



Coral Coast, Fiji. Credit: Maksym Kozlenko, Wikimedia Commons.

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# A case for legislative reform to accelerate investment and funding for a sustainable ocean economy in small island developing states (SIDS)

## ABSTRACT

*The ambitious goals of using and managing ocean resources sustainably are priorities for small island developing states (SIDS). However, financial flows from international funds have not been sufficient or adequate to support SIDS to realize the*



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*potential that a sustainable ocean economy (SOE) promises. This paper will address two related, but unanswered, questions on the role of law in the transition to SOE in SIDS. Belize, Fiji, and Seychelles, three international ocean leaders, will be used as case studies. Through an early-stage preliminary review of the legislation in SIDS, this paper argues that legislative reform and strengthening of the enabling legal environment, among other factors, will contribute to SIDS successfully attracting funding and investment for SOE while simultaneously contributing to meeting the multiple objectives of SOE. This research will advance the critical discussion on the importance of enabling legal environments for the achievement of national and international development goals and inform legal and institutional reform while maintaining the need to be wary of one-size-fits-all approaches.*

## INTRODUCTION

The affinity, proximity, and dependency of small island developing states (SIDS) to the ocean is often a subject of study. Many SIDS recognize the importance of sustainable use and management of the ocean, and this was most recently reflected in Sustainable Development Goal (SDG) 14 in the 2030 Sustainable Development Agenda (Lee et al., 2020), as a viable avenue for SIDS' economic benefits, while simultaneously sustainably using marine resources through the sustainable management of fisheries, aquaculture, and tourism (SDG 14.7). In and around 2012, the buzzwords 'blue economy' (BE) and 'sustainable ocean economy' (SOE) emerged as potential development pathways that present new economic opportunities for SIDS. The implementation of the blue economy or sustainable ocean economy across SIDS has been scattered and without any clear uniformity. Overall, progress on the achievement of SDG 14.7 has been slow and in some SIDS, absent (United Nations, 2022). The lack of finance has been identified as one of the main reasons for the lack of progress (C. L. Mitchell & Hinds, 1999; United Nations, 2022). However, insufficient work has been undertaken to understand what is required to unlock financial flows to SIDS to support the development of their sustainable ocean economies.

Financing SOE in SIDS is a subject that has not received significant coverage in both academic literature and practice (Bos et al., 2015; Sumaila et al., 2020, 2021). One of the reasons identified for the trickle of finance to support SOE in SIDS is the lack of or the absence of a stable and robust regulatory framework (Sumaila et al., 2020, 2021). However, there has been insufficient research conducted to identify the content of such regulatory frameworks. What are the laws or specific provisions that funders and investors need to see to be motivated to fund or invest in a SIDS' SOE? Another tension that has emerged in the literature is the feasibility of BE or SOE in achieving the triple wins of economic prosperity, ecological sustainability, and social equity that it professes it can achieve. Although the majority of literature has considered this issue in great depth and philosophized about the tensions of the pillars of sustainable

development (Cisneros-Montemayor et al., 2022; Germond-Duret, 2022; Silver et al., 2015; Voyer et al., 2018), less has been considered about what tools can be used to contribute to achieving or balancing the multiple objectives of SOE. In this chapter, it is posited that regulatory frameworks and legislation can contribute to the achievement or balance of multiple objectives of SOE. More research is urgently needed in this area (Bos et al., 2015).

Applying the Law and Finance theory, this paper will investigate the extent to which SIDS, specifically, Fiji, Belize, and Seychelles, possess the laws that the Law and Finance theory posit are crucial to attracting financing and in turn promote economic growth. There are multiple governance regimes that either sit side by side or layered on top of each other, which govern the different sectors of SOE and still require interaction between and among the governance regimes while simultaneously achieving or balancing multiple objectives (Schutter, 2020). This paper will identify the institutional arrangements and laws that contribute to enabling SIDS to meet the multiple objectives of SOE in the three selected SIDS.

## **LITERATURE REVIEW: SIDS, INVESTMENTS, AND THE SUSTAINABLE OCEAN ECONOMY**

SIDS have a combination of characteristics that affect their potential to attract investment and funding. On the one hand, they possess valuable natural resources, including extensive marine resources as an advantage for the development of the fisheries and tourism sectors (Read, 2018; UNCTAD, 2014b). On the other hand, the combination of their small size, in terms of both land mass and population, dispersed geographies and remoteness, and narrow economic base collectively create serious constraints for the domestic economy, investment opportunities, and policy autonomy (Armstrong et al., 1998). The economies of SIDS are mainly based on ocean-related sectors (Mitchell & Hinds, 1999), usually because of the size of the Exclusive Economic Zone (EEZ) and availability of marine resources.

## **WHAT IS THE SUSTAINABLE OCEAN ECONOMY?**

A sustainable ocean economy (SOE) has been identified as a development pathway that is likely to bring economic advantages to SIDS while still using a development model that enables the sustainable use and management of marine resources (SDG 14.7). The term SOE has been used interchangeably in the scholarly literature and in policy documents, with other terms such as the marine economy (ME), blue growth (BG), and the blue economy (BE) (Martinez-Vazquez et al., 2021). Multiple definitions of SOE have been advanced. They include,

“long-term sustainable use of ocean resources in ways that preserve the health and resilience of marine ecosystems and improve livelihoods and jobs, balancing protection and production” (Winther et al., 2020).

“activities that conserve the ocean and the development of marine sectors more sustainably” (OECD, 2020).

“improving human well-being and social equity, while significantly reducing environmental risks and ecological scarcity” (UNCTAD, 2014).

In both academia and practice, the terms ‘sustainable ocean economy’ and ‘blue economy’ are used interchangeably, and the definition used for the specific term is usually not clarified. Some have argued that BE is synonymous with SOE (Mulazzani & Malorgio, 2017), while others have drawn a distinction arguing that SOE is based on environmental ocean health as the foundation from which economic and social benefits flow, while the primary focus of the BE is equitable processes and benefits (Cisneros-Montemayor et al., 2022). This characterization of BE is not universally agreed on, as many argue that BE is primarily focused on economic growth (Choi, 2017; Germond-Duret, 2022).

The debate on whether it is feasible for SOE or BE to strike a balance between the three main objectives of sustainable development—environmental, social, and economic—has been an area that has received significant consideration in the literature (Keen et al., 2018; Smith-Godfrey, 2016). Some have gone on to add additional objectives, such as ‘resource use’ and good governance (Keen et al., 2018; Smith-Godfrey, 2016; Voyer et al., 2020). The jury is still out on whether achieving the multiple objectives of SOE is feasible or even desirable (Cisneros-Montemayor et al., 2022; Germond-Duret, 2022; Silver et al., 2015; Voyer et al., 2018). With the majority

Belize City Canal. Credit: Bernard Dupont, Wikimedia Commons.



of the literature pointing to inherent conflicts and contradictions, since economic development may threaten the sustainability of resources and some economic models seldom prioritize the social pillar (Germond-Duret, 2022; Voyer et al., 2018), few academics have argued that these conflicts can be remedied with the right processes and regulatory frameworks (Singh et al., 2018).

Turning to practice, a review of the blue economy, maritime economy, or equivalent policies in SIDS reveal that SIDS have differing definitions and views on the SOE, BE, and maritime economy (Pouponneau, 2023). Pouponneau (2023) sets out the varying definitions that SIDS employ for the blue economy:

<b>Belize</b>	The blue economy has been defined as “economic activities that (1) take place in the marine environment or that (2) use sea resources as input, as well as (3) economic activities that are involved in the production of goods or the provision of services that will directly contribute to the activities that take place in the marine environment” (Belize Ministry of Blue Economy and Civil Aviation, Belize Maritime Economy Plan, 2022, p. 1).
<b>Seychelles</b>	“To develop a blue economy as a means of realizing the nation’s development potential through an innovative, knowledge-led approach, being mindful of the need to conserve the integrity of the Seychelles’ marine environment and heritage for present and future generations” (Government of Seychelles, 2018, Vision, goals, and principles section).
<b>Fiji</b>	The vision is for “a healthy ocean that sustains the livelihoods and aspirations of current and future generations of Fiji.” The mission is “to secure and sustainably manage all of Fiji’s ocean and marine resources” (Fiji Ministry of Economy, 2021, National Ocean Policy section, para. 3.1 – 3.2).

In examining the definitions or visions used by these three SIDS, it is evident that there are differences in the perspectives of the blue economy or the sustainable ocean economy among SIDS. This is the case even if SIDS are found in the same region (Hassanali, 2020). The distinctions are apparent, as some SIDS have not employed a definition altogether with a focus on the ocean as a whole, rather than zooming in on BE or SOE. On the one hand, Belize refers to BE as ‘economic activities,’ while Seychelles sees it ‘as a means.’ Both Fiji and Seychelles refer to meeting the needs and aspirations of current and future generations that emanate from Brundtland’s definition of sustainability and the need to secure, conserve, and sustainably manage ocean and marine resources. With each SIDS having their own understanding and prioritization of the pillars of SOE set out in their policy documents, it provides an untapped opportunity to examine what tools they have sought to achieve these policy aspirations. This paper will focus, in particular, on identifying what laws they have in place.

## SOURCES OF FUNDING FOR THE SUSTAINABLE OCEAN ECONOMY

Regardless of these differences, one commonality is that SIDS require international sources of funding to contribute to the pursuit of BE or SOE. Generally, SIDS have limited resources from their national budgets and a narrow tax base, so they frequently turn to international sources of funding for development (Shiiba et al., 2022). However, SDG 14 is identified as the most underfunded of the SDGs (OECD, 2021). In general, only 4% of overseas development assistance (ODA) to SIDS contributed to SOE (OECD, 2021). Furthermore, both globally and specifically to SIDS, the top three sectors that benefit from ODA are maritime transportation, fisheries, and marine conservation (OECD, 2021) in that order and none of the top 10 recipients of ODA for SOE are SIDS (OECD, 2021). Statistics on ODA should be examined with caution, since 10 SIDS are not eligible for ODA due to their high-income economic status, that is, economies with a gross national income per capita of \$13,205 USD or more (Quak, 2019; World Bank, n.d.). ODA remains the main contributor to SOE, and private finance and philanthropy are complementary (Kim & Jun, 2022).

There are four main international sources of funding for the SOE. They include public sources of funding, commonly referred to as overseas development assistance (ODA). However, as early as the late 1990s, there was evidence of the decline in ODA from rich countries to developing countries (Mitchell & Hinds, 1999). Some have argued that the reduced financial flows to developing countries is attributed to an absence of law and institutional quality in developing countries (Azémar & Desbordes,

2013; Contractor et al., 2020; Globerman & Shapiro, 2002; Schularick & Steger, 2008; Snyder, 2013). Another source of funding is the private sector, but this is usually channeled to specific sectors through multinational corporations (MNCs). MNCs are generally driven by obtaining a financial return, although there is growing recognition of the importance of business ethics and corporate social responsibility that have influenced some investors (Cunha et al., 2021). The private sectors' reluctance also stems from the lack of established principles against which their investments can be measured, as in fact, supporting the SOE. A series of initiatives such as the development of

the Sustainable Blue Economy Finance principles (European Commission et al., 2018) have tried to remedy this, but they remain voluntary and not legally binding (Smith, 2021). Finally, another source of funding for SOE is philanthropy. Philanthropy can be broadly defined as voluntary action for the public good. Philanthropists can be organizations and high-net-worth individuals. Philanthropists usually provide grant

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funding, and therefore there is no expectation of a financial return and they are motivated by social or environmental causes (Holmes, 2012; Ramutsindela et al., 2013). However, ODA still outweighs other sources in terms of scale (OECD, 2021).

In an attempt to bridge the persistent funding gap, blended finance is advanced as a solution to meet development costs (Kim & Jun, 2022; United Nations, 2015). Blended finance is where public funds are leveraged to attract private capital or philanthropic donations to achieve development goals (Convergence, 2018). In the context of SOE, other financial instruments have been identified such as the blue bond and debt-for-nature swap for ocean conservation (Tirumala & Tiwari, 2020). These are debt instruments used to raise funds to finance marine-based projects with the objective of having environmental and social impacts while still generating a financial return on investment (Silver & Campbell, 2018; Thompson, 2022; Tirumala & Tiwari, 2020). Even with all these financing options, financing SOE in SIDS remains a challenge. SIDS are restricted by a limited domestic market and a limited supply of both cheap and skilled labour (Read, 2018). This is further exacerbated by the lack of technical, institutional, and financial capacities and an absent or weak regulatory framework for the development of SOE in SIDS (Onguglo & Eugui, 2018; World Bank & United Nations Department on Economic and Social Affairs, 2017). The question is how we can address this practical problem. The paper posits that an enabling legal framework and institutional arrangement can contribute to the unlocking of financial flows, but more is required to understand the legislative content and design of laws that enable this.

## THE ROLE OF LAWS IN ACHIEVING THE SUSTAINABLE OCEAN ECONOMY

In the development of SOE, laws seem to have multiple roles to play. The first is to attract investment and funding. The Law and Finance theory posits that law is a determinant of investment because law is an enabler to achieving economic outcomes (La Porta et al., 2008; Schnyder et al., 2021). They point to specific provisions in company, commercial, bankruptcy, and securities laws as laws that offer protection to foreign investors and in turn, make for attractive regulatory environments. La Porta and company identified pre-selected indicators that they argue are crucial to foreign investors whereas others have argued that the enabling role of law is primarily related to enabling the conclusion and enforcement of contracts (La Porta et al., 2008; Schnyder et al., 2021). Second, once funding and investment are attracted into the country, laws can be used to contribute to enabling and balancing the multiple objectives of SOE (Mitchell & Hinds, 1999; Onguglo & Eugui, 2018). However, very few of the SIDS examined have implemented national and/or regional policies for SOE (Onguglo & Eugui, 2018). In island nations, institutional quality, demonstrated through indicators linked to democracy and the rule of law, is a contributing factor to economic growth

in small economies (Congdon Fors, 2014). However, research on specific laws that promote economic outcomes is lacking. Such research would be more instructive to countries on the types and content of laws that would be supported in attracting investment and funding to develop SOE. The limited literature on this subject highlights the need for reforms with regard to the alignment of legal frameworks with customary marine tenure, clarifying rights over marine space, revising and reforming outdated and sector-specific legislation (Keen et al., 2018), strong laws on intellectual property, and in particular, patent law and access and benefit-sharing laws (Frogner, 2009), laws that institute formal co-management arrangements (Cisneros-Montemayor et al., 2019) and provide incentives for investments (Sumaila et al., 2020, 2021), and the introduction of blue finance concepts into domestic policies and regulations (Shiiba et al., 2022).

## METHODS

In light of the broad scope of SOE, this paper has selected three sectors as proxies for SOE. They include fisheries and aquaculture, marine protection, and marine biotechnology. This paper also draws specifically from three SIDS, each from a different SIDS region, that have successfully attracted significant investment and funding for the development of SOE. They are Belize, Fiji, and Seychelles.

The first research question is whether law is a determinant to investment and funding decisions for SOE in SIDS. To respond to the first research question, a preliminary review of the legislation in the three selected SIDS was undertaken to identify whether the legislation that Law and Finance theorists identify as crucial to attracting investments has been enacted in those three SIDS. The following Acts of Parliament were reviewed: the Companies Ordinance 1972 (as amended) of Seychelles, Belize Companies Act of 2022, Companies Act 2015 of Fiji, Bankruptcy Act 1944 of Fiji, Insolvency Act 2013 of Seychelles, and the Belize Bankruptcy Act 2011. However, arguably, identifying the existence of legislative provisions does not confirm that these laws are, in fact, determinants for different funders of SOE. This is especially the case in the context of SOE as the Law and Finance theorists have focused on the experience of multinational corporations (MNCs), leaving the motivators of philanthropists, impact investors, and other public funding agencies understudied. Furthermore, as this is still a preliminary review, it has not studied the content of the legislation in-depth, and therefore caution should be exercised in drawing any conclusions. More work will be required to examine the motivators of other types of funders.

The second research question seeks to identify the types and/or combination of laws and institutional arrangements that contribute to enabling SIDS to meet the multiple objectives of SOE. To respond to this, the institutional arrangements for SOE in each of the selected SIDS were identified and subsequently an inventory of the laws



of the selected sectors of SOE will be carried out using the online legal databases of each country. Each inventory is organized chronologically and based on the relevant sector. From this inventory, we will compare the experiences of each SIDS. However, similar to the above, this is a preliminary screening that does not deeply analyze the content and structure of the legislation and focuses mainly on the existence of the law. Moreover, by focusing on the laws of sectors, it ignores the fact that other laws may contribute to enable SIDS to meet the multiple objectives of SOE. This provides the basis for further in-depth research.

## RESULTS AND DISCUSSION

### **Finding 1 – It is unclear whether foreign investor protection laws are determinants of investments in SOE in SIDS**

The Law and Finance theorists identify foreign investor protection laws as most critical in attracting investments and in turn, increasing economic prosperity. Laws, such as those associated with companies, securities, labour, bankruptcy (La Porta et al., 2008; Schnyder et al., 2021), tax (Djankov et al., 2010), and anti-money laundering (Ofoeda et al., 2022) are found to be the most relevant for investors. Despite the similarities among Belize, Fiji, and Seychelles in successfully attracting funding in their respective region, there are evident differences in their prioritization of foreign investor protection laws.

In reviewing the legislation of Belize, Fiji, and Seychelles, based on the seven pre-selected indicators advancing anti-director rights as identified by the methodology employed by La Porta et al. (2008), the three SIDS did not possess all the indicators that La Porta and others deemed essential. All three SIDS had the following:

1. laws that enable shareholders to challenge the decision of management or of the assembly or require the company to purchase their shares if they disagree with a fundamental change, such as mergers, assets, and changes to the articles of association,
2. laws that grant shareholders the right to buy new issues of stock, and this right can only be waived by a shareholder vote, and
2. laws that enable shareholders with 1–33% of ownership of share of capital to call an extraordinary meeting.

Seychelles and Belize both had company or commercial laws that require one vote per share and laws that prohibit the existence of multiple voting and non-voting ordinary shares. However, only Seychelles had a company law that allowed shareholders to mail their proxy vote and to cast all their votes for one candidate for the Board of Directors or a mechanism of proportional representation where the minority shareholders can name a proportional number of directors to the Board. None of the SIDS



Beach “Grand Anse” La Digue, Seychelles. Credit: Tobias Alt, Wikimedia Commons.

had company law that prohibits firms from requiring that shareholders deposit their shares prior to their General Shareholder Meeting, thus preventing them from selling their shares for a number of days.

Another important element is the creditors’ rights. In this instance, we found that all three SIDS had laws in place restricting reorganization procedures, including creditors’ consent for reorganization and that the official appointed by Court or by the creditors is responsible for the operation of the business when there is a process of reorganization and debtors do not keep the administration of its property pending the reorganization process. Fiji and Belize also have bankruptcy laws that mean the reorganization procedure does not impose an automatic stay on secured assets on the firm filing for reorganization, automatic stays prevent secured creditors from getting access to their secured assets, and that secured creditors are ranked first in the distribution of proceeds in the disposition of assets in the bankruptcy. Such provisions are absent in Seychelles bankruptcy laws.

Finally, other laws that have been identified as relevant for foreign investors include laws relating to employment, immigration, property acquisition, access to capital domestically, taxation, and dispute resolution (Mohammed et al., 2021). From this preliminary review, it is evident that SIDS are at different levels as it relates to having all the laws that La Porta and others identify as critical. This may mean that there is a need for laws to be strengthened to contribute to attracting investors. However, caution should be exercised in simply recommending legislative change after such a preliminary review, as laws need to be situated within a political and socio-economic context (Schrama, 2011). On the other hand, given that Fiji, Belize, and Seychelles are already very successful in attracting funding and investments for SOE, it may be indic-

ative that not all the laws are as important as La Porta and others suggest and/or that there are other laws or factors that are motivating funders and investors in providing funding to these three selected SIDS. Further enquiry into the motivations of other funder types is warranted.

### **Finding 2 – There is no one-size-fits-all for institutional arrangements for SOE**

The literature on institutional arrangements for SOE is nearly non-existent, with only one article focusing on an identification of the different arrangements in different Commonwealth countries (Voyer et al., 2022). However, by merely identifying these, it lacks both description of how it operates within the broader BE ecosystem and it does not evaluate the effectiveness of one model over the others but rather calls for further research to close the gap (Voyer et al., 2022). In examining the three selected SIDS, there is a difference in the institutional arrangement for SOE. Fiji does not have a Department or Ministry dedicated to the ocean, BE, or ocean affairs/ocean economy, while Seychelles and Belize both established Departments of Blue Economy (Voyer et al., 2022) in 2015 and 2020 respectively.

In spite of the differences in institutional arrangements, each SIDS has been successful in attracting investment and funding. Another significant research gap is the consideration of legislation and institutional arrangements that are relevant to attract investment and funding for SOE from different donors (Mohammed et al., 2021), the motivations of selecting one over the other, the experiences of each type of institutional arrangement, and examining how it supports with the balancing of the multiple objectives of SOE. This warrants a more in-depth examination.

### **Finding 3 – Law and institutional arrangements play a role in achieving and balancing the multiple objectives of SOE in SIDS**

The current literature on SOE has engaged at length with the identified friction between the different objectives of SOE (Bax et al., 2022; Germond-Duret, 2022; Silver et al., 2015; Smith-Godfrey, 2016). So far, the literature presents laws as playing a role in achieving and balancing the multiple objectives (Carolus, 2015; Ntona & Schröder, 2020; Sloan & Chand, 2015; UNCTAD, 2019; Verutes et al., 2017; Zuercher et al., 2022). Focusing on the experiences of the three SIDS selected for this research, the initial preliminary screening of laws related to the marine and coastal governance, fisheries and aquaculture, marine protection, and marine bioprospecting find that they have laws in place with the objective of advancing those sectors.

**TABLE 1: Summary of preliminary findings based on an inventory of laws of Belize, Fiji, and Seychelles as of September 1, 2022**

INDICATORS	BELIZE	FIJI	SEYCHELLES
Laws designating marine protected areas before 2012	Yes	Yes	Yes
Aquaculture-specific laws before 2012	No	No	No
Marine bioprospecting-specific laws before 2012	No	No	No
Number of laws enacted after 2012 relating to marine governance and three selected sectors	10	50	50
No. of laws on marine protection laws enacted after 2012	5	20	35
No. of laws on fisheries and aquaculture enacted after 2012	3	16	4
Number of aquaculture-specific laws enacted after 2012	0	0	1
No. of laws on marine bioprospecting-specific enacted after 2012	0	0	0

From the inventory of laws drawn from the selected sectors, there are similarities and differences in their experiences of the three SIDS. This screening did not delve into the substance of the laws and, therefore, can only draw on the inventory. In terms of similarity, all three SIDS have enacted laws in the three relevant sectors. Prior to 2012, all three SIDS had already established marine protected areas, but had no dedicated law on aquaculture and/or marine bioprospecting. Another interesting finding is that from a simple count, it is evident that there is an exponential increase in the number of laws relating to the three selected sectors after 2012 in Fiji and Seychelles. On the other hand, Belize shows a different trend whereby there are more laws related to the SOE sectors enacted prior to 2012 relating to these sectors than after 2012. It can be speculated that Belize may be deemed to be an ‘early adopter’ of such laws. This can be traced back to a 1989 workshop where the integrated coastal management process was identified as necessary for the management of Belize’s coastal and marine resources. This led to the creation of a Coastal Zone Management Unit that was supported by a UNDP/GEF funded coastal zone management project from 1993–1998. (Cho, 2005). However, it is best to err on the side of caution and call for further examination of the surrounding contexts to explain why this is the case and also examination of its content to understand what these laws are designed to do (Madhoo, 2021; Sloan & Chand, 2015). Also, dissimilar to Fiji and Belize, the Seychelles is the only SIDS that enacted aquaculture-specific regulations after 2012. This research is still at a preliminary stage and, therefore, the content of laws has not been examined. An examination of the content has the potential of providing a better understanding of the intentions of policy and lawmakers and revealing how laws have evolved before and

after 2012, and the outcomes that flow from this. For example, an early finding is that in 1984, Seychelles established the Seychelles Fishing Authority with the objective of kickstarting the fisheries industry (Seychelles Fishing Authority (Establishment) Act, 1984). However, in 2014, the Fisheries Act amended the main objective of the Seychelles Fishing Authority to be the sustainable management of the fisheries resources (Fisheries Act, 2014). An in-depth analysis can reveal how laws have been used to contribute to meeting the multiple objectives of SOE.

Other trends from the literature review suggest that SIDS have sought to balance environmental and economic objectives by using integrated coastal management and, in some cases, Marine Spatial Planning (Agostini et al., 2015; Cho, 2005; Lane, 2008; Verutes et al., 2017). However, there are differences in whether they seek to pursue Integrated Coastal Management (ICM) or Marine Spatial Planning (MSP) through policy or law (Lombard et al., 2019). In both cases, such processes have met resistance to moving to an integrated approach (Cho, 2005; Verutes et al., 2017). SIDS have also enacted legislation with the aim of achieving environmental objectives (Siekiera, 2019; Techera, 2019; Voyer et al., 2020) as well as economic objectives (Mohammed et al., 2021).

From the inventory, it is evident that there has been a sectoral approach in how laws are enacted, and there were no laws that *prima facie* sought to achieve an integrated approach to ocean management. However, caution must be taken at this juncture, as a more in-depth analysis is required.

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## DISCUSSION

An enabling legal environment is frequently pointed to as the factor that would unlock financial flows to developing countries, including SIDS (Alfaro et al., 2005; Azémar & Desbordes, 2013; Lucas, 1990; Schularick & Steger, 2008). However, understanding of the content of the enabling legal environment in the context of the sustainable ocean economy in SIDS has been limited. When examining the three selected SIDS, it is evident that despite their success in their respective regions, there is seemingly no definite correlation between the existence of specific laws and institutional arrangements that determine their success. This is evident from the fact that each has differing institutional arrangements and has on the surface, differing regulatory frameworks in place, some more modern than others. This seems to suggest that there is no one-size-fits-all solution and there is a need to identify the multiple options that SIDS have to enable unlocking of financial flows and

meeting the multiple objectives of SOE in the three selected SIDS. This can then be something that countries can look at to ascertain what would work best for them.

At the same time, such findings of a lack of uniformity or a ‘magic formula’ that all successful SIDS have, suggests that success is not wholly attributed to the existence of laws that protect foreign investors, but there may be other factors in play besides institutional arrangements and legislation that contribute to the success of the selected SIDS in attracting finance to their country. This may relate to other factors such as their geographic location and size of their EEZ, their income level (Azémar & Desbordes, 2013), institutional quality (Madhoo, 2021) or simply political ambition as it

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relates to the ocean. Current studies have focused primarily on the experience of MNCs; hence, the failure to understand the appreciable differences with other funders and investors of SOE in SIDS.

On the other hand, it could also be argued that there is a need for reform to align laws with what has been identified as critical to foreign investors and with this desire to meet the multiple objectives of SOE. This may require reforming or retrofitting laws and revising them to align them with new policy objectives or the SDGs (G. Walker, 2019). However, this is usually undertaken in a piecemeal and, in most instances, a sectoral approach, usually dictated by the availability of financial and human resources (Daniels & Trebilcock, 2004). Therefore, as laws are retrofitted to meet new visions and goals, it can lead to inconsistency and contradictions (Grantham & Jensen,

2016), creating challenges for implementation (Benzaken & Hoareau, 2021). This compounds the problem when there is exponential growth in the number of laws enacted (Grantham & Jensen, 2011), as seen in the case of Fiji and Seychelles (Table 1) This identified challenge provides an opportunity to recognize that further work is required to understand the laws as part of an interacting and coordinated whole that seeks to advance national goals and meet newly subscribed international frameworks such as the 2030 Sustainable Development Agenda (G. Walker, 2019). This cannot be limited to a sectoral approach, as this would not respond to the need for an integrated and cross-sectoral regulatory framework (Techera, 2018).

## CONCLUSIONS AND THE WAY FORWARD

With the absence or lack of an ‘enabling legal environment’ as one of the main reasons identified for the lack of sufficient investment and funding to support their achieve-

ment of SDG 14.7 in SIDS, significant further work is required to examine the content and design of the ‘enabling legal environment’ that can contribute to both the attraction of funding and investment for SOE in SIDS and support the achievement of the multiple SOE objectives. The current literature does not address this subject matter in any depth. This research will respond to both theoretical knowledge and practical gaps that will respond to a real-life concern about SIDS. More work is required to examine the legislative content and design required that will achieve this dual objective of SIDS.

Another constraint of the current literature is that it is concentrated on tracking financial flows from MNCs (Contractor et al., 2020; Globerman & Shapiro, 2002) with one article focused on venture capitalists (Bonini & Alkan, 2014). Hence, the Law and Finance theory has not been tested in the context of the funders, such as impact investors and philanthropists, who have increasingly contributed financially to the development of the SOE. Empirical research and case studies used to examine this link between law and economy have used methodologies that have not engaged with the funders directly to understand whether law is a determinant of their investments or funding. Motivations and determinants in decision-making of funders, especially for philanthropy and impact investors, have not been studied on a large or representative scale. This presents an important understudied research area that should receive greater attention, especially considering the growing role that philanthropists and impact investors play in providing funding for SOE (Contractor et al., 2020). It could further lead to more work to understand what the other factors are, aside from regulatory frameworks, that attract investors and funders to funding SOE in SIDS. Finally, such further work will contribute to the development of the Law and Finance theory.

Furthermore, with SOE, it is important that other non-sectoral laws that play a critical role in achieving the overall objectives are also taken into consideration. For example, it may require examining provisions in the Constitution or employment laws that protect against discrimination and laws relating to minimum wage, among other things. Such an approach recognizes that legislative reform will require more than sectoral amendments, but rather a holistic review of the legislation to identify how a combination of laws leads to the overarching objectives. This identified challenge provides an opportunity to recognize that further work is required to understand the laws as part of an interacting and coordinated whole that seeks to advance national goals and meet newly subscribed international frameworks such as the 2030 Sustainable Development Agenda (G. Walker, 2019).

However, although there is a general recognition of the utility of model law (Faran, 2018), it is important that legislative reform is not approached with a ‘one-size-fits-all’ paradigm. This is especially so because SIDS are not a homogenous group but have differing priorities and, evidently, a difference in their understanding of the BE and SOE (Pouponneau, 2023). Hence, it is important to draw from multiple case stud-

ies to understand the idiosyncrasies and differences that lie behind different contexts and subsequently inform the legislation that responds to the need to attract funding and investment and balance the multiple objectives of the sustainable ocean economy.



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