

Introduction to the Special Issue: The Maldives at the Crossroads of International Law

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Abstract: The Republic of Maldives remains marginal in international legal scholarship despite extensive treaty participation and active multilateral engagement. When it appears, it is largely framed as a site of climate vulnerability, a reduction that obscures its historical depth, legal agency, and broader engagement with international law. This introductory article situates the special issue as an intervention against that narrow framing. Bringing together contributions on colonial governance, pre-modern Indian Ocean normativity, Islamic law and human rights, climate change and statehood, labour regulation, trade, taxation, arbitration, and fisheries governance, the volume treats the Maldives as analytically ordinary rather than exceptional. It demonstrates how international law engages small island states through indirect rules, selective incorporation, and uneven distributions of responsibility. The article further argues that the relative absence of Maldivian engagement in international legal discourse constitutes a form of legal positioning rather than neutrality and concludes by identifying future research agendas with implications extending beyond the Maldivian context.

Keywords: Maldives; International Law; Islamic Law; Climate Change; Human Rights; Sea Level Rise

I. INTRODUCTION

International law has traditionally been written from the vantage point of powerful states. The histories, practices, and legal subjectivities of small states and of small island developing states (SIDS) have occupied a marginal place in the discipline's self-understanding.¹ The Republic of Maldives exemplifies this scholarly neglect. The Maldives has generated remarkably little sustained international legal scholarship. It is one of the least examined states of South Asia in the regional literature on international law, and Maldivian scholars

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¹See: Harry Hobbs and Donald Rothwell, 'Towards a Legal Era of Islands: The International and Constitutional Legal Status of Island Territories' (2024) 73 (3) *International and Comparative Law Quarterly* 609; Tuiloma Neroni Slade, 'The Making of International Law: The Role of Small Island States Speech' (2003) 17 (2) *Temple International & Comparative Law Journal* 531; Jenny Grote, 'The Changing Tides of Small Island States Discourse - A Historical Overview of the Appearance of Small Island States in the International Arena' (2010) 43 (2) *Verfassung und Recht in Übersee / Law and Politics in Africa, Asia and Latin America* 164.

writing principally on international law have, until recently, been few.² This special issue is a concerted attempt to remedy that gap.

The reasons for the gap are themselves instructive. When the Maldives does appear in international legal scholarship, it is almost invariably in the context of climate vulnerability—as an archetypal victim of rising sea levels, invoked to illustrate the existential risks of environmental degradation.³ That framing, while not inaccurate, is incomplete. It strips the Maldives of historical depth and legal agency, reducing a complex polity—with centuries of Indian Ocean maritime engagement, a distinctive experience of British protectorate governance, an Islamic constitutional order, and an active programme of multilateral diplomacy—to a single-issue case study.⁴ As Abdulla Shahid, the former Foreign Minister of the Maldives and President of the seventy-sixth session of the United Nations General Assembly, observed:

“While climate change is of profound importance to small island developing states, it is not the only agenda item on which we should have a say... Are we going to be sidelined to be only talking about climate change? Do we not have an interest in other issues—on human rights, on development, and other major issues? Yes, we do. When it comes to outer space, are small states going to be relegated to the sidelines? No, we will not. We cannot, because very soon we will find that we will be without a voice.”⁵

Shahid’s intervention captures a tension that runs through the Maldives’ contemporary engagement with international law. This special issue resists that reductive tendency. It assembles contributions that engage the Maldives across several key domains of international law.

The intellectual motivations for this volume are twofold. The first is pedagogical: to generate a body of literature that enables students and scholars to understand how international law shapes the governance, economy, and environment of SIDS, such as the Maldives. The second is doctrinal, as Srinivas Burra observed in his keynote address at the 2023 symposium:

²See: Mohamed Munavvar, *Ocean States: Archipelagic Regimes in the Law of the Sea* (BRILL 1995); Ahmed Adham Abdulla, ‘Sea Level Rise, Statehood and Artificial Islands for Environmentally Displaced Persons under International Law: Future of the Maldives’ (2020) 4 (1) *International Journal of Social Research and Innovation* 1; Shamsul Falaah, ‘Islamic Shari’ah and the Rights of Women: The Maldives’ Thirst for International Human Rights Norms of Equality and Non-Discrimination’ (2016) 13 (1) *Muslim World Journal of Human Rights* 101; Nuha Mohamed Didi, ‘Protection of Foreign Investments in the Maldives.’ (2025) 22 (3) *Manchester Journal of International Economic Law* 362.

³See: Michael Gagain, ‘Climate Change, Sea Level Rise, and Artificial Islands: Saving the Maldives’ Statehood and Maritime Claims through the Constitution of the Oceans’ (2012) 23 (1) *Colorado Journal of International Environmental Law and Policy* 77; Abhimanyu George Jain, ‘The 21st Century Atlantis: The International Law of Statehood and Climate Change-Induced Loss of Territory’ (2014) 50 (1) *Stanford Journal of International Law* 1; Simran Dolla, ‘International Legal Protection for Climate Refugees: Where Lies the Haven for the Maldivian People’ (2015) 6 (1) *Journal of Sustainable Development Law and Policy* 1.

⁴ See: Husnu Al Suood, *The Maldivian Legal System* (Maldives Law Institute 2014) 1-42; Naseema Mohamed, ‘Note on the Early History of the Maldives’ (2005) 70 (1) *Archipel*; Harry Charles Purvis Bell, *The Maldivian Islands: An Account of the Physical Features, Climate, History, Inhabitants, Productions, and Trade*. (1 edition 1883, Asian Educational Services 2004); Urmila Phadnis and Ela Dutt Luithui, *Maldives, Winds of Change in an Atoll State* (South Asian Publishers 1985).

⁵Abdulla Shahid, ‘Why Small Island States Are Vulnerable but Not Powerless’ *Carnegie Endowment* (United States, 27 September 2022) <<https://carnegieendowment.org/russia- Eurasia/posts/2022/09/why-small-island-states-are-vulnerable-but-not-powerless>> accessed 27 February 2026.

“...international law equally applies to those states that do not hold any position or opinion on a particular aspect of international law. If a state does not articulate a position, it is often understood as conveying a silent acceptance of emerging state practice and norms.”⁶

The silent acceptance of emerging norms of customary international law is not devoid of state practice, as is often presumed. The perceived silence could stem from a lack of negotiating power to determine the form that the emerging norm takes.⁷ In other instances, it could also stem from a “faulty” registration of state practice on the international plane.⁸ This special issue makes a case for the latter on behalf of the Maldives.

II. THIS SPECIAL ISSUE

The issue opens with Aminath Rifga Mohamed’s article, which examines the British protectorate over the Maldives (1887-1965) as a case of informal empire in the Indian Ocean. Employing the lens of the Third World Approaches to International Law (TWAIL) and comparative method, Rifga conceptualises the Maldives as a ‘constitutional oddity’ sustained by one-sided treaties that preserved the illusion of sovereignty while consolidating British influence. This article constitutes the first sustained analysis of the Maldives’ colonial encounter in international law. It is particularly significant for understanding how the Maldives was incorporated into imperial legal orders without formal annexation, and how such arrangements continue to shape postcolonial constitutional and diplomatic realities.

Suha Habeeb reconstructs a pre-modern normative order structured through commodities such as cowrie shells and coir rope. These materials sustained durable practices of exchange, tribute, monopoly, and port regulation across South Asia, East Africa, and Southeast Asia. By foregrounding commodities as drivers of normativity rather than treating them as mere economic goods, Habeeb challenges the Eurocentricity of international legal historiography and demonstrates how Muslim polities such as the Maldives participated in transregional governance long before the consolidation of European treaty regimes.

Questions of normativity and legal authority are taken forward in Mohammad Sabuj’s article on the place of Islamic Shari’a in the Maldivian legal system. Engaging the universalism-cultural relativism debate in international human rights law, Sabuj examines how the Maldives reconciles extensive participation in global human rights treaties with constitutional commitments to Islamic law. Rather than portraying this as a contradiction, the article conceptualises Maldivian practice as a form of negotiated engagement, in which reservations, constitutional interpretation, and institutional practice mediate between international obligations and religious legal foundations.

The environmental dimensions are addressed in Nuha Mohamed Didi’s analysis of land reclamation and climate change. Situating Maldivian adaptation strategies within the

⁶ Srinivas Burra, ‘Keynote Address: Symposium on International Law and Maldives: Navigating Geopolitics, Trade and Sovereignty’ (Villa College, Maldives, 20–21 December 2023).

⁷ On debate about development of customary international law in the Third World, see: George Rodrigo Bandeira Galindo and César Yip, ‘Customary International Law and the Third World: Do Not Step on the Grass’ (2017) 16 (2) Chinese Journal of International Law 251.

⁸ By faulty registration we mean the phenomenon where state behaviour is not translated into state practice due to the lack of a systematic study of the former.

evolving international law of climate change, Nuha exposes the tension between assurances of perpetual statehood and the practical uncertainties confronting low-lying island states. Benoît Mayer's contribution complements this analysis by critically examining the Maldives' claim to climate reparations. By interrogating questions of causation, responsibility, and embedded emissions, the article problematises dominant narratives of innocence and vulnerability in climate discourse.

Labour and economic governance form another key thematic strand. Arunika Mishra examines the Maldives' multi-agency regulatory framework for migrant labourers, demonstrating how formal regulatory expansion has failed to dismantle entrenched systems of exploitation. Persistent wage theft, employer-controlled visa regimes, and weak criminal enforcement underscore the limits of technocratic governance in an economy dependent on precarious migrant labour. Krishna Bhattacharya's analysis of regional and bilateral trade frameworks reveals the structural constraints faced by the Maldives in international economic law, showing how geopolitical tensions within South Asia limit the promise of the South Asian Free Trade Area while encouraging reliance on bilateral arrangements. Ahsam Ahmed Asim's contribution on international tax law further exposes these asymmetries, highlighting how limited institutional capacity and dependence on foreign investment undermine efforts to address base erosion and profit shifting.

Wasiq Abass Dar examines the integration of the Maldives into international dispute settlement regimes, with particular focus on the enforcement of arbitral awards under the New York Convention. Focusing on the role of domestic courts, Dar demonstrates that treaty accession alone does not guarantee effective enforcement; judicial interpretation and institutional design are equally determinative. Lastly, Louis McDonough Monroy situates the Maldives within contemporary debates on maritime resource governance, examining how emerging international instruments might address inequities in fisheries management at the intersection of sustainability, equity, and climate change.

Taken together, the articles in this special issue do not present the Maldives as an exception. Rather, they treat the Maldivian experience as analytically ordinary in the most productive sense: a case that reveals how international law routinely engages an archipelagic state through indirect rule, selective incorporation, and an uneven distribution of responsibility. The point is not that the Maldives is unique; it is that the patterns visible in the Maldivian case are general, and that they have been rendered invisible by the discipline's failure to attend to them.

III. CONCLUSION

The contributions assembled in this volume point to several implications that extend beyond the Maldivian case itself. If international law operates upon small, economically dependent, and environmentally exposed states through the mechanisms described in these articles - informal imperial arrangements that survive formal decolonisation, selective treaty incorporation without corresponding institutional capacity, regulatory frameworks that coexist with entrenched exploitation - then the discipline's failure to examine these dynamics is not merely an omission. It is a structural feature of how international legal knowledge is produced and for whom.⁹

⁹Akbar Rasulov, 'The Discipline as a Field of Struggle: The Politics and the Economy of Knowledge Production in International Law' in Andrea Bianchi and Moshe Hirsch (eds), *International Law's Invisible Frames* (Oxford:

The volume also exposes questions that remain unresolved and that warrant sustained scholarly attention. The legal implications of maritime baseline displacement due to sea-level rise and its consequences for exclusive economic zones, continental shelf entitlements, and the delimitation of maritime boundaries - remain doctrinally unsettled.¹⁰ The structural position of small states within international economic law, including the regimes governing trade, investment, and taxation, demands scrutiny that takes seriously the gap between formal participation and substantive influence.¹¹ The adequacy of existing frameworks of international protection for persons displaced by slow-onset environmental change remains an open question, as does the capacity of international refugee and human rights law to accommodate forms of displacement that do not conform to established categories.¹²

This special issue does not claim to have exhausted the field. It claims, more modestly, to have opened it. The task ahead is to ensure that the scholarly attention initiated here is sustained and deepened - not as a matter of geographical inclusivity alone, but as a condition of the discipline's own intellectual adequacy. Perhaps a detailed profiling of individual state behaviour, similar to what is undertaken in this special issue, could help us situate international law in a better context. The exercise could also remedy the improper registration of the state practice of international law often based on a perceived silence of the SIDS.

Oxford University Press 2021) 180-199; J Von Bernstorff, 'International Legal Scholarship as a Cooling Medium in International Law and Politics' (2014) 25 (4) *European Journal of International Law* 977.

¹⁰For Malé Declaration on Global Warming and Sea Level Rise, adopted by the Small States' Conference on Sea Level Rise (Malé, 18 November 1989), see: 'Letter dated 20 November 1989 from the Permanent Representative of Maldives to the United Nations addressed to the Secretary-General' *United Nations Digital Library* (Geneva: 22 November 1989) <<https://digitallibrary.un.org/record/81035?ln=en>> accessed 14 April 2026; 'Information and examples of State practice on "Sea-level Rise in Relation to International Law" A submission by the Republic of Maldives' *International Law Commission* (Geneva: 31 December 2019) <https://legal.un.org/ilc/sessions/72/pdfs/english/slr_maldives.pdf> accessed 14 April 2026; 'Commission on the Limits of the Continental Shelf (CLCS) Outer limits of the continental shelf beyond 200 nautical miles from the baselines: Submissions to the Commission: Submission by the Republic of Maldives' *United Nations Division for Ocean Affairs and the Law of the Sea* (Geneva: 26 July 2010) <https://www.un.org/depts/los/clcs_new/submissions_files/submission_mdv_53_2010.htm> accessed 14 April 2026.

¹¹ See: Didi (n 2); Fazeel Najeeb, 'The TRIPS Agreement: Ready or Not, Maldives Went for It' (2022) 10 (2) *The Maldives National Journal of Research* 45; Prema-chandra Athukorala, 'Trade Policy Making in a Small Island Economy: The WTO Review of the Maldives' (2004) 27 (9) *The World Economy* 1401.

¹² See: Jolly S. and Ahmad N, *Climate Refugees in South Asia: Protection Under International Legal Standards and State Practices in South Asia* (Singapore: Springer 2019); Bonnie Docherty and Tyler Giannini, 'Confronting a Rising Tide: A Proposal for a Convention on Climate Change Refugees' (2009) 33 (2) *Harvard Environmental Law Review* 349.