NO MAN IS AN ISLAND:
LOW-LYING NATIONS’ ECONOMIC SECURITY THROUGH A FIXED EXCLUSIVE ECONOMIC ZONE IN THE WAKE OF SEA-LEVEL RISE

INTRODUCTION

As an international community, we can no longer deny that climate change is occurring and is having serious impacts on our world. Numerous studies have recorded the large volume of carbon dioxide in the atmosphere, rapid temperature rises of global and ocean temperatures, the accelerated increase of melting glaciers and permafrost, and the resulting rising sea levels. Beyond empirical knowledge, we also have first-hand, experiential knowledge of climate change. Arguably, few know the effects of climate change better than the people of low-lying coastal and island nations. Only feet above sea-level, they daily endure the effects of sea-level rise. Low-lying coastal and island nations, including those in the Arctic, bear a disproportionately heavy burden of the current consequences of climate change.¹ These burdens include the environmental degradation and loss of land that will result from sea-level rise.

The paramount goal—especially for the inhabitants of these low-lying nations who have the highest risk of losing their land to the rising ocean—is to mitigate the current climate situation and alter our actions that cause it. Many of these nations have spiritual and cultural ties with the land; their identities are intertwined with the land that has been the home to their ancestors and has provided for them as a people.

¹ DAVID HUNTER, JAMES SALZMAN & DURWOOD ZAELKE, INTERNATIONAL ENVIRONMENTAL LAW AND POLICY 1308 (4th ed. 2011) [hereinafter INT’L ENVTL. L.].
Not only would the loss of land due to sea-level rise have severe cultural impacts but it could also have significant political impacts. Some of these low-lying nations are important places for political refugees. For instance, Bangladesh is home to over 150 million people living essentially at sea level.\textsuperscript{2} As sea levels rise, the storms Bangladesh already experiences will get more intense and frequent, likely making vast parts of Bangladesh uninhabitable even before the land is submerged.\textsuperscript{3} Consequently, Bangladesh would lose forty percent of its rice land, greatly impacting the world’s food production.\textsuperscript{4} Additionally, Bangladesh is home to about 29,000 officially registered political refugees from Myanmar but also has more than 200,000 refugees from Myanmar outside of official humanitarian camps.\textsuperscript{5} If much of Bangladesh becomes uninhabitable, these refugees would also lose their place of asylum.

While mitigating and halting the consequences of climate change, particularly sea-level rise, is ideal, our international community also needs to be prepared to adapt to the changes that are irreversible. We must prepare to handle the changes global warming may present, including the reality that some low-lying nations could eventually become uninhabitable and perhaps submerged. Many legal academic articles address how these displaced nations could still remain political States even after losing their land.\textsuperscript{6} As new political solutions are proposed as ways of keeping the nations intact, there also needs to be ways of keeping them geopolitically relevant.

This article builds off of those proposals to address how these low-lying nations could still retain some of their economic resources by preserving their maritime Exclusive Economic Zone (EEZ) both as they lose land to rising tides and in the event that their land does become

\textsuperscript{2} CLIMATE REFUGEES: THE HUMAN FACE OF CLIMATE CHANGE (Trulight Pictures 2010).
\textsuperscript{3} Id.
\textsuperscript{4} Id.
\textsuperscript{5} Bangladesh, REFUGEES INT’L, https://www.refintl.org/where-we-work/asia/Bangladesh (last visited Apr. 21, 2015).
\textsuperscript{6} See, e.g., Maxine A. Burkett, The Nation Ex-Situ, in THREATENED ISLAND NATIONS: LEGAL IMPLICATIONS OF RISING SEAS AND A CHANGING CLIMATE (Eds. Michael B Gerrard & Gregory E. Wannier 2013) (arguing for the recognition of Nations Ex-situ that “allows for the continued existence of a sovereign State . . . in perpetuity.”)
uninhabitable and eventually submerged. Many low-lying coastal and island nations have extremely large EEZs which they use to gain economic value from the natural resources these maritime zones provide. Under the United Nations Convention on the Law of the Seas (UNCLOS), coastal nations can regulate the conditions, the price, and who they permit to fish in their EEZs. Fishing agreements are often a significant part of a small island nation’s GDP. “Kiribati collects between $20 million and $35 million annually from fishing licenses, accounting for 13% to 23% of its GDP. In 2007, fishing license revenues accounted for 42% of all government revenues for the country.” The Republic of the Marshall Islands contains over two million square kilometers of water and gain approximately $50 million annually from the fishing agreements it makes with nations that want to fish in its EEZ. One way such nations can preserve their EEZs under if their islands become uninhabitable and submerged, however, is if (1) there is a change in how we determine a country’s maritime boundaries, including the EEZ; (2) UNCLOS is amended to allow uninhabitable “rocks,” that were inhabitable at the time of the convention, to maintain their maritime boundaries.

While UNCLOS contains “no remedies for the consequences of sea-level rise,” the Convention aimed to “provide adequate remedies for situations where states are at a disadvantage” due to geographical circumstances. Primary goals in international law’s delimitation of maritime boundaries were to establish predictability and stability while reaching

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8 Id. at 132.
9 Id.
an equitable solution for different countries.\textsuperscript{12} Sea-level rise defeats the predictability and stability the international community strove for when it determined how to establish maritime boundaries.\textsuperscript{13} A fixed boundary interpretation of UNCLOS provisions, rather than an ambulatory boundary interpretation, allows maritime boundaries to still serve their “fundamental purpose of . . . facilitat[ing] expectations of certainty, or predictability—and therefore also stability.”\textsuperscript{14}

This article’s first section gives a brief background of climate change and the sea-level rise that would impact low-lying nations, causing them to lose their land. The second section provides an overview of UNCLOS, which officially established the EEZ, and highlights important provisions. The third section discusses the proposed interpretation of maritime zones, including the EEZ, as ambulatory and offers a moral argument based on environmental justice for it. The fourth section addresses the suggestion that UNCLOS be amended to allow uninhabitable land masses to define and retain maritime boundaries and supports this suggestion with legally-based international human rights claims low-lying nations can make on others.

I

CLIMATE CHANGE AND SEA-LEVEL RISE

Because of human activity, the world’s climate is changing at an unpredictable rate and with potentially profound consequences for humanity and the Earth.\textsuperscript{15} With the Earth’s homeostasis process, certain gases, such as carbon dioxide and methane, cause the atmosphere to act like a greenhouse.\textsuperscript{16} This greenhouse effect permits warming energy from the sun to pass

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{12} \textit{Id.}
\item \textsuperscript{13} \textit{Id.}
\item \textsuperscript{14} \textit{Id.}
\item \textsuperscript{15} \textit{INT’L ENVT. L.}, supra note 1, at 2.
\item \textsuperscript{16} \textit{Id.}
\end{itemize}
\end{footnotesize}
through the Earth’s surface and then it traps part of that energy before it returns to space.\textsuperscript{17} This is necessary to keep the Earth warm, but with the start of the industrial revolution in the nineteenth century, human activity began to release greenhouse gases in vast amounts.\textsuperscript{18} We began to release greenhouse gases, including carbon dioxide, faster and in greater amounts than natural carbon dioxide sinks and reservoirs of plants and the ocean could store the gas.\textsuperscript{19}

Created by the UN Environment Programme and the World Meteorological Organization in 1998, the Intergovernmental Panel on Climate Change (IPCC) “assesses the scientific, technical, and economic basis of climate change.”\textsuperscript{20} It additionally provides objective reports for leaders and the public.\textsuperscript{21} With its fifth and latest report in 2013, the IPCC has firmly established that climate change is occurring and it is largely the result of human activity.\textsuperscript{22} While emission growth rates are currently highest in developing countries, developed countries are still the highest emitters and are responsible for the largest share of greenhouses gases over time.\textsuperscript{23} Who has emitted the most carbon dioxide over time is particularly important because the long time carbon dioxide remains in the atmosphere.\textsuperscript{24} Constituting fifty percent of the greenhouse gases currently in the atmosphere, carbon dioxide cannot break down but instead remains in the atmosphere from centuries to millennia.\textsuperscript{25}

\begin{itemize}
\item \textsuperscript{17} Id.
\item \textsuperscript{18} Id.
\item \textsuperscript{19} Id.
\item \textsuperscript{20} Id. at 612.
\item \textsuperscript{21} Id.
\item \textsuperscript{23} INT’L ENVT'L L., supra note 1, at 673-74 (“China tops the list for current emissions . . . , followed closely by the United States and the European Union . . . The United States remains in first place with the historical per capita emissions more than 20 times that of China and 50 times that of India.”).
\item \textsuperscript{24} Id. at 674.
\item \textsuperscript{25} Id. at 614; 617.
\end{itemize}
As the climate changes, the world’s global temperature is warming. As a result, polar ice, glaciers, and permafrost are melting causing sea levels to rise. From 1961 to 2003, the sea level rose on average 1.8mm per year, and from 1993 to 2003, the rate was even faster than the previous years—rising about 3.1 mm per year. The IPCC modestly estimates that total sea level rise for the last century was .17 meters.

II

THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEAS

A. The History of the Law of the Seas Before the Convention

There is a long history of countries claiming a jurisdictional right to the seas. Beginning in the fifteenth century and extending through the late seventeenth century, the Age of Exploration and Discovery enticed countries to begin to claim waters surrounding their country, but this age also officially established the freedom of the high seas for navigation, trade, and fishing. Although freedom of the high seas was firmly established, a country’s claim to its territorial seas was also recognized. While the dimensions of a country’s territorial seas was initially determined by the “cannon shot rule”— defining the country’s territorial sea as the waters a cannon ball covered when fired from the country’s coastline—the definition would later formalize to provide dimensions for the seas.

Customary international law eventually recognized a country’s jurisdiction over the seas that extended three miles from its coastline. A country’s jurisdiction over its territorial sea included not only the waters but also the seabed, the living and non-living resources, and the

26 Id. at 625-27.
27 Id. at 626-27.
28 Id.
30 Id.
31 Id. at 2-3.
32 Id. at 3.
airspace over it.\textsuperscript{33} While a country had a sovereign right to these waters, resources, and zones encompassed by the territorial seas, foreign ships that did not threaten the coastal state’s peace and security were still permitted to pass through the sea.\textsuperscript{34}

In the 1900s, however, countries began to claim jurisdiction over waters beyond the territorial sea limit.\textsuperscript{35} In 1945, in an effort to capitalize on petroleum sources off the U.S. coast, U.S. President Harry S. Truman issued a proclamation claiming the United States’ sovereignty over the natural resources on the country’s adjoining continental shelf.\textsuperscript{36} Because Truman simultaneously wanted the United States’ freedom of the high seas to continue unrestricted, he only proclaimed sovereignty over the continental shelf, leaving the waters above open to free navigation.\textsuperscript{37} Truman expanded this jurisdiction in an effort ensure the “conservation and prudent utilization” of these natural resources.\textsuperscript{38} Other countries that did not have continental shelves followed this proclamation with claims of their own.\textsuperscript{39} They began to extend their jurisdiction to 200 miles in order to protect their own natural resources, which included fisheries.\textsuperscript{40} To the dismay of countries with large navies and interests in distant water fishing, more and more countries began to claim a 200-mile jurisdictional zone.\textsuperscript{41}

\textit{B. The Convention}

In the mid-1950s, the first United Nations Convention on the Law of the Seas (\textquotedblleft UNCLOS	extquotedblright) began to codify the recognized and developing international law of the sea. It was

\begin{itemize}
\item \textsuperscript{33} Id.
\item \textsuperscript{34} Id.
\item \textsuperscript{35} Id.
\item \textsuperscript{36} Id. at 3-4; Executive Order 9633, \textit{The Truman Proclamation} [hereinafter \textit{The Truman Proclamation}]. 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not until the third Convention, UNCLOS III, beginning in 1973, that the laws defining maritime entitlement were actually codified. It was through UNCLOS that the EEZ was officially established state practice and customary international law as extending 200-miles off a country’s coastline.

1. Terms of UNCLOS

As alluded to above, the traditional notion of *mare liberum*—“the principle that ‘the high seas are open to all states and no state may validly purport to subject any part of them to its sovereignty’”—has been historically counterbalanced by the concept of *mare clausum*—“the high seas are subject to the appropriation of states.” Both of these principles are present and play a significant role in the international law established by UNCLOS.

UNCLOS codified States’ rights to “internal waters, a territorial sea not exceeding 12 nautical miles (nm) in breadth, an exclusive economic zone not exceeding a further 188 nm in breadth, a continental shelf out to 200 nm, and where the geomorphological conditions exist, an extended continental shelf out to a maximum of 350 nm.” It officially established the EEZ as the zone where a country is entitled to explore the water’s living and nonliving resources. As mentioned above, the EEZ extends 188 miles beyond the twelve-mile territorial sea, confirming the country’s sovereignty over 200 nm from its coastline.

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42 Throughout this paper, “UNCLOS” will refer to the successful, third convention.
43 OCEAN & COASTAL LAW, supra note 19, at 6.
44 Id. at 26-27.
47 Id.
48 Id. at 171 n.13.
All of these maritime zones are officially measured from a country’s “baseline.”49 Typically, a country’s baseline is “the low-water line along the coast.”50 This baseline definition, however, is not a “one size fits all” definition, and UNCLOS has made accommodations in the definition to meet the needs of different types of lands. For islands that are on atolls or that have fringing reefs that are above water at low tide, the baseline “is the seaward low-water line of the reef.”51 Another exception to the typical baseline definition occurs for countries that have deep indents in their coastlines or for countries that have small islands on the outskirts of their coast.52 To accommodate these less uniform coastlines, Article 7 of UNCLOS allows countries with these irregularities to draw “straight baselines,” and these straight baselines become the point from which the countries’ maritime zones are measured.53 In these instances, the baseline is created by drawing a straight line that connects certain points known as “basepoints.”54 Straight baselines must conform to the basic direction of the coast and generally cannot include land masses above low-tide elevation unless it has a lighthouse or another permanent fixture that is above sea level.55

III

DETERMINING MARITIME BOUNDARIES

Although most maritime zone baselines and outer boundaries are considered ambulatory, this is never expressly established in UNCLOS.56 Permanent, fixed baselines and outer boundaries are not a completely novel idea in international maritime law and already exist in the UNCLOS in two circumstances. As mentioned above, Article 7(2) of UNCLOS permits straight

49 Id. at 171.
50 Id.
51 Id.
52 Id. at 171-72.
53 Id. at 171.
54 Id at 172. “Basepoints are generally rocky or other prominent points unlikely to suffer from erosion.” Id.
55 Id.
56 Id. at 173.
baselines to drawn around deltas or other areas with unstable coastlines. These baselines remain fixed until the coastal State updates them. In Article 76(9), UNCLOS instructs States to describe the outer limits of their continental shelf and these are permanently recorded with the Secretary-General of the United Nations. These two Articles already establish the precedent that countries can accept the idea of permanently fixating maritime boundaries.

With rising sea levels, the coasts of low-lying nations, only feet above sea level, will experience constant and permanent inundation of their low-tide levels and fringing reefs. As these countries’ technical baselines get pushed farther and farther back, they will lose more and more of their maritime zones, including their EEZs. This might seem confusing at first as the technical dimension of a maritime zone would not change. Their EEZ would still be 200 nm from their baseline. As these countries’ baselines recede with rising sea levels, however, what had been internal waters now would become a part of a country’s external maritime zones. They would have less and less of an area to use for resources.

Low-lying nations should advocate for a fixed interpretation of maritime boundaries. The international community’s already accepts of fixed boundaries in two express provisions in UNCLOS, and UNCLOS does not explicitly state that maritime boundaries must be ambulatory. The precedent of the two already accepted fixed boundaries shows that fixing boundaries is not likely to disrupt navigation or cause confusion. Besides these text-based reasons in favor of the fixed interpretation, it is also a more equitable interpretation.

Other countries, especially those with large navies or interests in distant water fishing, may oppose a fixed interpretation. Given that “territorial waters and the EEZ comprise roughly

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57 Id. at 172.
58 Id.
59 Id.
40% of the world’s oceans and 90% of its living marine resources, “these countries may reject a fixed interpretation of maritime boundaries. They may instead push for an ambulatory interpretation because low-lying nations’ loss of maritime zones would increase the high seas and unclaimed waters with more living marine resources, areas they would not have to pay to explore, fish, and utilize in other fashions.” These low-lying nations are often among the world’s developing nations, however, and lack responsibility for causing the problem of sea-level rise they now face. Because of their lack of culpability, there are environmental justice imperatives, and supporting case law, that states that the international community should strive for equity when establishing maritime boundaries. Permitting the most responsible parties for climate change problems to capitalize on the vulnerability of least responsible low-lying nations is great injustice we need to avoid.

A. Environmental Justice

While the definition of environmental justice (EJ) can vary depending on who is defining it, “[E]nvironmental justice is widely understood to be concerned, at least, with distributional and procedural equity in environmental and natural resource decisions. . . . Calls for environmental justice involve multifaceted claims, ultimately synthesizing aspirations for distributional and procedural equity, political accountability, and social justice into an untidy theoretical framework.” First identified and named in the United States, environmental justice exists both on national and international levels. Even though “our understanding of justice and equity under our domestic legal and moral norms is not necessarily shared by those in other nations,  

60 INT’L ENVTL. L., supra note 1, at 769.
61 Article 87 of UNCLOS states that “(1) The high seas are open to all States, whether coastal or land-locked. . . . [Freedom of the high seas] comprises, inter alia, both for coastal and landlocked States: (a) freedom of navigation; . . . (e) freedom of fishing . . . .”
societies, and cultures,” at both levels, race and wealth disparities are common determinative factors of how vulnerable people are to environmental harm.  

Although EJ is often seen in the context of small, local communities opposing corporations, EJ issues also exist on a broader scale among countries. Still revolving around race and wealth distribution, the divide is between “North,” mostly white, developed countries (although not all are actually in the northern hemisphere) and the “South,” mostly non-white, developing countries. As referenced above, the long-time industrialized countries of the North are primarily responsible for the current climate change problems because greenhouse gases remain in the atmosphere for centuries to millennia. This creates a type of “climate debt” industrialized countries have to the world and particularly to the South.

In addition to the fact that most of the South did not contribute to our current climate problems, they also have less of a capacity to adapt to climate change. They “have fewer resources to respond to immediate threats and adapt for potential future impacts.” Additionally, their severe poverty and public health problems demand financial resources further restricting their capacity to adapt to climate change. This lack of adaptive capacity makes them more vulnerable to the effects of climate change even though they are collectively least responsible.

Because low-lying nations in the South are least blameworthy for the current climate change and sea-level rise but are facing one of the highest prices of losing their land, it is only

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64 Id. at 87-89.
65 Id. at 87; INT’L ENVT'L. L., supra note 1, at 674.
66 Id. at 674.
67 Id.
68 Id. at 671.
69 Id.
70 Yang, supra note 51, at 88.
71 Adaptive capacity is “the ability or potential of a system to adjust behavior and resources to respond to change.”
72 Id.
just that the international community interpret UNCLOS to allow for fixed maritime boundaries. They should not additionally have to lose valuable financial gain by a receding EEZ.

The equity and fairness of any solution requires that those States that are lest to blame for climate change to relinquish jurisdiction and control over their vast and potentially extremely lucrative maritime zones to States that may well be among those most to blame for climate change must be questioned.73

Besides moral justifications, using maritime boundaries to reach an equitable solution is a principle of customary international law.74 Part of the reason maritime boundaries expanded in the twentieth century was so that newly independent countries could protect their resources and compete with old, colonizing countries who had strong navies and technology to capitalize on the freedom of the high seas.75 More recently, when determining the maritime boundary in the Gulf of Maine, the International Court of Justice stated “a legitimate scruple lies rather in concern lest the overall result . . . should unexpectedly be revealed as radically inequitable, that is to say, as likely to entail catastrophic repercussions for the livelihood and economic well-being of the population of the countries concerned.”76 Because of established customary law and the moral imperative imposed by environmental justice, the maritime boundaries in UNCLOS should be interpreted as fixed instead of ambulatory.

IV

RECOGNIZING UNINHABITABLE ROCKS AS SUFFICIENT TO MAINTAIN MARITIME BOUNDARIES

As referred to above in the description of straight baselines, the international community allows for artificial conservation of coastline baselines and artificial constructions to determine

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73 Rayfuse, supra note 36, at 178.
74 Rayfuse, supra note 36, at 179.
75 OCEAN & COASTAL LAW, supra note 19, at 5-6.
76 Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America ), Advisory Opinion, 1984 ICJ 246.
where baselines begin. It accepts that countries can build structures on land masses in order to incorporate them into their straight baselines. Without these artificial structures, the land masses would not otherwise qualify as part of their “straight baselines.”

These artificial structures remove the land masses from their status as “rocks.” Under Article 121(3), UNCLOS defines “rocks” as masses of land that are uninhabitable or that cannot sustain economic life on their own. Rocks generally are not permitted to constitute a baseline and do not have EEZs or continental shelves under UNCLOS. By allowing countries to build structures on land masses, UNCLOS allows land to transform from “rocks” to “islands,” which are permitted to constitute a baseline.

The international community has accepted these constructive islands’ ability to establish baselines and maintain maritime boundaries. On two small land masses that are one meter above sea level, Japan has constructed extensive concrete and rock breakwaters. In the South China Sea, Vietnam, China, Malaysia, and the Philippines have built land masses that include sand cays and rocks into military facilities to help establish EEZ claims. “[R]einforced natural features do not appear, by virtue of reinforcement, to lose their status as basepoints even if the natural feature itself is no longer above water.”

UNCLOS should be amended to include land masses that are uninhabitable and it should recognize former islands if they become submerged, as land masses that can establish and retain maritime boundaries. Besides the examples that constructive islands are already incorporated and accepted by the international community, low-lying nations also have legally-based human rights claims they can make in favor of these amendments. Human rights claims have a

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77 Id. at 174; UNCLOS, supra note 26, at Art. 121(3).
78 Rayfuse, supra note 36, at 174; UNCLOS, supra note 26, at Art. 121(3).
79 Rayfuse, supra note 36, at 175.
80 Id.
81 Id. at 176.
“particular normative appeal, given that persons already vulnerable to human rights infringements based on factors such as poverty, geography, gender, ethnicity, disability and age are also likely to suffer the most deleterious climate change consequences.”

A. Human Rights

Although human rights claims are usually asserted by an individual against her government, there is also precedent for nations to make this claim on other nations and the international community. Since the advent of the nation state in the seventeenth century, international law has acknowledged a country’s right, and therefore other countries’ corresponding legal duties, to ensure the safety of its citizens.83 Before World War II, the international rights of aliens, diplomats, and soldiers were derived from this right of the country.84 In this customary right for a country to ensure its citizens’ safety, low-lying nations can use this basis not only to argue for international action to mitigate the causes of climate change and to financially support adaptations such as building sea walls but also that it has a right to fixed maritime boundaries, including the EEZ, to ensure their citizens’ economic safety, particularly when if their countries become uninhabitable. In this right to ensure its citizens safety, low-lying countries can make human rights claims on other nations based on the existing human rights instruments.

Human Rights provides an established and utilized legal framework for low-lying nations to make their claim. The Universal Declaration of Human Rights (UDHR) recognizes a right to property and international courts are already acknowledging this right, although not through the UDHR provision in particular. In Article 17, the UDHR declares “[e]veryone has the right to own property alone as well as in association with others” and that “[n]o one shall be arbitrarily

82 P. 273.
83 INT’L ENVTL. LAW, supra note 1, at 1312.
84 Id.
deprived of his property.” Arguably, the express right to property “in association with others” ensures protection on a national scale as well as on the individual. In *Mayagna Awas Tigni Community v. Nicaragua*, the Inter-American Court of Human Rights affirmed the existence of the indigenous people’s collective right to land, resources, and the environment under the American Convention on Human Rights’ right to property under Article 21. The court found that Nicaragua violated the community’s right to property when it let a foreign company log on traditional land without Community consultation and consent.

International human rights law provides other rights and provisions, in addition to a right to property, low-lying nations can rely on in their argument to change UNCLOS. In Article 15, the UDHR guarantees “[e]veryone. . . the right to a nationality” and provides that “[n]o one shall be arbitrarily deprived of his nationality.” Further, article 22 declares “Everyone, as a member of society, has the right to social security and is entitled to realization through national effort and international co-operation and in accordance with the organization of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.” Additionally, the International Covenant on Economic, Social and Cultural Rights (ICESCR) also ensures that “[a]ll peoples have the right to self-determination” and prohibits “the deprivation of an individuals’ means of subsistence.” Through their customary right to ensure the protection of their citizens and these international human rights, low-lying nations have a strong claim for a right to amend UNCLOS to allow that formerly inhabited lands, now uninhabited due to rising sea levels, can maintain their fixed maritime boundaries.

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85 Universal Declaration on Human Rights, Article 17, 1-2 [hereinafter UDHR].
87 UDHR, supra not 69, at art. 15, 1-2
CONCLUSION

With rising sea levels, low-lying nations are losing land and also losing parts of their maritime boundaries, including their valuable EEZs. If their land becomes uninhabitable because of sea-level rise due to climate change, they will lose their EEZs as the law stands now. One way to rectify this environmental injustice for those least responsible for climate change is to interpret UNCLOS to allow for fixed maritime boundaries so that these countries will not lose maritime area as the sea level rise. The international community can additionally amend UNCLOS to allow formerly inhabited islands to maintain their fixed maritime boundaries. Not only is this a just and equitable solution to the problem posed by sea level rise, but low-lying nations also have a right to this solution under their inherent right as nations to ensure the safety of their citizens and their right to property, nationality, sovereignty, and self-determination.