic engagement and the basic infrastructure of democratic systems, including a free press, civil society organisations, and accessible public institutions, cannot be assumed to travel with a displaced community. The further a government operates from its people, the more its legitimacy depends on procedures that are easier to design than sustain.

6.6 Elite Capture and Representational Gaps

A governance structure operating at a distance from its people carries the risk of elite capture. The most mobile, educated, and politically connected members of a displaced SIDS population are likely to engage most actively with the institutions and the hub, while the broader community, including women, youth, and those with limited digital access or formal education, remains peripheral. Studies of diaspora governance consistently identify elite capture of diaspora resources, uneven representation in diaspora councils, and limited accountability in state-diaspora collaborations as structural features of transnational governance, not exceptional failures. In the Pacific context specifically, research highlights the underrepresentation of women in decision-making forums and elite capture of climate change responses as pre-existing problems that a governance hub could replicate rather than correct.

The bicameral design option proposed in Section 5, where a second chamber is elected solely by the SIDS population, is intended in part to address this gap. But elections require voter rolls, accessible polling mechanisms, and civic infrastructure that a dispersed and recently displaced population may lack. The Tibetan

Government-in-Exile, the closest operational precedent for a representative exile governance body, has faced documented deficits including factionalism, weak formal opposition, and the underrepresentation of women in its parliament. The hub's governing instruments must therefore include mandatory representation thresholds, structured community participation mechanisms, and regular accountability reporting to the full SIDS population, not only to its diplomatic representatives.

6.7 The Limits of Analogy

The precedents examined in this paper, including governments-in-exile, the Knights of Malta, the Papal See, tribal sovereignty models, and the Sami Parliament, provide intellectual scaffolding for the proposed framework. None of them involve permanent, physical submergence of all national territory or a democratic popular government of an entire national population seeking to maintain independent statehood in perpetuity without any prospect of return. The gaps between these precedents and the SIDS case are as significant as the similarities. The framework proposed here is necessarily novel, and novel frameworks carry risks that precedent-based analogies cannot fully anticipate.

7. Self-Determination in the Context of Deterritorialized Governance

The previous sections set out what could be institutionally achieved within the current international system. They propose a framework that works with existing legal instruments, treaty models, and governance precedents, rather than waiting for the system to transform. This section shifts to a different but related question. Even if the proposed framework is implemented well, it operates within an international order whose foundational assumptions about territory, sovereignty, and statehood remain unchanged. Subsequently, we examine those assumptions and argue that long-term, durable solutions for SIDS require not only institutional innovation but structural change in how international law understands sovereignty and self-determination. The hub model is a response to the system as it is. The purpose of proposing a framework based on existing governance systems alongside the application of simultaneous system critique is to address the problems associated with institutional power dynamics and the limits of the current international system’s ability to address issues of climate injustice in the context of SIDS and their losses of territory. These two levels are not contradictory but rather strengthen the proposal by extending it beyond the limits of the institutions in which it is being proposed. What follows is a discussion of the significant inequities and inherent instabilities in the international distribution and implementation of sovereignty and self-determination, which demonstrate the need for deterritorialization of peoples and the equitable distribution of statehood.

Scholars such as Arendt, Anderson, Appadurai and Schmitt have shown that nationalism, illusory communities, statelessness, diaspora and deterritorialization of nations are all eroding the feasibility and functions of traditional states (Arendt, 1973; Anderson, 2020; Appadurai, 1996; Schmitt, 1996). This paper argues that the very basis upon which international law is grounded needs to shift from the nation-state-centred system in which political priorities are vulnerable to economic interests towards a human-environment-centred system where sovereignty is equitably distributed on a global scale and democratised in institutions that can ensure effective implementation of human rights with the ability to enforce global justice.

7.1 The historical foundations of sovereignty and statehood

The issue of SIDS sovereignty being threatened by disappearing territory must be seen in a historical context that has shaped the contemporary dynamics of statehood and its principles of international law, in particular

territorial integrity. This paper uses three analytical levels regarding sovereignty and self-determination for SIDS in the international order: legal doctrine is considered to be international law as it is; critical interpretation of the existing international order; and this paper's normative proposals in which the authors argue for what it should become. The relationships between sovereignty, colonialism and the contemporary international order also require a distinction between established legal doctrine, critical interpretation and normative transformation in the paper's proposals.

This historical context for sovereignty frames the contemporary dynamics of its distributive injustice in a world of incomplete decolonisation, inconsistent enjoyment of self-determination and increasing violations of sovereignty by global powers competing for influence and control. SIDS are not the only states suffering from loss of territory or sovereignty. However, they are in the unique position of losing their territory due to sea level rise. Recent developments in international political and economic systems suggest a necessity to make amendments to the fundamental principles of sovereignty, including territorial integrity. From the internet to international law in a globalised and increasingly interconnected world, the 21st-century global political economy is interdependent in ways that have surpassed the principles drafted in seventeenth-century imperial Europe.

The might-is-right rule of the world has resurfaced, leaving SIDS at a significant disadvantage. The most significant threat to traditional sovereignty is the erosion of its applicability and feasibility amid climate change. SIDS are some of the smallest contributors to the climate crisis yet are witnessing their territories disappearing due to sea level rise caused predominantly by the fossil fuel use in the industrialised states of the Global North. The situation of the SIDS demonstrates the urgent need for sovereignty to be redefined so that it reflects the needs of all humans globally in their interconnection with the environment, rather than remaining a tool for imperial security that can be weaponised to justify wars and gross human rights violations.

One path for reframing sovereignty beyond the concept of territoriality is to align it with human rights, focusing on bringing people into balance with the environment. As the unsustainable principles of an international order with historical distributive injustices of territorial control and colonial structures as the foundations for sovereignty are inevitably eroded over time, the reality of human-nature interdependence urges international systems towards a more sustainable basis for the future, where the collective and individual rights of all peoples will need to prioritise healthy and secure environments over the prevalence of static political ideologies and private corporate interests.

7.2 Self-Determination

The post-World War II world order ultimately reinforced the structures of settler-colonialism by unfairly denying self-determination "for all peoples." After World War II, self-determination became a founding principle of the United Nations Charter (1945). During a brief period of international decolonisation that spanned the late 1940s to the early 1990s, the UN sought to implement the right to self-determination as contained in common Article 1 of the 1966 International Covenant on Civil and Political Rights (ICCPR) (UN, 1966a) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (UN, 1966b). Common Article 1 of the ICCPR and ICESCR protect the collective right of all peoples to self-determination stating that "By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". The collective right to self-determination for Indigenous peoples contained in Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples (2007) has a distinct legal basis and may be applied to Indigenous peoples of SIDS in their home islands but is problematic in host countries.

Macklem and Beitz hold that the right to self-determination should serve to advance international justice; Fisch notes that self-determination is incompatible with domination and inequality (Beitz, 1979; Macklem, 2015; Fisch, 2016). Saul describes the development of self-determination in international law and the inconclusive, inconsistent application of its principles. Saul states that:

> The right of self-determination has been identified by the International Court of Justice (ICJ) as "one of the essential principles of contemporary international law." Yet it also remains one of the most unsettled norms in international law... The doctrinal debates, on the meaning of "peoples" and the contents of the right that "peoples" enjoy, have no end in sight. (Saul, 2011, pp. 611-612)

In 1992, UN Secretary-General Boutros-Ghali said that not every ethnic minority could achieve secessionist self-determination in statehood because "peace, security and economic well-being for all would become ever more difficult to achieve" (Boutros-Ghali, 2000, p. 9). Accordingly, he suggested limits on self-determination, cautioning that unlimited implementation could cause fragmentation and instability. Rather than secession, Boutros-Ghali advocated for protecting minority rights through democratic inclusion within existing borders, and by promoting human rights.

7.3 Reinterpreting Self-Determination for Peoples Facing Climate-Induced Deterritorialization

Deterritorialization of peoples may be defined for the purposes of this paper as the separation of peoples' collective political identity from a territory whose borders were previously fixed and internationally established. The concept of deterritorialization describes social and cultural structures becoming detached from physical territories (Deleuze & Guattari, 1987). Deleuze and Guattari critique traditional models of social organisation, emphasizing the concepts of rhizomatic growth and deterritorialization. In their concept, "rhizomes" function as non-linear, multiplicative systems; rhizomatic structures are rooted in democratic modes of organisation in contrast to hierarchical models. Deterritorialization and rhizomatic structures are processes in which the flows of social, cultural, and political forces break down static hierarchies and fixed structures to reconfigure new arrangements that may grow in alignment with the constant flux of interconnected peoples and nature.

Further, Barnsley and Bleiker (2008, p. 1) argue for "the need to deterritorialize self-determination, which would place greater emphasis on human rights and democratic participation." They note that self-determination has evolved from independence from colonial powers to new processes through which groups may claim autonomy. Finally, Howard (2023) defines deterritorialization and reterritorialization as "terms used to denote the fluidity of spatial, legal, and cultural forms". They highlight that these terms represent the strategic disruption of fixed territory, offering "the opportunity to recreate territorial forms with new organizations of power."

This paper uses deterritorialization as a critical perspective of sovereignty, statehood and self-determination in which a peoples' collective political identity needs to be de-coupled from territory. We apply this perspective to the context of SIDS facing climate injustice and the disappearance of their lands due to economic activities and environmental destabilisation largely committed by the Global North. The UN and the international community recognised the Indigenous peoples' right to self-determination as a collective right enshrined in Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples (2007). Panzironi (2006, pp. 61-62) notes that the presence of collective and individual rights poses difficulties in international law, but that it is evolving beyond the positivist, legalistic approach by challenging "international law at the conceptual,

normative, and procedural level." Buchanan (2003) adopts a holistic and systematic approach to addressing issues related to international law and its role as a functional regulator of international affairs, grounded in human rights and international justice. He details claims to the right to self-determination without secession, arguing that justice should be a primary goal in the international legal order, with a rejection of states' preoccupation with "national interest" because it is insufficient for peace. Rasheed (2023) applies a constructivist approach to critical security studies to examine how SIDS construct climate change as a security issue in UN Security Council debates. He asserts that SIDS are political actors redefining international security threats rather than passive entities requiring protection. Thomas et al. (2020) investigates climate justice, vulnerability, risk, loss and damage, adaptation, inequality, and differentiated responsibility, shifting the security focus from protecting territorial states against military threats to safeguarding people, livelihoods, environments, communities and cultures from structural and climate-induced insecurity. Bishop et al. (2024) examines climate change, geopolitics, development, and the international order, arguing that retaining and reforming the liberal international order within global political structures is in the interests of SIDS and the viability of their statehood.

7.4 Does the Proposed Governance Hub Model Uphold, Constrain, or Transform Self-Determination Norms?

The scholarly literature provides a coherent analytical framework for SIDS continuity of self-governance through self-determination. Green and Wewerinke-Singh (2025) investigate continuity of statehood, state identity, and self-determination for SIDS affected by sea-level rise, shifting their analysis away from Montevideo criteria as a mechanical test towards the presumption of continuity. They ask if self-determination can provide a legal basis for maintaining statehood and observe that people do not disappear when their state's geographical circumstances change especially in the context of nationality. Talmon (1999) asserts that loss of governmental control over territory does not automatically result in the loss of statehood with governments-in-exile demonstrating that international law has the capacity to separate statehood from territorial government. Talmon (2001) also notes that international recognition plays a role in maintaining an existing state's international legal personality, even when its territorial, demographic, or governmental circumstances change, acting as a mechanism for maintaining continuing international legal personality. Whereas this scholarship focuses on continuity of deterritorialised statehood, McAdam et al. (2025) ask under what circumstances international law determines statehood to cease. They identify statehood, nationality, human rights, displacement, and maritime entitlements as interconnected legal questions noting the emerging presumption of continuity in the context of sea-level rise. Traditional approaches to statehood start with territory, a permanent population, government, and the capacity to conduct international relations. A self-determination-based approach begins with a people's right to self-determination. Rather than treating the population, territory, and governmental apparatus as the foundational elements from which statehood derives, it begins with the existence of a people and their right to self-determination. From this perspective, a political community emerges from self-determination, with territory and government as changing expressions. In international human rights law, all peoples have the right to self-determination, exercised in their political community. Grounded in the right to self-determination, there is an emerging proposition that SIDS may retain continuity of statehood manifested as deterritorialised self-government.

8. Conclusion

The disappearance of small island states is not a distant possibility but a process already underway, driven by physical changes that scientific research has documented in increasing detail. Current international legal frameworks were not designed for this scenario, and the evidence reviewed in this paper suggests they cannot adequately address it.

This paper proposes a framework of deterritorialized sovereignty, expressed through rotational regional governance hubs, multilateral resettlement agreements, joint financing models, and dual citizenship pathways. It draws on the ICJ Advisory Opinion of July 2025, the PIF Declarations of 2021 and 2023, the Falepili Union Treaty, and scholarship on deterritorialized statehood. Rather than prescribing a single answer, it offers a menu of institutional configurations that can be adapted through negotiation to individual SIDS.

The institutional framework in Sections 4 to 6 is designed to function within the current international order, drawing on existing legal developments, treaty precedents, and governance models, because SIDS cannot afford to wait for systemic change. Yet, as Section 7 shows, that order is not a neutral backdrop. Its territorial assumptions, distribution of sovereignty, and enforcement gaps help explain why SIDS lack adequate legal protection. The institutional proposal and the systemic critique are therefore two parts of one argument: the immediate problem demands a practical response, but a just and durable response requires rethinking the system that produced the problem.

Acting now matters. Developing institutional options before uninhabitability occurs is essential for preserving legitimacy, representation, and legal continuity, as solutions rushed under crisis conditions are less likely to protect the rights and interests of displaced populations. The ICJ Advisory Opinion confirms that obligations to cooperate on sea-level rise are legal, not voluntary, and the presumption of continuing statehood in paragraph 363 provides a legal foundation for the framework proposed here.

Future research should examine what systemic transformation could look like in legal and institutional terms; the precise legal conditions under which a deterritorialized state retains recognition by third states; the relationship between deterritorialized statehood and UN membership; democratic accountability mechanisms for governments without a physical constituency; and the long-term cultural and psychological dimensions of governance without territory.

Countries such as Tuvalu and Kiribati are making irreversible decisions about their governance futures today. The international community has an obligation, confirmed by the ICJ, to cooperate in finding equitable solutions. This paper is a contribution to that effort.

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