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THE EXISTENTIAL DILEMMA OF SMALL ISLAND STATE SOVEREIGNTY DUE TO CLIMATE CHANGE: AN INTERNATIONAL LEGAL ANALYSIS OF VANUATU’S VULNERABILITY WITHIN THE FRAMEWORK OF THE PARIS AGREEMENT, THE SDGs, AND CLIMATE JUSTICE

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ABSTRACT

Climate change poses an existential threat to small island states such as Vanuatu, which remain environmentally and socially vulnerable despite contributing merely 0.0016% of global emissions. This study employs a normative legal research method, utilizing statutory, conceptual, and comparative approaches to analyze primary legal materials including the Paris Agreement, UNCLOS 1982, and SDG resolutions alongside secondary doctrinal sources. The research examines two principal issues: (1) the adequacy of territorial protection for Vanuatu under the Paris Agreement and the Sustainable Development Goals (SDGs); and (2) the legal implications for state sovereignty and statehood should the territory become submerged due to projected sea-level rise and its population displaced. The findings reveal a significant implementation gap in the Paris Agreement and related SDGs, leaving Vanuatu exposed to disproportionate climate risks. Furthermore, while the doctrine of state continuity and the concept of deterritorialized statehood provide a normative basis for preserving Vanuatu’s sovereignty and citizen status, legal uncertainty persists due to the absence of recognition for climate refugees under the 1951 Refugee Convention. Through teleological interpretation, this study highlights the urgency of aligning international legal obligations with the physical reality of Vanuatu’s potential submersion. Consequently, this study recommends strengthening the enforcement of international environmental law and developing specific legal instruments to protect persons displaced by climate change and to guarantee the permanent residency status of Vanuatu’s citizens.

Keywords: Climate Justice, Paris Agreement, Small Island Developing States, Sovereignty, Statehood, Vanuatu

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INTRODUCTION

Climate change has evolved from a mere environmental challenge into an existential crisis threatening the legal and physical foundations of Small Island Developing States (Small Island Developing States/SIDS). Among the most vulnerable is Vanuatu, a Pacific archipelagic nation that historically accounts for only approximately 0.0016% of total global greenhouse gas emissions, yet now faces the risk of permanent physical territory loss due to sea-level rise. The urgency of this threat is underscored by recent scientific projections indicating that sea levels in Vanuatu are expected to rise by up to 0.64 meters by the end of this century under a moderate emissions scenario, and potentially reach 0.82 meters under a high emissions scenario.¹ This elevation not only threatens coastal infrastructure and economic resources but, more critically, submerges the territorial baseline a fundamental constituent element of statehood under conventional international law.²

Although the international community has established legal frameworks such as the Paris Agreement (2015) and the Sustainable Development Goals (SDGs) to mitigate the impacts of climate change, a significant implementation gap exists between global commitments and the reality of Vanuatu’s vulnerability. The Paris Agreement focuses primarily on limiting global temperature increases and facilitating mitigation mechanisms; however, it lacks explicit legal mechanisms to safeguard the sovereignty of states whose territories disappear as a result of mitigation failures.³ Similarly, the SDGs specifically Goal 13 (Climate Action) and Goal 14 (Life Below Water) have failed to adequately integrate climate justice aspects that guarantee the continued existence of vulnerable nations. Consequently, Vanuatu is trapped in an existential dilemma: legally recognized as a sovereign state under existing conventions, yet physically threatened with extinction, thereby negating the object upon which such sovereignty is exercised.

A clear research gap exists due to the scarcity of legal literature specifically analyzing the implications of territorial loss on Vanuatu's statehood within the simultaneous framework of the Paris Agreement, the SDGs, and principles of climate

¹ IMF, *Vanuatu: Selected Issues*, op. cit., hlm. 5, Table 3; Vanuatu Climate Council, *Current and Future Climate of Vanuatu* (Port Vila: VMGD, 2024), hlm. 8-10 (memprediksi kenaikan 9-18 cm pada 2030 dan proyeksi jangka panjang hingga 0,82 m).

² *United Nations Convention on the Law of the Sea (UNCLOS)*, 10 Desember 1982, 1833 U.N.T.S. 3, Pasal 121 (mendefinisikan status pulau dan wilayah laut); Rosemary Rayfuse, "Sinking States and the Law of the Sea", dalam *Research Handbook on International Law and Natural Resources*, ed. E. Blanco & J. Razzaque (Cheltenham: Edward Elgar Publishing, 2016), hlm. 389-392

³ *Paris Agreement*, 12 Desember 2015, T.I.A.S. 16-1103, 55 I.L.M. 740, Pasal 2 & 4; Daniel Bodansky, "The Legal Character of the Paris Agreement", *Review of European, Comparative & International Environmental Law* 1, no. 1 (2016): hlm. 1-7.

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justice. Sebagian besar studi terdahulu cenderung berfokus pada aspek migrasi iklim (climate migration). Previous studies have largely focused on climate migration, humanitarian assistance, or infrastructural adaptation, without addressing the core legal issue of the continuity of sovereignty following territorial loss.⁴ Existing scholarly works often assume that territorial loss marks the end of statehood, without exploring new legal constructs that allow a state to persist without a physical territorial base.⁵ The novelty of this study lies in its application of *detrterritorialized statehood* as a legal construct to preserve Vanuatu's status, alongside a critical analysis of the current climate regime's inability to protect the existential integrity of small island states.

Based on these background dynamics and gaps, this article aims to: (1) Analyze the adequacy of territorial protection for Vanuatu under the Paris Agreement and the SDGs framework; and (2) Examine the legal implications for state sovereignty and citizenship status if Vanuatu's physical territory becomes submerged. Through this analysis, the study contributes normatively to the development of international legal instruments that are more equitable and responsive to state extinction threats, affirming that climate justice must encompass the preservation of state existence alongside population protection.

METHODS

This study employs a normative legal research methodology, focusing on the analysis of international legal norms, principles, and doctrines.⁶ The methodological framework adapts the model developed by Soerjono Soekanto and Sri Mamudji, as validated in similar studies by Rosemary Rayfuse and Maxine Burkett regarding the status of states threatened by climate change.⁷ This approach was selected because the loss of

⁴ Jane McAdam, *Climate Change, Forced Migration, and International Law* (Oxford: Oxford University Press, 2012), hlm. 45-50; Maxine Burkett, "The Nation Ex-Situ: On Statehood, Territory, and Climate Change", *Melbourne Journal of International Law* 18, no. 1 (2017): hlm. 1-5 (membahas fokus literatur pada migrasi daripada status negara).

⁵ Rosemary Rayfuse, "W(h)ither Tuvalu? International Law and Disappearing States", *University of New South Wales Law Journal* 37, no. 2 (2014): hlm. 10-15; Tuvana Narain, "Sinking States: Deterritorialized Sovereignty and the Continuity of Statehood", *International Environmental Agreements: Politics, Law and Economics* 20 (2020): hlm. 435-438.

⁶ Soerjono Soekanto & Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2014), hlm. 13.

⁷ Rosemary Rayfuse, "W(h)ither Tuvalu? International Law and Disappearing States", *University of New South Wales Law Journal* 37, no. 2 (2014): hlm. 5; Maxine Burkett, "The Nation Ex-Situ", *Melbourne Journal of International Law* 18, no. 1 (2017): hlm. 10.

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Vanuatu's sovereignty presents an abstract legal issue requiring the interpretation of international instruments rather than empirical field data.

Legal Approaches

This research applies three primary approaches:⁸

- a. Statutory Approach: Examining the Paris Agreement, UNCLOS 1982, and UN SDG Resolutions.⁹
- b. Conceptual Approach: Analyzing concepts of state sovereignty, statehood, climate justice, and deterritorialized statehood.¹⁰
- c. Comparative Approach: Comparing the structural efficacy of the Paris Agreement against SDG targets to identify normative loopholes.¹¹

1) Legal Material

The sources are categorized into :¹²

- a. Primary Legal Materials: The Paris Agreement (2015), UNCLOS (1982), Vienna Convention on the Law of Treaties (1969), UN Resolutions on SDGs, and IPCC reports.¹³
- b. Secondary Legal Materials: Scholarly textbooks (e.g., *Oppenheim's International Law*), peer-reviewed journal articles (e.g., *Melbourne Journal of International Law*), and expert commentaries by Rayfuse and Burkett.¹⁴
- c. Tertiary Legal Materials: Legal dictionaries and encyclopedias for term definitions.¹⁵

2) Selection Criteria

Sources were selected based on :¹⁶

- a. Relevance to climate change and law of the sea
- b. Authority as ratified instrument or peer-reviewed literature
- c. Currency prioritizing publications from the last decade (2016-2026).

⁸ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Bayumedia, 2006), hlm. 295.

⁹ Tuvana Narain, "Sinking States: Deterritorialized Sovereignty", *International Environmental Agreements* 20 (2020): hlm. 435

¹⁰ Jane McAdam, *Climate Change, Forced Migration, and International Law* (Oxford: OUP, 2012), hlm. 60

¹¹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2016), hlm. 65.

¹² *Paris Agreement*, 2015; UNCLOS, 1982

¹³ Rayfuse, "W(h)ither Tuvalu?", op. cit., hlm. 12.

¹⁴ Marzuki, *Penelitian Hukum*, op. cit., hlm. 68

¹⁵ Ibrahim, *Teori dan Metodologi*, op. cit., hlm. 315.

¹⁶ Rayfuse, "W(h)ither Tuvalu?", op. cit., hlm. 18.

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3) Methods of Interpretation and Analysis

Analysis using interpretive methods:¹⁷

- a. Grammatical: The meaning of the text based on legal grammar
- b. Systematic: The relationship between norm (the Paris Agreement and the SDGs).
- c. Teleological: The purpose of the rules to protect the states’s existence (in the context of Vanuatu).¹⁸

The result of interpretation are then analyzed comparatively to identify legal gaps and formulate normative recommendations (*ius constituendum*) for the protection of Vanuatu’s sovereignty.

RESEARCH QUESTIONS

1. How is the climate change threat to the continuity of Vanuatu's territory regulated under the international legal framework through the Paris Agreement, and how is it linked to the Sustainable Development Goals (SDGs)?
2. What is the citizenship status of Vanuatu's nationals when they are forced to relocate to other countries due to climate change, and does such relocation result in the loss of their state of origin's sovereignty and/or their citizenship status as nationals of Vanuatu?

RESULTS AND DISCUSSION

A. Climate Change as an Existential Threat to Small Island States: The Case of Vanuatu

Before conducting a normative analysis of the Paris Agreement framework and the SDGs, this study verified quantitative climate projections specific to Vanuatu by referring to authoritative primary sources. This verification is crucial to ensure that the “existential threats” analyzed are based on measurable scientific evidence, rather than mere theoretical constructs. The data was cross-validated against reports from the Vanuatu Meteorology and Geo-Hazards Department (VMGD), the Commonwealth Scientific and Industrial Research Organization (CSIRO), and the International Monetary Fund (IMF).¹⁹

¹⁷ Soekanto & Mamudji, *Penelitian Hukum Normatif*, op. cit., hlm. 25.

¹⁸ Ibid

¹⁹ Vanuatu Meteorology and Geo-Hazards Department (VMGD) & Commonwealth Scientific and Industrial Research Organisation (CSIRO), *National Sea Level Rise and Coastal Hazard Analysis Mapping for Vanuatu* (Port Vila: Van-KIRAP Project, 2024), hlm. 9-10.

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The United Nations Framework Convention on Climate Change (UNFCCC, 1992) defines climate change as change attributed directly or indirectly to human activity that alters the composition of the global atmosphere. IPCC AR6 confirms that human influence has warmed the climate at an unprecedented rate, with the global average temperature rising 1.1°C above pre-industrial levels between 2011 and 2020 (IPCC, 2021). As a consequence, the global sea level is projected to rise 0.44–0.76 meters by 2100 under a high-emission scenario (SSP5-8.5), and could exceed one meter if instability in the Antarctic ice sheet occurs; even under a scenario consistent with the Paris Agreement (SSP1-2.6), the rise would still reach 0.3–0.6 meters (IPCC, 2021).

Small Island Developing States (SIDS), including Vanuatu, are identified as the group most vulnerable to these impacts, even under a 1.5°C warming scenario, despite contributing less than one percent of global GHG emissions (Vousdoukas et al., 2023; Greenhouse Gas Management Institute, 2025). Vanuatu, an archipelagic state comprising 83 islands with a population of approximately 325,000, consistently ranks among the world's most climate-vulnerable countries, contributing only 0.0016% of total global GHG emissions while bearing a highly disproportionate share of the impacts (Climate Change News, 2025; Vanuatu Loss and Damage Policy, 2025).

a. Sea Level Rise Projections

According to the Van-KIRAP Project technical report (2024) published by VMGD and CSIRO, sea-level rise projections for Vanuatu show a consistent and alarming trend. Using the 1986–2005 baseline, the data project the following median rise:²⁰

- a) Year 2030: A rise of approximately 0.13 meters (13 cm), with a range of uncertainty of 0.09–0.18 meters, which is relatively consistent across all emission scenarios (RCP 2.6, 4.5, and 8.5)
- b) Year 2050: The rise ranges from 0.23 meters (low-emissions scenario/RCP 2.6) to 0.28 meters (high-emissions scenario/RCP 8.5).
- c) Year 2090: Projections show significant divergence depending on the emissions scenario. Under the low-emissions scenario (RCP 2.6), the rise is projected to be 0.42 meters. However, under the high-emissions scenario (RCP 8.5), the rise could reach 0.73 meters.²¹

These findings are supported by the IMF Country Report No. 24/279 (July 2024), which states that the median projection for Vanuatu under the moderate emissions scenario

²⁰ VMGD & CSIRO, *National Sea Level Rise*, op. cit., hlm. 10, Table 1 (Proyeksi menggunakan baseline 1986-2005 untuk RCP 2.6, 4.5, dan 8.5).

²¹ Ibid., hlm. 10, Table 1; Republic of Vanuatu, *First Biennial Transparency Report to UNFCCC* (Port Vila: Ministry of Climate Change, 2024), hlm. 151.

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(RCP 4.5) indicates a sea-level rise of up to 0.64 meters by the end of this century relative to 2000 levels.²² Under a scenario aligned with the Paris Agreement targets (RCP 2.6), the rise is projected to be 0.54 meters, while under a very high-emissions scenario (RCP 8.5), the rise could reach 0.82 meters by 2100.²³

The consistency between the VMGD report (0.73 m for RCP 8.5 in 2090) and the IMF report (0.82 m for RCP 8.5 in 2100) confirms the validity of the physical threat to the Vanuatu region. These figures directly support the argument that even if the Paris Agreement targets are met, Vanuatu will still face a sea-level rise of at least 0.42–0.54 meters by the end of this century.

b. Temperature and Precipitation Projections

In addition to sea-level rise, other changes in climate parameters have also been verified. According to the IMF Country Report (2024), average temperatures in Vanuatu are projected to rise as follows:²⁴

- a) Year 2050: A temperature increase of between 0.9°C and 1.2°C relative to the 1985–2000 period.
- b) Year 2085: A temperature increase of between 0.8°C and 2.1°C; under a high-emissions scenario (SSP3-7.0), the increase could reach 2.8°C by 2070.

Although no significant trend has been detected for total annual rainfall, Vanuatu’s First Biennial Transparency Report (2024) notes that the intensity of extreme rainfall during tropical cyclones is likely to increase.²⁵ The frequency of marine heatwaves is also projected to increase, threatening the coral reef ecosystems that serve as natural barriers for Vanuatu’s coastlines.²⁶

c. Consistency of the Scenario and Legal Implications

The following table summarizes the consistency of sea-level rise projections based on emission scenarios relevant to the Paris Agreement targets and the SDGs:

²² International Monetary Fund, *Vanuatu: Selected Issues*, IMF Country Report No. 24/279 (Washington D.C.: IMF, 2024), hlm. 5, Table 3 (Proyeksi relatif terhadap level tahun 2000).

²³ IMF, *Vanuatu: Selected Issues*, op. cit., hlm. 5, Table 3; VMGD, *Current and Future Climate for Vanuatu* (Port Vila: RCCAP, 2024), hlm. 8.

²⁴ IMF, *Vanuatu: Selected Issues*, op. cit., hlm. 2-3, Table 1 (Menggunakan skenario SSP1-2.6, SSP2-4.5, dan SSP3-7.0).

²⁵ Republic of Vanuatu, *First Biennial Transparency Report*, op. cit., hlm. 150-152.

²⁶ CSIRO, SPREP and VMGD, *Historical, Current and Future Marine Heatwave Climatology for Vanuatu* (Melbourne: CSIRO Technical Report, 2023), hlm. 4-6.

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Projection Year	Low Emissions (RCP 2.6 / Paris Goal)	Moderate Emissions (RCP 4.5)	High Emissions (RCP 8.5)	Primary Source
2030	0,13 m [0,10–0,17]	0,13 m [0,09–0,17]	0,14 m [0,10–0,18]	VMGD & CSIRO (2024) ²⁷
2050	0,23 m [0,17–0,30]	0,28 m [0,16–0,41]	0,30 m [0,18–0,44]	VMGD & CSIRO (2024) ²⁸
2090–2100	0,42 m – 0,54 m	0,64 m (median)	0,73 m – 0,82 m	IMF (2024) & VMGD ²⁹

Note: Numbers in square brackets [...] indicate the 5–95% uncertainty range. The baseline for the VMGD is 1986–2005, while the IMF uses the year 2000 as its baseline.

d. Implications for the “Existential Threat” Argument

This data verification confirms three key points for the analysis of international law:

- Insufficient Mitigation: Even if the Paris Agreement targets are met (RCP 2.6 scenario), Vanuatu will still face a sea-level rise of at least 0.42 meters by the end of this century. This indicates that climate mitigation alone is not enough to save Vanuatu’s physical territory.³⁰
- Scientific Consistency: The consistency among the projections by VMGD, CSIRO, and the IMF provides a strong factual basis for the argument that Vanuatu faces a real, rather than hypothetical, existential threat.
- The Need to Reinterpret Legal Norms: This data directly supports the legal argument that the norms of sovereignty in international law need to be reinterpreted, because physical territory as a constituent element of a state will cease to exist even if international commitments are fulfilled.

This threat is not a hypothetical scenario: SPREP (2025) projects that the cost of rebuilding infrastructure due to coastal flooding in Vanuatu will rise from 5% of GDP under baseline conditions to 15% of GDP by the end of the century under a high-emission

²⁷ VMGD & CSIRO, *National Sea Level Rise*, op. cit., hlm. 10.

²⁸ Ibid., hlm. 10, Table 1; IMF, *Vanuatu: Selected Issues*, op. cit., hlm. 5, Table 3

²⁹ IMF, *Vanuatu: Selected Issues*, op. cit., hlm. 5, Table 3; VMGD, *Current and Future Climate*, op. cit., hlm. 8

³⁰ Rosemary Rayfuse, "W(h)ither Tuvalu? International Law and Disappearing States", *University of New South Wales Law Journal* 37, no. 2 (2014): hlm. 18.

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scenario. The social impacts have also driven climate-induced displacement, as seen in Cyclone Pam (2015), which destroyed 96% of food crops and affected 64% of Vanuatu's economy (Mycoo et al., 2022), severing the cultural ties and identity of island communities, and becoming a starting point for the sovereignty and citizenship issues discussed in the final section of this article.

B. The Regulation of Climate Change under the Paris Agreement: Kewajiban Prosedural vs. Ambisi Substantif

One of the most fundamental and often most misunderstood characteristics of the Paris Agreement is the legal distinction between legally binding procedural obligations and nationally determined substantive mitigation ambitions. Understanding this dichotomy is crucial for evaluating whether the failure to protect Vanuatu from an existential threat resulted from inadequate collective implementation or from legally attributable violations by individual states.³¹

a. Kewajiban Prosedural yang Mengikat

The Paris Agreement establishes legally binding procedural obligations for all parties, which are obligations of conduct (obligations to take action), not obligations of result (obligations to achieve specific outcomes).³² These obligations include:³³

- a) Preparing and Communicating the NDC: Each Party shall prepare, communicate, and maintain the NDC (Article 4.2).
- b) Accountability: Each Party shall account for its NDC with environmental integrity and transparency (Article 4.13).³⁴
- c) Transparency: Each Party shall submit a greenhouse gas inventory report (Article 13.7).³⁵
- d) Progressive Ambition: Each Party shall submit a new NDC every five years (Article 4.9).

³¹ Daniel Bodansky, "The Legal Character of the Paris Agreement", *Review of European, Comparative & International Environmental Law* 1, no. 1 (2016): hlm. 3-5.

³² Lavanya Rajamani, "Ambition and Differentiation in the 2015 Paris Agreement", *International and Comparative Law Quarterly* 65, no. 2 (2016): hlm. 493

³³ UNFCCC, *Paris Agreement*, 12 Desember 2015, T.I.A.S. 16-1103, 55 I.L.M. 740, Pasal 4.2, 4.9, 4.13, 13.7.

³⁴ Bodansky, "The Legal Character", op. cit., hlm. 5.

³⁵ Frontiers in Marine Science, "The duty to know: monitoring, reporting and verification" (2026): hlm. 4.

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Violations of these procedural obligations—such as failing to submit an NDC or failing to report emissions—constitute legal violations that can be attributed to individuals.³⁶

b. Non-Binding Substantive Mitigation Ambitions

Conversely, the substantive content of the NDC is not legally binding. This is reflected in:

- a) No Obligation to Achieve Targets: Article 4.2 states that Parties “shall pursue domestic mitigation measures, with the aim of achieving the NDC.” The phrase “with the aim of” indicates an obligation to make an effort, not to achieve a specific result.³⁷
- b) “Nationally Determined” Nature: NDCs are determined nationally; thus, there is no mechanism to compel a country to increase its ambition.³⁸
- c) Use of the Word “Should”: Provisions regarding emission targets use “should” rather than “shall” (Articles 4.3–4.4).³⁹

Thus, failure to meet NDC targets does not constitute a legal violation, as long as the country fulfills its procedural obligations.

c. Collective Implementation vs. Individual Violations

This dichotomy leads to a distinction between inadequate collective implementation and individual violations:

This dichotomy leads to a distinction between inadequate collective implementation and individual violations.⁴⁰

- a) Inadequate Collective Implementation: If the aggregate NDCs are insufficient to limit temperature rise to below 1.5°C, this constitutes a collective failure, not an individual violation, because no country is required to meet a specific target.⁴¹
- b) Individual Breach: Only breaches of procedural obligations (failure to submit an NDC, failure to report) can be attributed to individual countries. However, the compliance mechanism under Article 15 is facilitative in nature and cannot impose sanctions.⁴²

³⁶ Rajamani, *Ambition and Differentiation*, op. cit., hlm. 497.

³⁷ Harvard Environmental Law Review, “Exploring the Legal Nature of NDCs”, *Yearbook of International Environmental Law* 28 (2017): hlm. 10-12.

³⁸ Bodansky, “The Legal Character”, op. cit., hlm. 7.

³⁹ Legal Response International, “Advice – NDC Features and Equity” (2025), hlm. 3.

⁴⁰ Rajamani, *Ambition and Differentiation*, op. cit., hlm. 500

⁴¹ IPCC, *Climate Change 2022: Mitigation of Climate Change* (Cambridge: CUP, 2022), hlm. 14-15.

⁴² UNFCCC, *Paris Agreement*, op. cit., Pasal 15.2.

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d. Implications for Vanuatu

For Vanuatu, this dichotomy creates a climate justice gap:⁴³

1. Vanuatu cannot sue major emitting countries for having NDCs that are not ambitious enough, because NDCs are not substantively binding..⁴⁴
2. Vanuatu must rely on general principles of state responsibility (e.g., the no-harm principle) to seek compensation, rather than on the Paris Agreement..⁴⁵
3. This situation reinforces the argument that a reinterpretation of the norm of sovereignty is necessary to address the structural injustices in the design of the Paris Agreement..⁴⁶

The Paris Agreement was adopted at COP21 in Paris (12 December 2015) to replace the Kyoto Protocol.(UNFCCC, 2015 Article 2 establishes three pillars: limiting the temperature increase to well below 2°C and pursuing efforts to limit it to 1.5°C; enhancing adaptive capacity; and aligning financial flows with low-emission, climate-resilient development. For Vanuatu, the 1.5°C target is existential, since the difference from 2°C marks the difference between manageable adaptation and the permanent loss of its territory.

The statement that the *Paris Agreement* creates a "*universal framework binding on all parties*" requires greater legal precision, because although the Agreement is legally binding as a whole, its individual provisions differ in legal character. Analysis must clearly distinguish between binding procedural obligations, such as the obligations to submit NDCs, ensure transparency, and maintain accountability using the word "*shall*", from non-binding substantive mitigation commitments, which are the specific emission targets within NDCs that constitute an *obligation of conduct* rather than an *obligation of result*, as reflected in the phrase "*with the aim of achieving*" in Article 4.2. For Vanuatu, this dichotomy means that states cannot be legally sued for failing to achieve their NDC targets, thus protecting Vanuatu's sovereignty requires reinterpretation of norms beyond the *Paris Agreement* framework, not mere reliance on the NDC mechanism which by design lacks substantive binding force.

The assertion that the Paris Agreement establishes a “universal framework binding on all parties” requires legal precision. Although the Paris Agreement is a legally binding international treaty, the legal nature of its individual provisions varies (hybrid legal

⁴³ Bodansky, "The Legal Character", op. cit., hlm. 8-9.

⁴⁴ *Advisory Opinion on Obligations of States in Respect of Climate Change* (23 Juli 2025), Paragraf 85-90

⁴⁵ *Trail Smelter Arbitration (US v. Canada)*, 3 R.I.A.A. 1905 (1941).

⁴⁶ Rosemary Rayfuse, "W(h)ither Tuvalu? International Law and Disappearing States", *UNSW Law Journal* 37, no. 2 (2014): hlm. 18.

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nature).⁴⁷ Analyses must clearly distinguish between binding procedural obligations and non-binding substantive mitigation commitments, particularly with regard to NDCs..

The Nationally Determined Contributions (NDC) mechanism under Article 4 requires every state to prepare progressively ambitious commitments, supported by an adaptation framework (Article 7), climate finance (Article 9), transparency (Article 13), and a five-yearly global stocktake (Article 14). However, the first stocktake at COP28 (2023) confirmed that collective efforts remain far off track from the 1.5°C pathway (UNFCCC, 2023). The UNEP Emissions Gap Report 2024 warned that the world is on a trajectory toward a 2.6–3.1°C rise, with an emissions gap of 22.4–28.2 GtCO₂eq by 2030 (Climate Action, 2025; Roelfsema et al., 2020). This "implementation gap" (Löfgren et al., 2025) means Vanuatu remains under threat because of the failure of major emitting states to deliver on their commitments a paradox that exposes the limits of the Paris Agreement's non-coercive enforcement mechanism.

What is binding under the Paris Agreement is the procedural framework, not substantive targets. For Vanuatu, this means that even if all countries comply with their procedural obligations, the aggregate of NDCs—which are not substantively binding—could still threaten Vanuatu's very existence. Therefore, protecting Vanuatu requires a reinterpretation of the norm of sovereignty beyond the framework of the Paris Agreement.⁴⁸

C. Analytical Linkages Between SDGs , The Paris Agreement, And Protection Of Vanuatu's Sovereignty

Discussions on the *Sustainable Development Goals* (SDGs) are often descriptive without revealing deep analytical linkages with the *Paris Agreement* and legal issues concerning Vanuatu's sovereignty. This analysis strengthens the normative relationship between these three frameworks to identify protection gaps and recommend development of new norms.

The SDGs, adopted through UN General Assembly Resolution No. 70/1 (2015), are not legally binding (*non-binding*), but rather voluntary political commitments.⁴⁹ However, the resolution states that SDGs must be implemented "consistent with the rights

⁴⁷ Daniel Bodansky, "The Legal Character of the Paris Agreement", *Review of European, Comparative & International Environmental Law* 1, no. 1 (2016): hlm. 3-5.

⁴⁸ Bodansky, "The Legal Character", op. cit., hlm. 8-9.

⁴⁹ Cambridge University Press, "Why Do States Adhere to the Sustainable Development Goals?", *Transnational Environmental Law* 13, no. 2 (2026): 5.

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and obligations of States under international law”.⁵⁰ Thus, SDGs function as a normatively reinforcing framework (*normatively reinforcing framework*) for obligations already existing under international treaties and customary law.⁵¹ For Vanuatu, SDG 13 (Climate Action) and SDG 14 (Life Below Water) have direct relevance to territorial continuity and sovereignty, although failure to achieve them does not constitute a violation of international law.⁵²

The *Paris Agreement* and SDGs have close normative linkages, particularly in climate change mitigation and adaptation. The *Paris Agreement* operationalizes SDG 13 through NDC mechanisms, transparency, and *global stocktake*.⁵³ However, the fundamental difference is that the *Paris Agreement* is a legally binding treaty (with hybrid obligations), whereas SDGs are non-binding General Assembly resolutions.⁵⁴ For Vanuatu, this means that implementation of the *Paris Agreement* directly supports achievement of SDG 13 and 14, and conversely, achievement of SDGs can serve as indicators of compliance with *due diligence* obligations under the *Paris Agreement*.⁵⁵ However, both frameworks experience similar implementation gaps, where inadequate aggregation of NDCs correlates with failure to achieve SDG 13.1.⁵⁶

The linkages between SDGs, the *Paris Agreement*, and Vanuatu's territorial continuity must be analyzed through the lens of sovereignty protection. First, SDG 13 and 14, together with the *Paris Agreement*, do not explicitly recognize continuity of sovereignty (*continuity of sovereignty*) as a legal objective.⁵⁷ Both frameworks focus on mitigation and adaptation, but do not regulate legal consequences if state territory becomes fully submerged.⁵⁸ This is a critical normative gap that must be filled through development of *ius constituendum* recognizing *detrterritorialized statehood*.⁵⁹ Second, SDG 14 has direct implications for Vanuatu's maritime rights, as EEZ and continental shelf are measured from

⁵⁰ United Nations, *Transforming our world: the 2030 Agenda for Sustainable Development*, A/RES/70/1 (2015), para. 10

⁵¹ Cambridge University Press, "Why Do States Adhere", op. cit., 8

⁵² United Nations, *SDG 13: Climate Action and SDG 14: Life Below Water* (2015).

⁵³ Frontiers in Marine Science, "Advisory opinion of the ITLOS on climate change and International Law on the Request of SIDS: a SDG-14 perspective" (2026): 6.

⁵⁴ IISD SDG Knowledge Hub, "What are the Legally Binding Obligations of States in Respect of Climate Change?" (2025).

⁵⁵ Frontiers in Marine Science, "Advisory opinion of the ITLOS", op. cit., 8.

⁵⁶ Bennett School, "Policy Brief: Climate Law and Policy for SDGs" (2022), 5.

⁵⁷ Rosemary Rayfuse, "W(h)ither Tuvalu? International Law and Disappearing States", *UNSW Law Journal* 37, no. 2 (2014): 15.

⁵⁸ Ibid., 16.

⁵⁹ Maxine Burkett, "The Nation Ex-Situ", *Melbourne Journal of International Law* 18, no. 1 (2017): 20.

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baselines determined by land territory.⁶⁰ If land becomes submerged, the "*frozen baselines*" principle currently discussed at ILC can be used to support the argument that Vanuatu's maritime rights must be maintained.⁶¹ Third, SDG 10.7 and 13.1 must be linked to protection of citizenship, as Vanuatu's population will become *climate refugees* not protected by the *1951 Refugee Convention*.⁶²

To strengthen these analytical linkages, this research recommends: (1) Developing a protocol or amendment to the *Paris Agreement* that explicitly recognizes continuity of sovereignty of small island states as a legal objective, aligned with SDG 13 and 14.⁶³ (2) Utilizing SDGs as political advocacy tools to demand accountability from major emitting states at UN forums.⁶⁴ (3) Advocating adoption of the "*frozen baselines*" principle at ILC aligned with SDG 14, to ensure Vanuatu's maritime rights remain valid.⁶⁵ (4) Developing a new protocol protecting *climate refugees*, referencing SDG 10.7 and 13.1.⁶⁶ By strengthening these analytical linkages, Vanuatu can build a stronger legal argument that SDGs and the *Paris Agreement* are not merely climate mitigation frameworks, but also instruments of sovereignty protection that must be further developed.

D. Substantive Refinement of the 2025 ICJ Advisory Opinion Analysis

The International Court of Justice (ICJ)'s *Advisory Opinion* of 23 July 2025 on *Obligations of States in Respect of Climate Change* constitutes a historic development in international climate law. However, analysis must avoid characterizing this advisory opinion as a "ruling" or "judgment," as advisory opinions are non-binding and do not resolve disputes between contending parties.⁶⁷ Rather, this opinion provides legal clarification regarding state obligations under various sources of international law. Analysis must distinguish clearly between treaty obligations, customary international law, and state responsibility.⁶⁸

The ICJ affirmed that the *Paris Agreement* establishes specific obligations for state parties, including the obligation to limit global temperature increase to below 1.5°C.

⁶⁰ *United Nations Convention on the Law of the Sea* (UNCLOS), 10 December 1982, 1833 U.N.T.S. 3, Arts. 5 & 76.

⁶¹ International Law Commission (ILC), "Sea-level Rise in Relation to International Law: Issues Paper", A/CN.4/761 (2023), para. 55.

⁶² Jane McAdam, *Climate Change, Forced Migration, and International Law* (Oxford: OUP, 2012), 45.

⁶³ Rayfuse, "W(h)ither Tuvalu?", *op. cit.*, 18.

⁶⁴ UNDP Pacific, "Vanuatu Won the Legal Argument. Now to Change Climate Finance" (23 July 2026).

⁶⁵ ILC, "Sea-level Rise in Relation to International Law", *op. cit.*, para. 60.

⁶⁶ McAdam, *Climate Change, Forced Migration*, *op. cit.*, 60.

⁶⁷ International Court of Justice (ICJ), *Obligations of States in Respect of Climate Change, Advisory Opinion*, 23 July 2025, para. 1.

⁶⁸ Daniel Bodansky, "The ICJ's Advisory Opinion on Climate Change: An Introduction", *Columbia Climate Law Blog* (24 July 2025).

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However, the Court distinguished between legally binding procedural obligations (submitting NDCs, transparency, accountability) and non-binding substantive targets (achieving NDC targets).⁶⁹ The Court stated that states must exercise "stringent" *due diligence* in preparing and implementing NDCs, meaning NDCs must be ambitious, progressive, and effectively implemented at the domestic level. However, failure to achieve NDC targets does not constitute an automatic violation, as NDCs remain an *obligation of conduct*, not an *obligation of result*.⁷⁰

Significantly, the ICJ affirmed that state obligations extend beyond climate treaties. The Court identified two primary obligations under customary international law applicable to all states, including non-parties to the *Paris Agreement*: first, the obligation to prevent significant harm to the environment, including the climate system, by exercising *due diligence* derived from the well-established *no-harm* principle; and second, the obligation to cooperate in good faith to prevent significant harm to the climate system.⁷¹ The ICJ explicitly stated that these customary international law obligations apply universally, regardless of membership in climate treaties.⁷²

Furthermore, the ICJ confirmed that the law of state responsibility applies to breaches of climate obligations. The Court rejected the argument that climate treaties constitute *lex specialis* excluding the application of general state responsibility rules.⁷³ Thus, if a state fails to fulfill its climate obligations (whether under treaties, customary law, or human rights law), that state commits an internationally wrongful act. Injured states may demand cessation of the wrongful conduct, assurances of non-repetition, and full reparation, depending on circumstances and proof of causation.⁷⁴ However, the Court acknowledged that proving causation in the climate change context is highly complex due to the cumulative and dispersed nature of emissions.⁷⁵

For Vanuatu, the ICJ's 2025 Advisory Opinion provides a stronger legal foundation for demanding protection of sovereignty. Vanuatu can rely on customary international law

⁶⁹ ICJ, *Advisory Opinion*, op. cit., paras. 85-90.

⁷⁰ Jones Day, "ICJ Issues Advisory on States' Legal Obligations for Climate Change" (28 July 2025); Cambridge University Press, "The 2025 International Court of Justice Advisory Opinion on Obligations of States in Respect of Climate Change", *International and Comparative Law Quarterly* (2026): 8.

⁷¹ ICJ, *Advisory Opinion*, op. cit., paras. 132-142; United Nations Media, "ICJ / Climate Change States Obligations" (22 August 2025).

⁷² UN News, "World Court says countries are legally obligated to curb emissions" (23 July 2025).

⁷³ ICJ, *Advisory Opinion*, op. cit., paras. 180-186; Cambridge University Press, "The 2025 ICJ Advisory Opinion", op. cit., 12.

⁷⁴ ICJ, *Advisory Opinion*, op. cit., paras. 186-195; EJIL Talk, "State Responsibility in the ICJ's Advisory Opinion on Climate Change" (25 July 2025).

⁷⁵ Cambridge University Press, "The 2025 ICJ Advisory Opinion", op. cit., 15.

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obligations (not merely the *Paris Agreement*) to demand action from major emitting states. The ICJ confirmed that the law of state responsibility applies, thereby providing a potential legal avenue for claiming reparation for loss and damage. This opinion strengthens the *climate justice* argument, as it recognizes that states with small emissions contributions are entitled to protection from harm caused by major emitting states.¹⁰⁸ However, it is important to note that advisory opinions are not legally binding, so their implementation depends on political will and diplomatic pressure. Therefore, this research's argument must emphasize that the ICJ's 2025 Opinion is an initial step toward developing stronger norms, not a final solution to Vanuatu's existential dilemma.⁷⁶

The ICJ reached several specific legal conclusions relevant to Vanuatu. All states are obligated to prevent significant harm to the climate system with *due diligence* in accordance with common but differentiated responsibilities. Customary international law obligations apply to all states, including major emitters that may not be meeting their *Paris Agreement* commitments. Failure of a state to take appropriate action may constitute an internationally wrongful act attributable to that state. Injured states (such as Vanuatu) may potentially claim reparation if they can prove that another state's negligence caused significant harm.⁷⁷

For Vanuatu, the ICJ's 2025 Advisory Opinion provides a stronger legal foundation for demanding protection of sovereignty. Vanuatu can rely on customary international law obligations (not merely the *Paris Agreement*) to demand action from major emitting states. The ICJ confirmed that the law of state responsibility applies, thereby providing a potential legal avenue for claiming reparation for loss and damage. This opinion strengthens the *climate justice* argument, as it recognizes that states with small emissions contributions are entitled to protection from harm caused by major emitting states.¹⁰⁸ However, it is important to note that advisory opinions are not legally binding, so their implementation depends on political will and diplomatic pressure. Therefore, this research's argument must emphasize that the ICJ's 2025 Opinion is an initial step toward developing stronger norms, not a final solution to Vanuatu's existential dilemma.⁷⁸

⁷⁶ ICJ, *Advisory Opinion*, op. cit., paras. 200-210.

⁷⁷ Columbia Climate Law Blog, "The ICJ's Advisory Opinion on Climate Change: An Introduction", op. cit.; Cambridge University Press, "The 2025 ICJ Advisory Opinion", op. cit., 18.

⁷⁸ Bodansky, "The ICJ's Advisory Opinion", op. cit.; Cambridge University Press, "The 2025 ICJ Advisory Opinion", op. cit., 20.

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E. Vanuatu’s State Sovereignty in the Context of a Submerged Territory: Does Sovereignty Disappear?

Any analysis of the continuity of Vanuatu’s sovereignty must draw a clear distinction between *lex lata* (current law) and developing doctrine (*lex ferenda*).⁷⁹ The concept of statehood without a physical territory (deterritorialized statehood) lacks legal certainty under *lex lata*, and the precedent set by the Sovereign Military Order of Malta (SMOM) is not an equivalent analogy.⁸⁰

a) *Lex Lata: Ketidakpastian Hukum*

Under current law (*lex lata*), the Montevideo Convention (1933) requires a “defined territory” as a constituent element of a state.⁸¹ International law does not address the extinction of a state due to rising sea levels.⁸² There is no precedent for a state losing its territory entirely due to climate change.⁸³ Therefore, current law does not provide certainty that Vanuatu will continue to be recognized as a state after its territory is submerged..⁸⁴

b) *Lex Ferenda: Doktrin Deterritorialized Statehood*

In response, scholars have developed the doctrine of deterritorialized statehood as *lex ferenda*.⁸⁵ This doctrine argues that:⁸⁶

- 1) Territory may not be necessary for the continuity of a state once it has been established.
- 2) There is a presumption of state continuity in state practice.
- 3) Recognition by other states can be a determining factor in the continuity of a state’s status.⁸⁷

However, this is a normative proposal, not applicable law.⁸⁸

⁷⁹ Rosemary Rayfuse, “W(h)ither Tuvalu? International Law and Disappearing States”, *UNSW Law Journal* 37, no. 2 (2014): hlm. 10.

⁸⁰ Daniel Allen & Anna Prost, “States without Territories? Rethinking Statehood in the Climate Crisis”, *Territory, Politics, Governance* 14, no. 1 (2026): hlm. 5.

⁸¹ *Montevideo Convention on the Rights and Duties of States*, 26 Desember 1933, 49 Stat. 3097, Pasal 1

⁸² Rayfuse, “Climate Change and Sea Level Rise in International Law”, dalam *Research Handbook on International Law and Natural Resources* (2021), hlm. 150.

⁸³ *Ibid.*, hlm. 152.

⁸⁴ Allen & Prost, “States without Territories?”, *op. cit.*, hlm. 8.

⁸⁵ Maxine Burkett, “The Nation Ex-Situ”, *Melbourne Journal of International Law* 18, no. 1 (2017): hlm. 10.

⁸⁶ Rayfuse, “Climate Change and Sea Level Rise”, *op. cit.*, hlm. 155.

⁸⁷ Burkett, “The Nation Ex-Situ”, *op. cit.*, hlm. 15.

⁸⁸ Allen & Prost, “States without Territories?”, *op. cit.*, hlm. 10.

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c) Limitations of the SMON Precedent

The SMOM and the Holy See are often cited as precedents for stateless entities, but this analogy has limitations:⁸⁹

- 1) The SMOM is a non-state sovereign entity, not a state as defined by the Montevideo Convention.⁹⁰
- 2) Adopting the SMOM model would mean a downgrade of Vanuatu’s status as a sovereign state.⁹¹
- 3) SMOM’s status is maintained due to its unique religious functions, not the principle of state continuity.⁹²

Therefore, SMOM is not an equivalent precedent for deterritorialized statehood.⁹³

Given the uncertainty of the *lex lata*, conclusions regarding Vanuatu’s sovereignty after the territory is submerged require caution. The text should not state definitively that Vanuatu will remain sovereign, as this is not yet supported by applicable law.⁹⁴ Instead, use conditional language such as “may be maintained” or “requires new norms”.⁹⁵ The argument should focus on the need to develop new norms (*ius constituendum*) that recognize the continued existence of an archipelagic state, rather than merely relying on a doctrine that is still evolving.⁹⁶ In addition, it is important to distinguish between state status and maritime rights, since rights to the EEZ and the continental shelf may be preserved based on the “frozen baselines” principle discussed at the ILC.⁹⁷

By distinguishing between *lex lata* and *lex ferenda*, the research argument becomes academically stronger. Acknowledging the inadequacies of current law demonstrates academic integrity and avoids overreaching claims.⁹⁸ The uncertainty of the current law actually serves as the basis for recommending a new legal instrument to protect Vanuatu’s

⁸⁹ Erik Woodward, "Promoting the Continued Sovereign Status of Deterritorialized Island Nations", *Yale Journal of International Law* 44, no. 2 (2019): hlm. 305.

⁹⁰ Allen & Prost, "States without Territories?", *op. cit.*, hlm. 12

⁹¹ *Ibid.*, hlm. 14.

⁹² Rayfuse, "W(h)ither Tuvalu?", *op. cit.*, hlm. 15.

⁹³ Allen & Prost, "States without Territories?", *op. cit.*, hlm. 15.

⁹⁴ International Law Commission (ILC), "Sea-level Rise in Relation to International Law: Issues Paper", A/CN.4/761 (2023), Paragraf 50.

⁹⁵ Rosemary Rayfuse, "Climate Change and Sea Level Rise in International Law", dalam *Research Handbook on International Law and Natural Resources* (2021), hlm. 160.

⁹⁶ Maxine Burkett, "The Nation Ex-Situ", *Melbourne Journal of International Law* 18, no. 1 (2017): hlm. 20.

⁹⁷ ILC, "Sea-level Rise in Relation to International Law", *op. cit.*, Paragraf 55.

⁹⁸ Daniel Allen & Anna Prost, "States without Territories? Rethinking Statehood in the Climate Crisis", *Territory, Politics, Governance* 14, no. 1 (2026): hlm. 18.

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sovereignty.⁹⁹ Furthermore, this strengthens the case for climate justice, as it shows that Vanuatu is a victim of a legal gap that it did not create.¹⁰⁰ Thus, the paper argues that international law must evolve to recognize the preservation of Vanuatu’s sovereignty as a matter of climate justice.¹⁰¹

F. Citizenship Status of Vanuatu Nationals Following Relocation

Normative analysis shows that climate-induced relocation does not automatically terminate Vanuatu nationality. Nationality is a legal relationship between an individual and a state and is therefore different from physical residence (Hailbronner, 2003). This is consistent with Article 15 of the Universal Declaration of Human Rights, which recognizes the right to nationality. Accordingly, Vanuatu nationals who relocate to Australia, New Zealand, or other Pacific states may retain their Vanuatu citizenship unless it is legally renounced or replaced through a valid naturalization process.

The main difficulty is therefore not the immediate loss of nationality, but the gap between formal nationality and its effective exercise. The *Nottebohm Case* (ICJ, 1955) shows that nationality may also be considered in relation to an effective connection with a state. However, climate displacement differs from ordinary migration because relocation is driven by environmental conditions rather than simply individual choice. Burkett (2011) similarly argues that national identity may continue beyond physical territory. Thus, long-term displacement may preserve Vanuatu nationality while creating practical problems concerning residence, political participation, and state protection.

G. Legal Protection for Vanuatu Nationals: The Scenario of Acceptance by a Receiving State

The research finds that acceptance by a receiving state can provide immediate protection, but existing international law does not automatically classify climate-displaced Vanuatu nationals as refugees. The 1951 Refugee Convention is based primarily on persecution, so climate change alone does not satisfy its conventional refugee definition (McAdam, 2012). This limitation was also reflected in *Ioane Teitiota v. New Zealand* (UN Human Rights Committee, 2020), although the case demonstrated that climate-related conditions may become relevant to human rights protection.

Alternative mechanisms, such as New Zealand's Pacific Access Category, show that regional migration arrangements can provide pathways for Pacific nationals, although such

⁹⁹ Burkett, "The Nation Ex-Situ", op. cit., hlm. 25.

¹⁰⁰ Rosemary Rayfuse, "W(h)ither Tuvalu? International Law and Disappearing States", *UNSW Law Journal* 37, no. 2 (2014): hlm. 18.

¹⁰¹ ILC, "Sea-level Rise in Relation to International Law", op. cit., Paragraf 60.

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schemes are not specifically designed to address all forms of climate displacement. Therefore, the existing framework provides fragmented protection rather than a comprehensive legal status. As summarized in Table 1, the protection available to Vanuatu nationals depends largely on refugee law, human rights obligations, or specific migration arrangements.

Mechanism	Potential protection	Main limitation
1951 Refugee Convention	Limited	Climate change alone is not a conventional refugee ground
Human rights protection	Potentially applicable	Depends on the circumstances and available remedies
Pacific Access Category	Migration pathway	Limited eligibility and quota

Table 1. Existing protection mechanisms for climate-displaced Vanuatu nationals.

H. Legal Protection for Vanuatu Nationals: The Scenario of Rejection by a Receiving State

When a receiving state rejects a climate-displaced Vanuatu national, the legal protection gap becomes more apparent. International law does not currently establish a general obligation requiring states to admit persons solely because their state of origin is affected by climate change (McAdam, 2012). Consequently, a person may formally retain Vanuatu nationality while lacking effective territorial protection if relocation becomes unavoidable.

This situation should be distinguished from formal statelessness. A person may remain legally a Vanuatu citizen, but the protective function of nationality may become difficult to exercise if Vanuatu's territory becomes uninhabitable. Rayfuse (2011) highlights the legal difficulties created by disappearing territory, while Burkett (2011) emphasizes the possibility of maintaining national identity beyond territory. The Vanuatu case therefore shows that continuity of statehood does not necessarily guarantee effective protection for dispersed citizens.

I. An Ideal Legal Framework: Toward Comprehensive Protection for Vanuatu Nationals

The findings in Sections F–H indicate that the existing framework does not provide comprehensive protection for climate-displaced Vanuatu nationals. The main gaps concern the absence of a specific legal status for climate-displaced persons, uncertainty regarding long-term residence, and the lack of clear mechanisms for maintaining nationality and

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cultural identity when territory becomes uninhabitable. This supports the concern raised by Cournil and Mayer (2014) regarding the limitations of existing protection for environmentally displaced persons.

A more comprehensive approach should therefore operate at international, regional, and bilateral levels. At the international level, a specific instrument could establish minimum protection for climate-displaced persons. At the regional level, Pacific states could develop coordinated mobility and burden-sharing arrangements. Bilateral agreements between Vanuatu and receiving states could further regulate admission, residence, family unity, and the continuation of citizenship and cultural ties. These measures are necessary because state continuity alone does not resolve the practical protection of citizens who are forced to relocate.

Level	Proposed mechanism	Purpose
International	Specific climate-displacement instrument	Minimum legal protection
Regional	Pacific mobility framework	Coordinated migration and burden-sharing
Bilateral	Agreements with receiving states	Admission, residence, and citizenship protection

Table 2. Proposed multi-level legal framework for climate-displaced Vanuatu nationals.

Overall, the research finds that the central legal problem is not the automatic disappearance of Vanuatu nationality, but the gap between legal recognition and effective protection. The principles of state continuity and deterritorialized statehood provide a basis for maintaining Vanuatu's legal identity, while new migration and human rights mechanisms are needed to ensure that its citizens remain effectively protected after climate-induced relocation.

CONCLUSION

Climate change poses an existential dilemma for small island states such as Vanuatu, challenging not only their environmental and socio-economic resilience but also the legal foundations of state sovereignty. While the Paris Agreement, the Sustainable Development Goals, and the principles of climate justice affirm the rights of states to exist and to self-determination, they do not provide a definitive rule on the legal status of a state whose entire land territory becomes submerged. Under prevailing international law (*lex lata*), statehood remains tied to the Montevideo criteria, including a defined territory, such that complete submergence could, in principle, call state continuity into question. However,

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recent developments suggest a strong normative shift towards preserving statehood. The International Law Commission’s 2025 Final Report on Sea-Level Rise affirms “strong support among States for the continuity of statehood and sovereignty” for climate-affected states, grounded in the rights to existence, territorial integrity, and self-determination. Similarly, the International Court of Justice in its 2025 Advisory Opinion cautiously observed that “the disappearance of one of a State’s constituent elements would not necessarily entail the loss of its Statehood”. Nevertheless, the legal regime governing complete territorial submergence remains unsettled. Theories of deterritorialized statehood, while compelling, constitute emerging doctrine rather than settled law. Thus, international law currently supports a strong presumption in favour of state continuity for Vanuatu, but does not yet guarantee the indefinite persistence of full statehood after total submergence.

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