

# Exposure to Transnational Maritime Crime in the Pacific Islands Region

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## Abstract

Although the Pacific Islands are strategically located alongside important trade routes, between the Global North and Global South countries and among plentiful fishing grounds, this region is considered among the lowest risk for land-based organized crime. Grouped as a uniform region, collectively, the Pacific islands are anything but. The region consists of three ethnogeographic subregions with varying colonial, cultural, and legal legacies. Geographically, the Pacific Island states are remote, with small populations dispersed across many islands, some of which are uninhabited, limiting the ability to adequately surveil and protect this extensive maritime domain, creating porous land and sea borders. These challenges increase the complexity of policing the large exclusive economic zones of the region and therefore increase its vulnerability and potential exposure to various transnational organized crimes on land and at sea. Drawing on Kelling and Wilson’s broken windows theory, this article considers from a theoretical perspective, how international law can be used as a framework to guide Pacific Island states in achieving strengthened, region-led resilience to transnational maritime crime in the pursuit of maritime justice.

## Keywords

broken windows theory; maritime justice; Pacific Islands; Small Island Developing States; transnational maritime crime

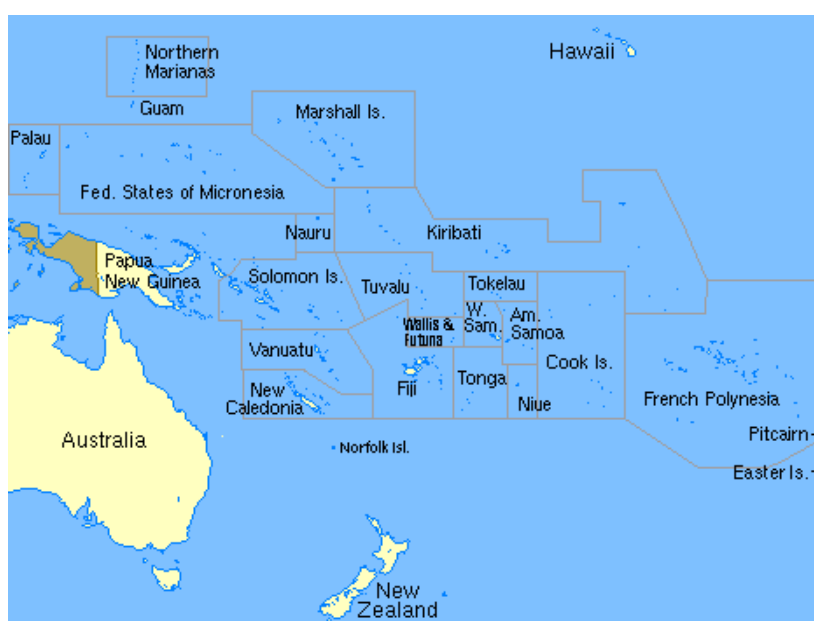
## 1. Introduction

The Pacific Islands region is recognized by the UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries, and Small Island Developing States (SIDS), and consists of sovereign states and overseas territories, namely: the Cook Islands, Fiji, Federated States of

Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Timor-Leste, Tonga, Tuvalu, and Vanuatu (UN, n.d.). In addition, associate members include the US overseas territories of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the French overseas territories of New Caledonia and French Polynesia (UN, n.d.). Smaller overseas territories of the region include the Pitcairn Islands (UK), Tokelau (New Zealand), Wallis and Futuna (France), Norfolk Island (Australia), and the Easter Island (Chile). The Pacific Islands region is further categorized by three ethnogeographic subregions: Melanesia in the south-western zone of the Pacific Ocean, Micronesia in the north-western zone of the Pacific Ocean, and Polynesia in the central and southern zones of the Pacific Ocean. Collectively, these geographically dispersed islands form a complex and abundantly heterogeneous region and are home to a large number of SIDS (see Figure 1).

Transnational crime thrives on sympathetic legal, geographical, political, and financial environments and the islands that comprise the Pacific Ocean region offer a fusion of opportunities for criminals to base, transit, or target their illicit activities. Given the vast oceanscapes of the Pacific Island region, vulnerability to transnational maritime crime is particularly problematic. Maritime criminal threats include but are not limited to: illegal fishing; piracy and armed robbery at sea; underwater cultural heritage looting and trafficking; and trafficking of people, narcotics, arms, marine flora and fauna, or waste. It is challenging to definitively confirm the nature and extent of these maritime crimes. This is due in large part to the limited reporting, capacity constraints, and the fragmented nature of data collection (Lycan & Van Buskirk, 2021). Data on maritime crimes is oftentimes spread across different global, regional, and national organizations and institutions without an overriding coordinating mechanism (Lycan & Van Buskirk, 2021). However, the available data “suggests the effect of organized crime is increasing across all three Pacific Island sub-regions” (Comolli, 2024, para. 4; Global Initiative Against Transnational Organized Crime, 2023).

During the UN Security Council Open Debate of 30 July 2015, speakers stressed that transnational criminal networks were increasingly targeting SIDS, such as those found in the Pacific Islands region, because of their



**Figure 1.** Map of the islands of the Pacific Ocean. Source: Pacific Islands Legal Information Institute (n.d.).

location along, or nearby major trade routes, abundant fishing grounds, and slow rates of economic growth and high rates of unemployment (New Zealand Ministry of Foreign Affairs and Trade, 2015). In addition, it was noted that many SIDS faced difficulties in patrolling and protecting their extensive exclusive economic zones (EEZs) and “the integrity of their borders” (New Zealand Ministry of Foreign Affairs and Trade, 2015). Consequently, Pacific Island countries may be targeted as suitable transit or safety locations for criminals operating transnationally. Pacific SIDS are also the target for transnational criminal networks due to increasing poverty in the region and un(der)employment. Available estimates suggest that approximately 12% of the population of Pacific SIDS live below the international poverty line (Food and Agricultural Organization, 2021). All these factors, coupled with the traditional pressures of limited public funds, political instability, and emerging stressors such as climate change, combine to increase the likelihood of criminal threats.

Pacific Island countries also have extensive EEZs. The EEZs extend to a maximum distance of 200 nautical miles measured from the coastal states’ territorial sea baselines and comprise the waters superjacent to the seabed as well as the seabed and subsoil itself (UN, 1982, Arts. 56 and 57). In EEZs, the coastal state has sovereign rights for exploring and exploiting, conserving, and managing the natural resources and has jurisdiction over economic activities in the water column and seabed, marine scientific research, and matters dealing with environmental protection (UN, 1982, Art. 56). Given their extensive EEZs, Pacific Island states share a longstanding historical and cultural relationship with the ocean. Specific to the Pacific Islands region, each nation may be vulnerable to maritime crime for a range of reasons linked to their geography. For example, the location of the region to important trade routes links the Pacific region to South and Southeast Asia, the US, and Australia and New Zealand as source, transit, or destination countries. These important trade links increase the potential influx of commercial shipping, fishing, and pleasure craft vessel traffic and make it challenging to police criminal activities. Oftentimes, the vast and bordering EEZs in the Pacific region can result in limited and inadequate oversight over smaller vessels, increasing the potential for illegal operators to continue criminal activities undetected. Failure to address these challenges may also spillover onto land or may worsen at sea.

In addition to the region’s geographical location along strategic navigational routes, Pacific Island countries rely on imports to supply essential goods. With vast numbers of vessels transiting through and calling into ports in the region, it increases the potential for crimes to infiltrate maritime traffic and the many and varied supply chains within it. Supply chains provide opportunities, protection, and potentially legitimize nefarious commodities, actors, and activities. Oftentimes, it is not “the what” that is illegal, but “the how” that makes it illegal. For example, fish are legal commodities (the what), but fishing and landing those resources in a manner inconsistent with the license issued (the how), is what may make an activity illegal. Therefore, it is not always necessary to regulate what (i.e., the goods and services that are used illegitimately), but rather how those goods and services are obtained and who is undertaking the activity in question. Notably, at times it may be the commodity that is illegal (such as narcotics), contrasted with the movement being the illegal element (such as people smuggling). Rarely are “the what” and “the how” noted together in international instruments. Take, for example, narcotics trafficking (UN Office on Drugs and Crime, 2013). The international legal framework discussed in this article provides building blocks to address “the how” and “the who,” but not “the what” as this would render relevant instruments quickly out of date as transnational organized crimes evolve. The regulation of supply chains is therefore incredibly complex.

We look to Kelling and Wilson's (1982) broken windows theory applied in a contrasting setting for explanation. The theoretical model posits two facets, firstly, "if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken" (Kelling & Wilson, 1982, p. 31). Secondly, the theory suggests that serious crimes emanate from mild disorder. Thus, eliminating mild disorder and incivility within a community or neighborhood will prevent the onset of serious crimes, or a failure to address and prevent urban decay, inevitably one broken window will lead to many (Kelling & Wilson, 1982). In applying the broken windows theory in the context of maritime crime, and more specifically in the "neighborhood" of the Pacific Islands region, if "maritime decay" is left unchecked, whereby a small number of crimes within the territorial waters and/or EEZs of the Pacific Island states (i.e., illegal, unreported and unregulated (IUU) fishing) is tolerated, this will inevitably lead to the proliferation of more serious and widespread crimes within the wider region (Lindley, 2020).

A lack of consistency between the Pacific Island nations in preventing and regulating against "maritime decay" potentially threatens national and regional security. Harnessing cooperation between large and small nations as set out in the UN Charter (UN, 1945), a top-down regional approach guided by international law provides a vehicle to harmonize the region. However, given the diversity of the region, it is necessary to review threats from the bottom-up. As threats spread, it broadens the geographic risk profile of the region as a whole. Outlining the potential threats enables progression toward a collaborative, proactive response. Maritime decay prevents maritime justice, a research agenda that "nests in the junction between *illicit maritime activities* and relevant *regulatory responses*" and "brings to the fore the role of law and regulatory practices in the governing of illicit maritime activities" (Larsen, 2024, emphasis added), which is a central concept to this thematic issue. This article focuses on the role of international law as a regulatory tool that exists to address maritime decay and combat illicit maritime activities.

As Pacific Islands-focused bodies and institutions already exist to collaborate on shared regional concerns, including maritime crime, rather than adopting further international instruments or attempting to reinvent the wheel, this article suggests that it is necessary to look to the existing international legal architecture that deals with forms of maritime crime such as piracy, transnational organized crime at sea, and corruption. These existing instruments can guide regionally-led and aligned responses within the disparate Pacific Islands region to mitigate exposure and bolster responses to transnational maritime criminal threats. Looking to international law to guide a regionally harmonized response to these complex issues draws together maritime justice from a political and practical perspective. This maritime justice approach also ensures the region retains its agency.

Through the lens of the broken windows theory, a novel theory to apply in the maritime domain, the purpose of this article is to outline how international law can play a pivotal role in supporting the Pacific Islands to build awareness of, and resilience to transnational maritime crime and achieve maritime justice by tackling "maritime decay." To achieve this goal, from a theoretical perspective, this article provides an overview of catalysts that may cause, or exacerbate "maritime decay," and links them to existing international law that may guide states to prevent and address those threats, noting that without the increased awareness provided by the framework, capacity to respond may be limited. While it is important to acknowledge the uniqueness of the countries within the Pacific region, commonalities shared between the island nations invite a collective, harmonized response.

## 2. Applying a Broken Windows Theory Perspective to the Pacific

Taking into account the potential vulnerability of the Pacific Islands region to maritime crime, the broken windows theory provides a rationale as to why Pacific Island states should look to regionalize responses to prevent transnational maritime crime and how this novel approach can be used to address such threats. The premise is that if maritime crime is tolerated within the region, other crime within the “neighborhood” will proliferate, such that an unrepaired broken window will soon become many (Kelling & Wilson, 1982). Kelling and Wilson (1982, p. 31) also postulated that this “is as true in nice neighborhoods as in rundown ones,” implying that no Pacific Island state should be considered immune from the potential domino effect of transnational maritime crime.

Further, Kelling and Wilson (1982) theorized that crime emanates from mild disorder and that if disorder was eliminated, then serious crimes would not occur. These results were found in experiments conducted in New York City in the 1990s under Rudy Giuliani’s mayorship whereby addressing lower-level crimes, such as subway graffiti and solicitation, resulted in lower rates of more serious crimes such as murder, assault, and rape (Friedersdorf, 2020). Transferring this novel perspective to the Pacific Islands region, the application of the broken windows theory could refocus law enforcement efforts targeting ports, for example, to confirm adherence to correct fishing licenses, eliminating overfishing of landed catches, and controlling contraband taken on/off vessels, leading to a reduction in the amount of maritime decay. While the transferability from city to seascape is unclear, and notwithstanding limitations and criticism of the theory (see Lanfear et al., 2020; O’Brien et al., 2019; Shelden, 2004), it is worth attempting to promote a more united front against maritime crime in the region. It is important to note that through the lens of the broken windows theory, we are not establishing causality between lower-level crimes and transnational maritime crimes, merely suggesting that causality is possible. As such, collective approaches to prevent transnational (maritime) crime put criminals on notice that the Pacific region is not sympathetic towards organized criminals to base, transit, or target their operations, and it will not be tolerated. Vulnerabilities to transnational maritime crime will now be discussed within the framework of the two elements of the broken windows theory.

### 2.1. Reducing Tolerance for Broken Windows in the Pacific: Vulnerabilities to Transnational Maritime Crime

The three ethnogeographic subregions of the Pacific, namely, Melanesia, Micronesia, and Polynesia, all have varying traditions and cultures. Despite differences between the subregions, oftentimes the Pacific Island region is seen as homogenous. However, it is anything but. The differences between the subregions may be linked to their exposure to potential transnational maritime crimes (see Section 2.1.1). There are, of course, commonalities within the region. For example, the disparate and often uninhabited islands spread across the EEZs of Pacific Island states may allow criminals to seek refuge from authorities to continue their illicit activities, and potentially launch expanded transnational criminal operations (Techera & Lindley, 2020). Drawing on the *Global Transnational Organized Crime Index 2023*, within the Pacific region, Melanesia has the highest criminality (4.18) and the lowest resilience (4.73) for the whole of Oceania, which extends to the Pacific Islands states, Australia, and New Zealand (Global Initiative Against Transnational Organized Crime, 2023). Overall, within the Oceania region, transnational organized crime is considered relatively low. Despite this, the potential for nearby regions to take advantage of the scarce surveillance on outlying and potentially uninhabited islands increases the potential threat (Global Initiative Against Transnational Organized Crime,

2023). Drawing again on the broken windows theory, limited surveillance within the Pacific Islands “neighborhood” may manifest into greater threats in the context of maritime crime and therefore some of the potential threats warrant further consideration within the Pacific Islands region and are explored in the following sections, namely corruption, financial crimes, and exploitation of natural resources. Outlining the potential threat enables progression toward a collaborative, proactive response.

### 2.1.1. Corruption

Enabling illegal activity to cross borders freely and evade law enforcement within a challenging geography, corruption is often central to transnational criminal activity including illegal fishing (Lindley, 2023). Countless corruption scandals have emerged in recent years linked to the fishing industry around the globe, including in the Pacific (see Shubber & Beioley, 2023), and therefore tolerance to corruption is a potential weakness that organized criminal syndicates can look to exploit (Lindley, 2023). According to Transparency International’s *Corruption Perception Index*, 2022 data from Pacific Islands states is limited only to Melanesia, and therefore a complete picture of corruption in the Pacific region is unquantifiable. Drawing on available data for Melanesia, the Pacific scored 43 out of 100 (Transparency International, 2022) indicating high-levels of perceived public sector corruption compared to the leading-ranked country Denmark which scored 90 out of 100 (Transparency International, 2022). Corruption links very closely to a lack of transparency in the operations of ports (of convenience) and opaque financial sectors.

### 2.1.2. Financial Crimes

Obscured financial and banking sectors are common among some Pacific Islands. Across the three diverse subregions, Melanesia, Polynesia, and Micronesia, “economic regulatory capacity” scored among the least resilient systems in response to transnational crime (Global Initiative Against Transnational Organized Crime, 2021, p. 92). Economic regulatory capacity is defined as “the ability to control and manage the economy, and to regulate financial and economic transactions (both nationally and internationally) so that trade is able to flourish within the confines of the rule of law” (Global Initiative Against Transnational Organized Crime, 2021, p. 148). Offshore financial centers, or “tax havens” often lower or provide exemptions for income tax requirements, and the lack of transparency therefore may indirectly attract criminal syndicates who seek to obscure their ill-gotten profits and gains. Noting that not all tax avoiders are criminals, these financial centers are embraced among developing and developed countries alike, and the regulatory framework of tax havens operates under “business-friendly” policies (Global Initiative Against Transnational Organized Crime, 2023). Financial centers operating these “business friendly” policies support international businesses, legal or illegal, and take advantage of legitimate tax regulations that allow illegally obtained funds to be “laundered” through the legitimate banking system (Shaxson, 2019). As such, operating sympathetic tax and regulatory systems within the Pacific region may inadvertently open the door to transnational crime. While definitions vary, tax havens are common among Pacific Island states. For example, American Samoa, Fiji, Guam, the Marshall Islands, Palau, Samoa, and Vanuatu have been referred to as “tax havens” (European Council, 2023). These states may offer their customers legal, yet clement banking options beyond often stricter banking laws predicated by the legitimate international banking system (European Council, 2023), which in turn, can attract criminally obtained funds. As is the case with the financial centers themselves, the perceived benefits to these tax haven states may also be opaque, causing harm within and beyond the region when linked to transnational crime (Shaxson, 2019).

### 2.1.3. Exploitation of Natural Resources

Given the Pacific region's expansive maritime domain, unsurprisingly there is a heavy reliance on natural oceanic resources. As an abundant fishing ground, IUU fishing has changed the availability of fish stocks across the globe, including in the Pacific region. As fish do not neatly adhere to the artificial legal boundaries established by the 1982 UN Convention on the Law of the Sea (UNCLOS), regional efforts to address IUU fishing have long been established and international instruments are in place to limit its impact (see Lindley & Techera, 2017). Much of the IUU fishing that reportedly occurs in the Pacific Ocean is unreported or misreported, representing a broken window and the potential for maritime decay to exacerbate (MRAG Asia Pacific, 2021). Research continues to suggest an ongoing link between IUU fishing and transnational organized crime (UN Office on Drugs and Crime, 2023). More broadly, the Pacific's blue economy is integral to its prosperity, particularly marine tourism. Protecting the Pacific from the onset of more extreme crimes such as piracy and maritime terrorism, is particularly important. There is the potential for pleasure craft and cruise vessels to be targeted and therefore proactive, regionally aligned responses to maritime terrorism must form part of the response (Kelling & Wilson, 1982; Potgieter & Schofield, 2010).

Criminals may also seek to illegally exploit the Pacific region's other valuable oceanic resources including deep sea minerals and the biopiracy of marine genetic resources. The marine environment of the Pacific region requires protection within and beyond the EEZs of each state. However, this is complicated by the fact that many potential maritime boundaries remain undelimited in the Pacific region, which can prove problematic from both a blue economy and maritime security perspective. Regulating the sustainable management of marine living resources can be "severely hampered where maritime boundaries remain unsettled and potentially broad areas of disputed waters exist" (Voyer et al., 2018, p. 35). As there will be growing demand for Pacific Island oceanic resources in the years to come, the resolution of these maritime disputes will be essential to sustainably manage the region's marine resources and maintain the integrity of its natural environment under the 2050 Strategy for the Blue Pacific Continent (Pacific Islands Forum Secretariat, 2022).

## 2.2. Targeting Broken Windows to Prevent Crimes: International Legal Architecture Toward Maritime Justice

With increasing focus on global ocean protection and sustainability over the past couple of decades, there has also been an uptick in the number of related international instruments to guide national law and policy direction in this space. While this is positive, frustratingly, many of these instruments are soft law being non-binding and voluntary in nature. Moreover, when it comes to the binding instruments, oftentimes the necessary support and acceptance of these instruments has been slow, delaying their entry into force. One example is the WTO Agreement on Fisheries Subsidies adopted on 7 June 2022 which sets new binding multilateral rules to curb harmful fishing subsidies and prohibits certain forms of subsidies that contribute to overcapacity, overfishing, and IUU fishing (Lindley, 2021; WTO, n.d.). To date, 81 of the WTO members have formally accepted the Agreement on Fisheries Subsidies, however, 29 more formal acceptances will be required to bring the instrument into force (WTO, 2024). While the intention behind instruments, like the WTO Agreement on Fisheries Subsidies, is promising, inconsistency in adoption between states on these issues may hinder effective international and national responses, leaving states vulnerable to risk without a suitable means to legally respond.



International law provides a suitable framework for states to harmonize their domestic laws, reducing complexity in responding to shared threats. In the Pacific region, the potential for transnational maritime crime to infiltrate increases the pressure on each state to respond effectively and creates a potential risk for spillover between the Island states, both on land and at sea. To prevent maritime decay, as predicated within the broken windows theory, we suggest drawing on international law as a building block to harmonize an effective response to transnational maritime crime in the Pacific Islands region.

In 2014, the international community acknowledged the vulnerabilities of SIDS within the Samoa Pathway, which builds on the 1994 Barbados Programme of Action and the 2005 Mauritius Strategy. Specifically, the Samoa Pathway noted: “We support the efforts of small island developing states to combat trafficking in persons, cybercrime, drug trafficking, transnational organized crime and international piracy by promoting the accession, ratification and implementation of applicable conventions” (UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, 2014, p.48). Notwithstanding the existing bodies and institutions that collaborate on shared regional concerns, including maritime crime, this non-binding instrument provides the impetus for collective action to build a regional response.

While the extent of relevant international instruments is potentially endless, Table 1 outlines the most relevant in the maritime crime context for the Pacific Islands region: the UN Convention Against Corruption (UNCAC), the United Nations Convention Against Transnational Organized Crime (UNTOC), and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (TIPP), supplementing the UNTOC, the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (commonly known as the Vienna Convention), UNCLOS, and the Agreement under UNCLOS on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ Agreement).

**Table 1.** International instruments relevant to transnational organized (maritime) crime and the status of Pacific Islands states.

SubRegion	Country	UNCAC	UNTOC	TIPP	Vienna Convention	UNCLOS	BBNJ Agreement
Melanesia	Fiji	14 May 2008*	19 September 2017*	19 September 2017*	25 March 1993*	10 December 1982	20 September 2023
	Papua New Guinea	16 July 2007	–	–	–	14 January 1997	–
	Solomon Islands	6 January 2012*	–	–	–	23 June 1997	20 September 2023
	Timor-Leste	27 March 2009	9 November 2009*	9 November 2009*	3 June 2014*	8 January 2013*	20 September 2023
	Vanuatu	12 July 2011*	4 January 2006*	–	–	26 January 2006*	10 August 1999



**Table 1.** (Cont.) International instruments relevant to transnational organized (maritime) crime and the status of Pacific Islands states.

SubRegion	Country	UNCAC	UNTOC	TIPP	Vienna Convention	UNCLOS	BBNJ Agreement
Micronesia	Federated States of Micronesia	21 March 2012*	24 May 2004*	2 November 2011*	6 July 2004*	29 April 1991*	3 June 2024*
	Kiribati	27 September 2013*	15 September 2005*	15 September 2005*	—	24 February 2003*	—
	Marshall Islands	17 November 2011	15 June 2011*	—	5 November 2010*	9 August 1991*	20 September 2023
	Nauru	12 July 2012*	12 July 2012	12 July 2012	12 July 2012*	23 January 1996	22 September 2023
	Palau	24 March 2009*	13 May 2019*	27 May 2019*	14 August 2019*	30 September 1996*	22 January 2024*
Polynesia	Cook Islands	17 October 2011	4 March 2004*	—	22 February 2005*	15 February 1995	22 September 2023
	Niue	3 October 2017*	16 July 2012*	—	16 July 2012*	11 October 2006	—
	Samoa	16 April 2018*	17 December 2014*	—	19 August 2005*	14 August 1995	20 September 2023
	Tonga	6 February 2020*	3 October 2014*	—	29 April 1996*	2 August 1995*	26 January 2024
	Tuvalu	04 September 2015*	—	—	—	9 December 2002	20 September 2023
Overseas territories: US	American Samoa, Commonwealth of the Northern Mariana Islands, and Guam	30 October 2006	3 November 2005	3 November 2005	20 February 1990	—**	20 September 2023
Overseas territories: France	New Caledonia, and French Polynesia	11 July 2005	29 October 2002	29 October 2002	31 December 1990	11 April 1996	20 September 2023

Notes: \* Ratification and accession; \*\* The US observes UNCLOS and acknowledges it as reflecting customary international law but is not a state party to the instrument.

As shown in Table 1, there is inconsistency in the adoption of relevant international law across the region. The Melanesian states have adopted fewer instruments, as compared to the states from the other two subregions, and as previously noted, also has the highest criminality and lowest resilience of the Pacific

Islands region (Global Initiative Against Transnational Organized Crime, 2023). Across the three subregions, TIPPP has the lowest rate of adoption, however, all Pacific Island states have adopted UNCAC (UN Office on Drugs and Crime, n.d.-a, n.d.-b). The BBNJ Agreement opened for signature on 20 September 2023 and is yet to enter into force. To date, Palau and the Federated States of Micronesia are the only Pacific Island state to ratify the BBNJ Agreement (UN, 2023a). As the protection of biodiversity beyond national jurisdiction is a shared concern that extends beyond individual states and touches on values of national, regional, and global significance, regional resilience can be bolstered by aligning and collaborating on responses to common, potential threats through harmonized building blocks.

Responding to common regional threats in the Pacific may be overwhelming for some SIDS given the disparate adoption of existing international laws, along with a varying political will. Additionally, some states may disregard certain maritime crimes for lack of a foreseeable threat. Importantly, most Pacific Island states belong to the UN community of SIDS. The 2014 SIDS Samoa Pathway provides a collective avenue for cooperation to collaboratively develop responses to common threats beyond crime, such as climate change (UN Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, 2014, see para. 17, 19, and 21). Again, acknowledging the diversity of the Pacific Islands, and understanding the threats and gaps can guide development towards a toolkit to build a strong and aligned regional and subregional response.

### 2.2.1. Responding to Corruption

While the threat models may differ across the region, looking at common threats such as corruption (as an essential enabler to transnational maritime crime) may be useful in harmoniously tying the region together (Lindley, 2020). Corruption enables crime, allowing government officials to implicitly or explicitly support criminal organizations in their illicit activities by cutting red tape or allowing threats to go undetected (UN, 2004). Regional coordination in counter-corruption approaches to maritime crime might provide a suitable point of alignment.

The 2022 *Corruption Perception Index* identifies the Pacific Island region as facing among the highest perceived corruption globally, implying support for maritime criminal threats especially illegal fishing (Transparency International, 2022). A Western definition of perceived corruption is applied in the Index; often corruption is intertwined or embedded within culture, as is often the case in the Pacific, which may worsen the ranking. In 2004, the UN adopted the UNCAC which sought to disentangle cultural and definitional inconsistencies in the way in which corruption was interpreted and responses applied globally (UN, 2004). The UNCAC requires state parties to actively pursue corruption and any flow-on effects enabling other criminal threats (UN, 2004, see preamble). Having reached almost universal acceptance, the UNCAC has been adopted by every Pacific Island state, thus facilitating harmonized cooperative counter-corruption responses in and beyond the Pacific region (UN Office on Drugs and Crime, n.d.-b).

### 2.2.2. Responding to Financial Crimes

As noted in Section 1, resilience to economic regulatory capacity scored low across the Pacific Islands. Money laundering is outlined within UNCAC, UNTOC, and the Vienna Convention acknowledging its close links to enable transnational crime. Most relevantly, UNCAC Art. 14(1)(a) notes:

Each state party shall institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions...that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money laundering, within its competence, in order to deter and detect all forms of money-laundering. (UN, 2004, Art. 14(1)(a))

To prevent corruption, strengthened internal systems drawing from international instruments could assist. For example, the UNTOC outlines approaches for international cooperation and information sharing (UN, 2000, Arts. 26, 27, and 28); while the UNCAC provides states with guidance around money laundering and proceeds of crime control (UN, 2004, Arts. 14 and 52). The acknowledged link to terrorism is also addressed to limit transnational organized crime financing terror (UN, 1999, Arts. 6, 7, 8, and 9). Focusing on limiting corruption to contain the financing of terror through transnational organized criminal activities may be more realistic than attempting to eliminate it (UN Interregional Crime and Justice Research Institute, 2019).

To limit transnational maritime crime, border control is necessary. Aided by corruption, porous borders—both physical and virtual—enable illegal entry of people, electronic financial transfers, and contraband, such as weapons and drugs, and enable landings of illegally caught fish. Removing the opportunity for illegal entry assists in disabling maritime criminal activities. Border strength delivers a strong message that the Pacific region is a hostile environment for transnational maritime criminal groups and terrorist cells to infiltrate and evade law enforcement. Regionally, border strength is an asset as it limits criminals from “shopping around” to another sympathetic entry point within the region to continue illicit activities unabated. The UNCAC sets out preventative measures that could be suitable building blocks to harmonize the region’s response, rather than establishing regional policies anew.

### 2.2.3. Responding to Broader Natural Resource Crime at Sea

UNCLOS remains the pre-eminent framework for the contemporary law of the sea and has among the highest number of ratifications across international instruments. UNCLOS has been signed by 170 state parties, including all Pacific Island states—a notable exception is the US. However, although the US is not a party to UNCLOS, it treats the Convention as customary international law (Kelley, 2011). While UNCLOS does not extend its focus to include crime, importantly it establishes a legal framework of rules for determining the rights and duties of states with respect to their use of maritime space (Lothian, 2023). A critical component of this framework is the division of the ocean into maritime zones, each with its own specific legal regime (Lothian, 2023). These maritime zones include but are not limited to, the territorial sea (UN, 1982, Art. 3), the EEZ (UN, 1982, Arts. 55 and 57), and the high seas (UN, 1982, Art. 86). The high seas regime in Part VII of UNCLOS encompasses the water column beyond the 200 nautical mile EEZ of coastal states and are governed by the traditional Grotian freedom of the seas principle (UN, 1982, Art. 87).

While state parties of UNCLOS welcome the freedoms afforded to them on the high seas, responsibilities may be evaded when addressing collective issues to protect the global commons (UN, 1982, Arts. 87 and 192). Crime on the high seas is becoming increasingly sophisticated, due in large part to the ability of criminal groups to exploit jurisdictional and enforcement gaps and limitations (UN, 2019). Similar problems have been encountered in the protection of biodiversity beyond national jurisdiction leading to the recent adoption of the BBNJ Agreement (UN, 2023b).

#### 2.2.4. The BBNJ Agreement

The inadequate protection afforded to biodiversity beyond national jurisdiction under the current international legal framework is emblematic of the regulatory, governance, and institutional gaps that have characterized the overall fragmented approach to governing marine areas beyond national jurisdiction, including when it comes to addressing transnational maritime crime (Lothian, in press). As the overriding objective of the BBNJ Agreement is to ensure the long-term conservation and sustainable use of biodiversity beyond national jurisdiction (UN, 2023b, Art. 2), its provisions are not intended to directly address transnational maritime crime. However, the BBNJ Agreement's package deal of solutions for combatting the dire challenges facing the world's oceans, particularly the rich array of biodiversity that inhabits the deep-ocean environment (Lothian, 2023), could provide an important vehicle to guide Pacific Island states in developing a harmonized response to achieve sustainable management across the region's vast oceanscape.

Pacific states played an integral role in the BBNJ Agreement negotiation process, and this is evidenced by the inclusion of key provisions that align with and reflect regional priorities, including sustainable ocean management, the recognition of the complementarity between the best available science and scientific information, and the use of relevant traditional knowledge of Indigenous peoples and local communities as well as consultation and capacity-building for SIDS. Given the ocean is of "strategic importance and constitutes a valuable development resource" for SIDS, the Alliance of Small Island States in its submission to the BBNJ Preparatory Committee stressed that the BBNJ Agreement should take into account the "conservation burden" faced by SIDS, as a result of undertaking ambitious voluntary commitments to conserve vast marine areas within national jurisdiction (Alliance of Small Island States, 2017, p. 2). Full recognition of the special circumstances of SIDS is now included as a general principle and approach in Art. 7(m) of the BBNJ Agreement to guide state parties in achieving the objectives of the instrument, which in turn serves to highlight the unique challenges faced by Pacific Island states.

In a recent interview, the president of Palau, Surangel Whipps Jr., emphasized that the BBNJ Agreement will better protect biodiversity within the Pacific region, provide scientific research advancements, promote sustainable fisheries, enhance climate resilience, and reinforce the position of Pacific nations as stewards of the oceans (Reklai, 2023). The Pacific Islands region has led the way in the designation of large marine protected areas within their national waters (Marine Conservation Institute, n.d.). However, given their sheer size, Pacific nations have borne the burden of monitoring and managing these marine areas to ensure they remain protected (Adams, 2022). As Palau's UN representative Ambassador Ilana Seid poignantly points out, "There can't really be a mechanism for ocean governance that's just territorial. It is like having a nice house in a bad neighborhood" (Anthony, 2023). Tying this back to Kelling and Wilson's broken windows theory, in a similar vein to the prevention of transnational maritime threats, the long-term protection of biodiversity beyond national jurisdiction is challenging without cooperation. Instead, it is a global challenge that will require cooperation at the national and regional levels.

The BBNJ Agreement's process to establish area-based management tools, including a network of high seas marine protected areas, for example, could complement and sit alongside existing efforts in the Pacific region and prove to be a promising mechanism for progress in the battle against certain types of transnational maritime crime, such as IUU fishing and marine pollution (Mendenhall, 2023). For instance, the consultation and cooperative mechanisms incorporated into the BBNJ Agreement's process for the

designation of area-based management tools (UN, 2023b, Arts. 21 and 22) could present opportunities to further regional dialogue on fisheries crimes, including regional responses to overfishing, IUU fishing as well as the incidental catch of deep-sea vulnerable fish stocks.

### 3. Conclusion

Criminal threats undermine maritime security therefore appropriately responding to threats is critical to developing a Pacific Islands region that is resilient to transnational maritime crime. The vast oceanscape of the Pacific region and its geographical positioning along major global trade routes increase its vulnerability to maritime crime threats. An effective response to regional maritime criminal threats requires, as articulated in the UN Charter, a “neighborhood” approach combining cooperation among large and small nations (UN, 1945). As such, leveraging existing international laws enables cooperative regional responses to Pacific threats of maritime crime.

Maritime decay may potentially permeate into wider and more serious criminal threats to the region. From a theoretical perspective, drawing on the broken windows theory, this article suggests that efforts to limit vulnerability to maritime crimes in the Pacific should be prioritized and regional alignment through available international law can be a suitable vehicle to respond. Building on the umbrella framework for ocean governance enshrined in UNCLOS, existing and emerging instruments such as the UNTOC, UNCAC, and the BBNJ Agreement could provide the necessary foundations to support the Pacific Island region in building a strengthened response to maritime crime in the overall pursuit of achieving maritime justice. It is from this perspective that this article suggests maritime justice can be approached to reduce threats, leveraging existing regionally-led institutions guided by international instruments. Future research should consider the role of governance practices, and their limitations linked to maritime crime within the Pacific Islands region.

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### Conflict of Interests

The authors declare no conflict of interests.

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