

Abstract

An Analysis of the Legal Protection of the Disappearing Island States Population

Rising ocean levels, which occur as a result of global warming, currently pose a threat to low-lying island states. The so-called “disappearing island states”. This thesis deals with the legal protection of the disappearing island states population. The main objective is to provide a basic overview of protective instruments for this scenario, and assess their potential application.

This text is divided into three parts. The first chapter deals with the concept of disappearing island nations, the reasons behind their disappearance and some of the consequences. Of particular importance is the subchapter, discussing the dissolution of the state in general. Even though in theory a state’s dissolution due to climate change effects is viable, in practice this event has never occurred before. Therefore, international law does not offer a clear answer to the legal personality of the state that has been affected by climate change-induced sea level rise. This question needs to be answered in order to define the status of the population, and to define the tools that can be used to ensure its protection.

The second chapter discusses the options a state has for the protection of its population through legal and non-legal means. The chapter is based on the assumption, that the state is the one who is primarily obliged to protect its own population. The introduction to the chapter attempts to find the source of this obligation, which the author describes as “primary obligation”.

The third chapter discusses other possible protective legal tools and provides them in a (certainly incomplete) list. The chapter analyzes the possible use of human rights law, refugee law, law of stateless persons, and other instruments such as humanitarian law, environmental law and the concept of “responsibility to protect”. These protective means are possible to apply when a state ceases to fulfill its primary obligation to protect its population. The chapter also touches upon the protection de lege ferenda.

Lastly, it should be noted, which questions the thesis does not address. The dissolution

of island-states in terms of international law is a complex and difficult topic, and therefore the thesis presents only an overview of the issue, while mainly focusing on the topic of legal protection of a population. This work does not focus on regional legal instruments and the social and cultural aspects of migration, however these factors are also very important to consider.