

Statehood and Climate Change

International Law

Local Action Theme: Climate Change

Keywords: Montevideo Convention | Extinction of states | Territory loss

Time: Instructor Prep: 1 hour | Seminar: 1-2 class slots

Learning Outcomes:

- Can identify the meaning and presence of states in the international law
- Understands the elements that make up the formation and dissolution of a state
- Explores the example of disappearing island nations to explain how statehood and its continuance is not a rigid concept and can identify the pitfalls of the Montevideo Convention.

INTRODUCTION

This teaching guide is meant to seamlessly fit into existing lesson plans on the sources and subjects of international law. This guide was created for teachers and professors interested in including environmental issues as examples for students to understand the theory of international law. This teaching guide uses the concept of statehood and **territorial losses** of island states through climate change. The guide can be used meant to be used in combination with the easily-adapted PowerPoint slides provided.

CONCEPTS - STATEHOOD AND ITS EXTINCTION

The **Montevideo Convention** on the Rights and Duties of States, adopted in 1933, is a crucial international treaty that outlines the criteria for statehood and the rights and responsibilities of sovereign states. This convention, signed in Montevideo, Uruguay, has become a fundamental reference point in international law for determining statehood.

According to the Montevideo Convention, a state must meet four criteria to be recognized as a sovereign entity. It must:

- **have a defined territory,**
- **have a permanent population,**
- **have a government, and**
- **be capable of exercising control over its territory and population, and the capacity to enter into relations with other states.**

These criteria serve as the foundation for establishing the legitimacy of a new state and are widely accepted in the international community.

Statehood under the Montevideo Convention is a crucial concept in international relations. It grants states the right to engage in diplomatic relations, sign treaties, and enjoy legal equality with other recognized states. It also imposes certain responsibilities, such as respecting the sovereignty of other states and adhering to international law.

The **extinction of states**, in the context of international law, refers to the termination or dissolution of a sovereign state's existence as a legal entity. State extinction can occur for various reasons, and it's an essential aspect of understanding the dynamics of international relations. Here are some common causes and scenarios related to the extinction of states:

1. **Merger or Unification:** Some states may cease to exist when they merge or unify with other states. This often happens through peaceful negotiations or referendums, leading to the creation of a new, larger state. For example, the merging of East and West Germany in 1990 or the unification of Yemen in 1990.
2. **Dissolution:** In some cases, states dissolve due to internal factors such as political upheaval, civil war, or ethnic conflicts. When a state disintegrates, its territory may be divided into several new states or regions seeking independence. The breakup of the former Yugoslavia into multiple successor states is a notable example.
3. **Colonialism and Decolonization:** Colonial powers historically controlled many territories, and when they granted independence to these territories, new states emerged. This process, known as decolonization, led to the extinction of colonial states and the creation of independent nations.
4. **Annexation:** A state may cease to exist if it is annexed by another state through force or coercion. This is often considered a violation of international law unless recognized through legitimate means, such as a treaty or a peaceful referendum.
5. **Voluntary Cession:** Occasionally, a state may voluntarily cede territory to another state through negotiation and agreement. This can lead to the adjustment of borders or the loss of territory for one state, potentially leading to its extinction.
6. **Loss of International Recognition:** A state may lose its international recognition due to political changes, regime shifts, or diplomatic disputes. When other states no longer acknowledge its sovereignty, it can lead to the de facto extinction of that state, even if it continues to exist within its borders.

It's important to note that the **extinction of a state** doesn't necessarily mean the disappearance of its population or territory but rather the end of its status as a recognized sovereign entity in the international community. The dynamics surrounding state extinction can be complex and often involve legal, political, and historical factors. International law and diplomatic negotiations play a critical role in addressing the consequences of state extinction and determining the status of successor entities.

CLIMATE CHANGE BASICS

The main sustainability concept for this teaching guide is Climate Change. Climate Change refers to long-term shifts in the typical weather patterns that characterise Earth's local, regional, and global climates. These changes, which encompass a wide range of observed effects, are driven primarily by human activities, particularly the burning of fossil fuels. This action increases the levels of heat-trapping greenhouse gases in our atmosphere, resulting in a rise in Earth's average surface temperature. Natural processes, such as El Niño circulations also play a role but are much smaller than human driven climate change.

Scientists use observations from ground-based, airborne, and space-based platforms, in combination with computer models, to monitor and analyze past, present, and future climate changes. The result is a clear picture of different climatic changes from rising global land and ocean temperatures, to increasing sea levels and extreme weather. Climate change impacts many areas of our lives including health, food

production, housing, safety, and employment. Climate Change is the biggest challenge of our and future generations.

Go to local-actions.com to see a comprehensive set of video's we made to explain the concepts.

CONNECTING THE DOTS

Climate change is expected to drive between 0.5 and 1 meters of sea level rise this century, and scientists are unable to exclude the possibility of higher sea level rise of above 1.5 meters. This poses an existential threat to the land and people of many countries. Countries that are under threat are often low-lying island states such as the Maldives and Kiribati. The result is that these states may no longer fulfil 3 of the 4 requirements of the Montevideo Convention (all except the requirement to have a government).

In some cases, such as Tuvalu, Australia have agreed to take in migrants leaving the islands due to sea level rise. Tuvalu has also added some provisions in national law for perpetual statehood (it will remain a state even with total loss of its territory), while recognizing there is no international law on which to support them. However, in general there are few such migrant agreements around the world.

LOCAL ACTIONS AND IN CLASS ACTIVITIES

Local Action – climate conversation

- Have students speak to a family member, friend or colleague outside of the study about climate change. The conversation is not supposed to convert or convince people, but to explore the consequences of climate change. Explore their thoughts on climate-driven migration.
- Students write a reflection consisting of a short summary of the person they spoke with, an analysis of their thoughts on climate change and a personal reflection on how the conversation went.
- Go to local-actions.com to download the handout.

Class Activity 1: Climate Change and Sovereignty (30 minutes):

- Present case studies or examples of nations severely affected by climate change (e.g., small island states facing sea-level rise, countries dealing with extreme weather events).
- Divide students into small groups and assign each group a case study.
- Instruct students to discuss how climate change challenges the sovereignty and statehood of the affected nations. What legal and ethical dilemmas do these nations face?
- Each group presents their findings, highlighting the complexities of balancing national sovereignty with the need for international cooperation on climate change.

Class Activity 2: International Agreements and State Responsibility (25 minutes):

- Provide an overview of key international agreements related to climate change, such as the Paris Agreement.

- Divide students into pairs and assign each pair a specific aspect of an international agreement (e.g., mitigation efforts, adaptation strategies).
- Instruct students to research and analyze the obligations imposed on states by these agreements concerning climate change mitigation and adaptation.
- Each pair presents their findings, discussing the legal responsibilities of states outlined in international agreements and the challenges in implementation.

Class Activity 3: Discussion and Debate (15 minutes):

- Facilitate a class discussion on the tension between national sovereignty and the global responsibility to combat climate change.
- Organize a debate where students argue for or against a hypothetical scenario: "Should countries be legally bound to international climate change agreements, even if it affects their sovereignty?"
- Encourage students to present well-reasoned arguments, considering legal, ethical, and practical aspects of the issue.

RESOURCES

UN charter (art 1(2)): Self-Determination

James Crawford, 'The Extinction of States', *The Creation of States in International Law*, 2nd edn (Oxford, 2007; online edn, Oxford Academic, 1 Jan. 2010)

Matthew Craven and Rose Parfitt, 'Statehood, Self-Determination, and Recognition' in Malcom D Evans (ed), *International Law* (2018, OUP, 5th Edition).