

**Imaginary Islands?:
Options to Preserve Maritime Jurisdictional Entitlements and Provide Stable
Maritime Limits in the face of Coastal Instability?**

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Abstract

The reported inundation of a disputed island in the Bay of Bengal (called South Talpatty or New Moore Island respectively by the parties to the dispute, Bangladesh and India) has been attributed to climate change-inspired sea level rise and has been highlighted as a harbinger of challenges to come regarding low-lying coasts and islands. While this event could be (facetiously) construed as an unlooked for ‘benefit’ of climate change (eliminating the object of a contentious bilateral dispute), in fact this is not the case. Not only are reports of the island’s demise somewhat premature given that parts of the feature appear to remain above the low water line, and in light of the highly unstable and dynamic nature of the coastline in question, but the actual causes of its “disappearance” remain uncertain. It is also the case that Bangladesh (at least) has reasserted its sovereignty claim.

Nonetheless, this incident has served to dramatically highlight the vulnerability of certain coastlines and insular features to significant and rapid changes in location, whether caused by sea level rise or not. Such normal baseline changes can translate into significant changes in the location of maritime jurisdictional limits. Given increasing marine uses and enhanced regulatory efforts to manage those uses, there is arguably a growing need for a departure from the traditional norm of ambulatory normal baselines and consequently shifting maritime jurisdictional limits in the interests of providing marine users with stability, clarity and certainty. The paper examines legal and technical issues, challenges and options with respect to fixing normal baselines and/or the limits to maritime jurisdiction derived from them in international comparative perspective. The paper will also covers legal issues related to the theoretical total inundation of States.