



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

Parliamentary inquiry into Australia's response to the priorities of Pacific Island countries and the Pacific Region

Joint Standing Committee on Foreign Affairs, Defence and Trade

Submission by the Office of the United Nations High Commissioner for Refugees

4 July 2024

I. OVERVIEW

1. The Office of the United Nations High Commissioner for Refugees (UNHCR) welcomes the opportunity to provide this submission to the Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade in respect of its inquiry into Australia's response to the priorities of Pacific Island countries and the Pacific region.¹
2. UNHCR's comments focus primarily on the inquiry's assessment of climate change mitigation and adaptation responses in the Pacific. In particular, Australia's initiatives aimed at assisting Pacific nations in adapting to the impact of climate change; Australia's role in supporting Pacific nations during natural disasters; and identifying opportunities for enhanced regional mobility.
3. Pacific leaders acknowledge that **climate change is the single greatest threat to the livelihoods, security, and wellbeing of people in the Pacific, and the region is at the forefront of exposure to disaster risk.**² The region continues to suffer from environmental impacts such as sea-level rise, coastal erosion, water security and environmental integrity, and from economic development setbacks brought on by the increasing frequency and intensity of disasters. For example, between 1-4 March 2023 two destructive category 4 Tropical Cyclones and an earthquake with a magnitude of 6.6 impacted over 80 per cent of the Vanuatu population. Cyclone hazards intensified and deviated from their traditional tracks due to climate change, hampering forecasts and adequate preparations. These events occurring in just 48 hours are a reminder

¹ Joint Standing Committee on Foreign Affairs, Defence and Trade, *Inquiry into Australia's response to the priorities of Pacific Island countries and the Pacific region*, Terms of Reference, available at: [Terms of Reference – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/Parliamentary_Business/Committees/Joint/Foreign_Affairs_Defence_and_Trade/Inquiry_into_Australia's_response_to_the_priorities_of_Pacific_Island_countries_and_the_Pacific_region/Terms_of_Reference). Countries in the Pacific include American Samoa, Commonwealth of the Northern Mariana Islands, Cook Islands, Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Nauru, New Caledonia, Niue, Palau, Papua New Guinea, Pitcairn Island, Republic of the Marshall Islands, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Wallis and Futuna. [The Pacific | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](https://dfat.gov.au/pacific).

² Pacific Island Forum, *Climate Change and Disasters*, available at: [Climate Change and Disasters | Pacific Islands Forum Secretariat](https://climatechangeanddisasters.pif.org/).

that seismic and climate risks are converging and intensifying, and communities in the Pacific region have felt this acutely.³

4. **UNHCR recognises that the adverse effects of climate change and disasters have diverse consequences for States and societies, as well as the well-being and enjoyment of human rights by individuals.** Such consequences may include the growing prevalence, spread and severity of new and re-emerging diseases; food insecurity and famine; increasingly scarce habitual land and potable water; exposure to exploitation and trafficking; factors affecting societal instability, such as conflict, violence, and serious human rights violations, as well as to human, material, economic or environmental losses, including lost incomes, homes, livelihoods and even lives.
5. Where displacement occurs in the context of disasters and arising from the adverse effects of climate change, protection risks and humanitarian needs are more likely to escalate and local integration as a safe and sustainable solution for forcibly displaced people may become a more challenging option.⁴ **Without strengthening the capacity of States to respond to climate-related hazards, the risks of new, protracted, or recurrent displacement, or onward movements are amplified and may include people with needs for international protection, such as refugees.**
6. UNHCR's 2023 [Global Trends Report](#), containing the latest official statistics worldwide on refugees, asylum-seekers, internally displaced and stateless people highlights that the adverse effects of **climate change and disasters are not only contributing to new, onward and protracted displacement but also exacerbating the protection needs and risks for forcibly displaced people.** Without urgent adaptation, mitigation, and measures to address loss and damage, climate change impacts are expected to increasingly, and disproportionately, affect climate vulnerable States and communities. This includes Pacific Island countries and the Pacific region.⁵ **UNHCR acknowledges and welcomes Australia's commitment to supporting Pacific Island countries address the impacts of climate change and desire to establish itself as a climate leader internationally.**⁶
7. UNHCR's observations are structured as follows: **Section II** sets out the scope of UNHCR's authority. **Section III** sets out the frameworks to address displacement in the context of climate change and disasters and contains specific recommendations for Australia to support implementation of the Global Compact on Refugees; to utilize the full potential of the 1951 Convention; to protect the human rights of those displaced in the context of climate change and disasters; and to protect stateless

³ The Economic and Social Commission for Asia and the Pacific (ESCAP), *Asia-Pacific Disaster Report 2023*, 2023, available at: [Seizing the Moment: Asia-Pacific Disaster Report 2023 \(un-ggim-ap.org\)](#).

⁴ Forced displacement refers to the movement of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence (whether within their own country or across an international border), in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters: [UNHCR master glossary of terms | UNHCR](#).

⁵ UN High Commissioner for Refugees (UNHCR), *Global Trends - Forced Displacement in 2023*, June 2024, <https://www.unhcr.org/global-trends-report-2023>.

⁶ Anthony Albanese (Prime Minister of Australia), Strengthening regional ties through the Pacific Islands Forum, media release, 10 November 2023, available at: [Strengthening regional ties through the Pacific Islands Forum | Prime Minister of Australia \(pm.gov.au\)](#).

persons and address risks of statelessness. **Section IV** sets out recent international, regional, and bilateral initiatives, including recommendations for Australia to support climate change and disaster adaptation and strengthen measures to avert, minimize and address displacement. **Section V** contains the conclusion.

II. UNHCR'S AUTHORITY

8. UNHCR offers these comments **as the agency entrusted by the United Nations General Assembly with the responsibility for providing international protection to refugees and other persons within its mandate, and for assisting governments in seeking permanent solutions for refugees.**⁷ As set forth in the *Statute of the Office of the United Nations High Commissioner for Refugees*, UNHCR fulfils its international protection mandate by, *inter alia*, '[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto'.⁸
9. In accordance with UN General Assembly resolutions 3274 XXIX⁹ and 31/36,¹⁰ UNHCR has been designated, pursuant to Articles 11 and 20 of the *1961 Convention on the Reduction of Statelessness* (the 1961 Statelessness Convention),¹¹ as the body to which a person claiming the benefits of this Convention may apply for the examination of his or her claim and for assistance in presenting it to the appropriate authorities. In resolutions adopted in 1994 and 1995, the UN General Assembly entrusted **UNHCR with a global mandate for the identification, prevention, and reduction of statelessness and for the international protection of stateless persons.**¹² UNHCR's statelessness mandate has continued to evolve as the UN General Assembly has endorsed the Conclusions of UNHCR's Executive Committee.¹³
10. Australia is a Contracting Party to the *1951 Convention*, as well as the *1954 Convention relating to the Status of Stateless Persons* (the 1954 Statelessness Convention), and the

⁷ See *Statute of the Office of the United Nations High Commissioner for Refugees*, UN General Assembly Resolution 428(V), Annex, UN Doc. A/1775, para. 1 (Statute).

⁸ Statute, para. 8(a).

⁹ UN General Assembly, *Question of the establishment, in accordance with the Convention on the Reduction of Statelessness, of a body to which persons claiming the benefit of the Convention may apply*, 10 December 1974, A/RES/3274 (XXIX).

¹⁰ UN General Assembly, *Question of the establishment, in accordance with the Convention on the Reduction of Statelessness, of a body to which persons claiming the benefit of the Convention may apply*, 30 November 1976, A/RES/31/36.

¹¹ UN General Assembly, *Convention on the Reduction of Statelessness*, 30 August 1961, United Nations, Treaty Series, vol. 989, p. 175.

¹² UN General Assembly resolutions A/RES/49/169 of 23 December 1994 and A/RES50/152 of 21 December 1995. The latter endorses UNHCR's Executive Committee Conclusion No. 78 (XLVI), *Prevention and Reduction of Statelessness and the Protection of Stateless Persons*, 20 October 1995.

¹³ Executive Committee Conclusion No. 90 (LII), Conclusion on International Protection, 5 October 2001, para. (q); Executive Committee Conclusion No. 95 (LIV), General Conclusion on International Protection, 10 October 2003, para. (y); Executive Committee Conclusion No. 99 (LV), General Conclusion on International Protection, 8 October 2004, para. (aa); Executive Committee Conclusion No. 102 (LVI), General Conclusion on International Protection, 7 October 2005, para. (y); Executive Committee Conclusion No. 106 (LVII), Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons, 6 October 2006, paras. (f), (h), (i), (j) and (t); all of which are available in: [Conclusions on International Protection Adopted by the Executive Committee of the UNHCR Programme 1975 – 2017 \(Conclusion No. 1 – 114\)](#), October 2017.

1961 Statelessness Convention. **Through accession to these instruments, Australia has assumed international legal obligations in relation to refugees, asylum-seekers, and stateless persons in accordance with their provisions.**

11. **UNHCR also assists States to protect and support their citizens in situations of internal displacement, especially in countries significantly affected by climate change.** UNHCR has been involved with internally displaced persons (IDPs) ¹⁴ since 1971 when the UN General Assembly initially requested its expertise and assistance, reaffirmed over time through resolutions to protect and assist IDPs. These recognize UNHCR's proficiency in addressing forced displacement and its ability to adapt to changing crises.¹⁵
12. **Given the disproportionate consequences of the climate crisis for most IDPs, refugees and other cross-border displaced persons, because of their vulnerabilities and situations, and recognising that most displaced people originate or are hosted in highly climate vulnerable and fragile contexts,** UNHCR has a direct interest in climate change and human rights in relation to the protection and assistance needs of displaced persons. Based on its mandate, UNHCR advises and works with Member States and partners on strengthened protection and solutions through inclusive, climate-risk informed and coherent policy and measures that include displaced and stateless people and returnees in climate vulnerable countries, and brings protection, human rights-based and displacement expertise to support averting, minimising and addressing the contribution of climate shocks and environmental degradation to complex risks and crisis conditions. In addition to providing legal advice and guidance, UNHCR contributes to normative development at national, regional, and international levels to support enhanced protection of the rights of people displaced in the context of climate change, environmental degradation, and disasters, including application of refugee law when applicable.

III. FRAMEWORKS TO ADDRESS DISPLACEMENT IN THE CONTEXT OF CLIMATE CHANGE AND DISASTERS

The Global Compact on Refugees

13. The [*Global Compact on Refugees*](#) (GCR), affirmed by the United Nations General Assembly on 17 December 2018, recognizes that "external forced displacement may

¹⁴ "Internally Displaced People" are people or groups of people who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

<https://undocs.org/E/CN.4/1998/53/Add.2>

¹⁵ UN GA Resolution 53/125 (1998), §16, the General Assembly "[n]otes the relevance of the Guiding Principles on Internal Displacement, reaffirms its support for the role of the Office of the High Commissioner in providing humanitarian assistance and protection to internally displaced persons, on the basis of specific requests from the Secretary-General or the competent organs of the United Nations and with the consent of the State concerned, taking into account the complementarities of the mandates and expertise of other relevant organizations, and emphasizes that activities on behalf of internally displaced persons must not undermine the institution of asylum."

result from sudden-onset natural disasters and environmental degradation”. It also acknowledges that “[w]hile not in themselves causes of refugee movements, climate, environmental degradation and natural disasters increasingly interact with the drivers of refugee movements”. This is supported by data that indicates that over 70 per cent of the world’s refugees and internally displaced people come from the most climate-vulnerable countries, an increase from 56 per cent in 2012; and at the end of 2023, almost 3 in 4 forcibly displaced people were living in countries with high-to-extreme exposure to climate-related hazards.¹⁶

14. The Global Compact on Refugees’ call for guidance and support to manage protection and humanitarian challenges, including for disaster-displaced persons, is highly relevant to the current context. Paragraph 63 calls for **“stakeholders with relevant mandates and expertise [to] provide guidance and support for measures to address other protection and humanitarian challenges.** This could include measures to assist those **forcibly displaced by natural disasters.** It complements paragraph 61 that refers to “international and regional obligations, in a way which **avoids protection gaps** and enables all those in need of international protection to find and enjoy it”.¹⁷
15. **In December 2023 Australia reaffirmed its commitment to the Global Compact on Refugees at the second Global Refugee Forum (GRF),¹⁸** the world’s largest international gathering on forced displacement, mobilising whole-of-society support, and engagement towards the objectives of the Global Compact on Refugees.¹⁹ Recognising the importance of investing in human capital of refugees and the potential of skills-based complementary pathways to provide durable solutions for refugees, Australia committed at the 2023 GRF to working with relevant partners and refugee hosting countries to investigate opportunities for a ‘train to hire’ model that **supports refugees in Indo-Pacific host countries to gain skills sought after in resettlement countries, improving access to employment matching and broader complementary pathways opportunities.**²⁰ Australia also committed, alongside New Zealand, to supporting comprehensive protection and solutions strategies in the Asia-Pacific, and supporting States, including those who are smaller and emerging, **to develop and strengthen their asylum systems and protection capacity.**²¹
16. **The Global Compact on Refugees also recognised that people with specific vulnerabilities, such as refugees, need to be included in disaster risk reduction**

¹⁶ UNHCR, *Global Trends - Forced Displacement in 2023*, June 2024, <https://www.unhcr.org/global-trends-report-2023>.

¹⁷ See Disaster Displacement and Climate Change in the Global Compact on Refugees, <https://www.unhcr.org/media/climate-change-and-disaster-displacement-global-compact-refugees>, UNHCR, 2018.

¹⁸ Penny Wong (Australian Minister for Foreign Affairs), Joint media release, *Enhanced support for refugees globally*, 16 December 2023, available at <https://www.foreignminister.gov.au/minister/penny-wong/media-release/enhanced-support-refugees-globally>.

¹⁹ UNHCR, *Outcomes of the Global Refugee Forum 2023*, available at: [Outcomes of the Global Refugee Forum 2023 | UNHCR](https://www.unhcr.org/outcomes-of-the-global-refugee-forum-2023)

²⁰ UNHCR, Global Compact on Refugees, Pledges and Contributions Dashboard, available at: [Pledges & Contributions | The Global Compact on Refugees | UNHCR \(globalcompactrefugees.org\)](https://www.unhcr.org/globalcompactrefugees.org/).

²¹ Ibid.

strategies.²² In 2015 United Nations Member States, agreed on the [Sendai Framework for Disaster Risk Reduction 2015-2030](#).²³ The Framework outlines seven targets for action to prevent and reduce disaster risk. It recognizes disaster displacement as an important concern for people-centred disaster risk reduction (DRR) and provides many opportunities for DRR policy and practice to reduce risk and address displacement in the context of disasters and climate change. Incorporating displacement into national DRR targets and indicators to measure progress in implementing the Sendai Framework and aligning them with sustainable development and climate change planning are critical steps to prevent disaster displacement.

17. The Midterm Review of the Implementation of the Sendai Framework, released in 2023, found that **at the midpoint of the implementation of the 2015 agreements, progress had stalled and, in some cases, reversed**. This resulted not only from the impact of the COVID-19 pandemic, but also from short-versus long-termism, weakened multilateralism, disconnects between the real and the financial economies, rising inequality, and barriers between risk science, perception and risk-informed decision-making. **Risks were being created and accumulating faster than the ability to anticipate, manage and reduce them, and when those risks were realized as shocks or disasters, they brought increasingly dire consequences for people, livelihoods, society, and ecosystems.**²⁴
18. The Review noted that Pacific Small Island Developing States (SIDS)²⁵ are particularly vulnerable due to their fragile terrestrial and marine ecosystems, as well as the limited economic diversification. **Recent disasters have had a particularly severe impact in the region and in terms of the proportion of the population affected, Pacific countries are often more affected**. For instance, the Hunga Tonga - Hunga Ha'apai volcanic eruption in Tonga in 2022 affected over 84,000 people, which is approximately 78 per cent of the population.²⁶ More recently, the landslide in Enga Province in northern Papua New Guinea in May 2024 highlighted not only the devastating impact of the disaster itself, but also the many response challenges that arise due to insecurity and tribal conflicts.²⁷

²² Global Compact on Refugees, paragraph 79.

²³ The Sendai Framework for Disaster Risk Reduction 2015-2030 was adopted alongside the [Paris Agreement](#) and the [Sustainable Development Goals](#) to address global challenges, recognising the need for coherence across these efforts to achieve the [2030 Agenda](#).

²⁴ United Nations Office for Disaster Risk Reduction (UNDRR), *The Midterm Review of the Implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030*, 2023, available at: [The Report of the Midterm Review of the Implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030 | Midterm Review of the Sendai Framework \(undrr.org\)](#).

²⁵ Defined therein as Cook Islands; Fiji; Kiribati; Maldives; Marshall Islands; Micronesia (Federated States of); Nauru; Niue; Palau; Papua New Guinea; Samoa; Solomon Islands; Timor-Leste; Tonga; Tuvalu and Vanuatu.

²⁶ UNDRR, *The Midterm Review of the Implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030 Regional Report for Asia-Pacific*, 2023, available at: <https://www.undrr.org/media/86717/download?startDownload=20240624>.

²⁷ UN Country Team, *United Nations and Partners Mobilized for Enga Province Landslide Response in Papua New Guinea - May 2024*, Press release, 28 May 2024, available at: [United Nations and Partners Mobilized for Enga Province Landslide Response in Papua New Guinea - May 2024 | United Nations in Papua New Guinea](#).

19. With respect to the Asia Pacific region, the Midterm Review found that while there had been overall progress in the adoption of policies, implementation seemed to be advancing at a slower pace as investment in DRR and prevention are not commensurate to the measures that need to be adopted. The expected costs of DRR and adaptation measures in the Pacific Small Island Developing States far exceeded most Pacific countries' financial capacities. It found that **external finance and enhanced cooperation is thus critical if not vital to the Pacific Island countries.**²⁸
20. Australia has gradually increased disaster risk reduction investments from 1.8 per cent of Official Development Assistance (ODA) in 2008-09 to 5 per cent in 2019-20, and to 7 per cent in 2020-21.²⁹ Australia's climate finance is focused on the Pacific and Southeast Asia and in 2021 at COP26, Australia announced AUD2 billion in climate finance for 2020-2025, a doubling of Australia's 2015-2020 pledge. **Australia also expects to deliver \$3 billion towards the global goal (USD100 billion per annum) over 2020-25, largely through existing ODA commitments.**³⁰ However, a recent UNDP report suggests there is growing evidence that the vulnerability of Pacific Island countries to climate change continues to increase, despite the significant climate investments they have received to date and very little information is available in the region on the impacts for communities of the climate finance that has been mobilised.³¹

RECOMMENDATIONS

To support implementation of the Global Compact on Refugees in the context of climate change and disasters in the Pacific region, UNHCR recommends Australia:

- a. Provide guidance and support to assist forcibly displaced persons in the context of climate change and disasters in the Pacific, including by implementing mechanisms such as temporary protection and humanitarian stay arrangements;³²

²⁸ UNDRR, *The Midterm Review of the Implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030 Regional Report for Asia-Pacific*, 2023, available at:

<https://www.undrr.org/media/86717/download?startDownload=20240624>. See also UNDRR, *Sendai Framework for Disaster Risk Reduction Midterm Review Report by the Government of Tuvalu*, 2023, available at:

<https://sendaiframe-mtr.undrr.org/media/89569/download?startDownload=20240625>; and UNDRR, *Sendai Framework for Disaster Risk Reduction Midterm Review Report by the Republic of Kiribati*, available at:

<https://sendaiframe-mtr.undrr.org/media/89571/download?startDownload=20240625>

²⁹ UNDRR, *Sendai Framework for Disaster Risk Reduction Midterm Review Report by the Government of Australia*, 2023, available at <https://sendaiframe-mtr.undrr.org/media/84384/download?startDownload=20240624>.

³⁰ Australian Department of Foreign Affairs and Trade (DFAT), *International cooperation on climate change*, available at:

<https://www.dfat.gov.au/international-relations/themes/climate-change/international-cooperation-on-climate-change>. See also: [Counting Australia's Climate Finance | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](https://www.dfat.gov.au/counting-australia-s-climate-finance)

³¹ United Nations Development Programme (UNDP), *Climate Finance Effectiveness in the Pacific: Are We on the Right Track?* Discussion Paper, available at:

<https://www.undp.org/sites/g/files/zskgke326/files/migration/pacific/UNDP-Climate-Finance-Effectiveness-in-the-Pacific-Dissussion-Paper.pdf>.

³² Temporary protection/stay arrangements (TPSAs) in this context refers to an arrangement developed by States to offer protection of a temporary nature to those fleeing humanitarian crises, without undergoing prior individual refugee status determination procedures, and where their protection needs are anticipated to be of

- b. Implement related commitments made at the 2023 Global Refugee Forum including by supporting refugees in Indo-Pacific host countries to gain skills to improve access to employment and broader visa pathways; and strengthening asylum systems and protection capacity in the region;
- c. Ensure that climate adaptation, early warning preparedness and disaster risk reduction plans and mechanisms are inclusive of forcibly displaced and stateless people, and are protection-sensitive; and
- d. Scale up disaster risk reduction investment to assist and support efforts in the Pacific, especially by Pacific Small Island Developing States, to implement the Sendai Framework targets by 2030.

International Refugee Law

- 21. When people flee their homes in the context of disasters brought on by or linked to the adverse effects of climate change, such as cyclones, and the slow onset impacts of drought and gradual environmental processes such as sea level rise, they mostly remain within their countries of residence. Some, however, are forced to cross international borders in search of safety and may need international protection.³³
- 22. **People displaced in the context of disasters, or the adverse effects of climate change may be refugees within the meaning of the 1951 Convention. They are not a separate or new category of refugees under international law. This means that for the Pacific region, as elsewhere, a business-as-usual approach to refugee decision making applies in the context of climate change.** The 1951 Convention is broad enough in its scope to ensure international protection for people in need in many contexts, including in relation to the adverse effects of climate change and impacts of disasters. State practice, jurisprudence and legislation have proven that these instruments can be interpreted in an evolving manner, as was done in the past, to address the protection needs of people who fled their countries because of risks related to sexual violence, gender-based persecution and non-state persecution, such as gang-related problems in urban areas.³⁴ The potential for an Internal Flight or Relocation Alternative is also diminished in the context of the adverse impacts of climate change. **It is thus crucial that these instruments are applied broadly and purposively wherever relevant, including in the context of claims for international protection from people displaced in the context of the adverse effects of climate change and disasters.**³⁵

short duration. TPSAs are complementary to the international refugee protection regime, being used at times to fill gaps in that regime as well as in national response systems and capacity, especially in States not party to the 1951 Refugee Convention. See further: UNHCR, *Guidelines on Temporary Protection or Stay Arrangements*, February 2014, <https://www.refworld.org/policy/legalguidance/unhcr/2014/en/74916>.

³³ UNHCR, *Submission by UNHCR: UN Special Rapporteur on Climate Change: Report on addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders*, January 2023, available at: <https://www.refworld.org/reference/themreport/unhcr/2023/en/124267>.

³⁴ Walter Kälin and Hannah Entwisle Chapuisat, *Protection of Persons Displaced Across Borders in the Context of Disasters and the Adverse Effects of Climate Change: A Review of Literature, Legislation and Case Law to Support the Implementation of the Global Compact on Refugees*, June 2024, www.unhcr.org/media/no-43-displacement-across-borders-good-practices-law-review.

³⁵ Ibid.

23. The right to be protected as refugees arises when a person is outside their own country and unable to return home because they would be at risk of persecution in accordance with the 1951 Convention. Beyond obligations under the 1951 Convention, the need for international protection as refugees also arises when a person is outside their country and unable to return home because of threats to life, freedom or physical integrity arising from armed conflict or generalized violence, serious human rights violations or events or circumstances seriously disturbing public order.³⁶ **International protection needs also arise in the context of the adverse effects of climate change and disasters.**³⁷ UNHCR's 2020 [*Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters*](#) sets out key legal considerations concerning the applicability of international refugee and human rights law when cross-border displacement occurs in the context of the adverse effects of climate change and disasters.³⁸
24. In broad terms, there are general categories of people who may fall within the refugee definition under international law pursuant to the 1951 Convention. These include:
- People fleeing conflict or violence which may be caused or exacerbated by the adverse effects of climate change or disaster, rendering the State unable or unwilling to protect the victims and leaving them at risk of persecution;
 - Environmental defenders, activists or journalists targeted and persecuted for defending, conserving or reporting on ecosystems and resources or Government responses to climate change effects, which may be considered a political stance;
 - People belonging to particular groups – such as women, children, the elderly and disabled - disproportionately suffering the greatest impact of the adverse effects of climate change, compounded by pre-existing discrimination, gender-based violence, human trafficking and child marriage. In addition, minority groups, indigenous people or others who are already marginalized or vulnerable - who are denied access to resources or assistance or are excluded from disaster risk reduction strategies before or after a climate-induced disaster. Further, where the adverse effects of climate change lead to food insecurity or famine, and where the State is unwilling or unable to ensure non-discriminatory access to food for certain groups, a risk of persecution for those people may arise.³⁹

³⁶ These international refugee protection needs stem from broader regional refugee definitions, included inter alia in the 1969 OAU Convention governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees, and UNHCR's mandate as per multiple United Nations General Assembly and ECOSOC resolutions.

³⁷ UNHCR, Climate change impacts and cross-border displacement: International refugee law and UNHCR's mandate, 12 December 2023, <https://www.refworld.org/policy/legalguidance/unhcr/2023/en/147540>.

³⁸ UNHCR, Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters, 1 October 2020, available at:

<https://www.refworld.org/policy/legalguidance/unhcr/2020/en/123356>. See also: Sanjula Weerasinghe, *Refugee Law in a Time of Climate Change, Disaster and Conflict*, UNHCR, January 2020, available at: <https://www.refworld.org/reference/research/unhcr/2020/en/123415>.

³⁹ UNHCR, *Climate change impacts and cross-border displacement: International refugee law and UNHCR's mandate*, 12 December 2023, available at: <https://www.refworld.org/policy/legalguidance/unhcr/2023/en/147540>.

RECOMMENDATIONS

To utilize the full potential of the 1951 Convention in the context of climate change and disasters, UNHCR recommends Australia:

- a. Promote accession to the 1951 Convention, including by States in the Pacific region not yet party to the Convention, to ensure the protection of rights and obligations stipulated therein, including for persons displaced in the region in the context of climate change and disasters;⁴⁰
- b. In consultation with UNHCR, support/strengthen Pacific nation efforts to develop national asylum laws and refugee status determination procedures aligned with international refugee and human rights law;⁴¹
- c. Promote the inclusion in domestic legislation of States in the Pacific region of broader refugee criteria;
- d. Ensure access to refugee status determination (RSD) procedures for persons claiming to be in need of international protection in Australia due to persecution in the context of disasters and the adverse effects of climate change; include specific training for officials involved in RSD (especially on internal relocation alternatives and complementary protection) and ensure integration of relevant and reliable information and analysis on disasters and climate change in country of origin information.

International Human Rights Law etc.

25. In some circumstances, people at risk of serious human rights violations linked to the adverse effects of climate change and climate-induced disasters may be recognized under international human rights law as needing international protection. This is based on the principle of non-refoulement, which is the prohibition not to return a person to a country where they have a real risk of serious or irreparable harm upon return, including torture, ill-treatment and other serious human rights violations.⁴²
26. This was illustrated in the 2020 ruling of the UN Human Rights Committee in the [*Teitiota*](#) case. **The complainant in that case argued that by deporting him, New Zealand had violated his right to life because the rise in sea level and other effects of climate change had rendered Kiribati uninhabitable.** Violent land disputes occurred because habitable land was becoming increasingly scarce. Environmental

⁴⁰ Countries in the Pacific that have not acceded to the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol Relating to the Status of Refugees include: Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Niue, Palau, Tonga, and Vanuatu.

⁴¹ For example, UNHCR, Briefing Notes, *Fiji: Shifting tides in Pacific refugee protection*, 20 June 2024, available at: [Fiji: Shifting tides in Pacific refugee protection | UNHCR Australia](#).

⁴² Article 3 of the 1984 UN Convention against Torture stipulates that no State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. Similarly, Articles 6 and 7 of the 1966 International Covenant on Civil and Political Rights have been interpreted as prohibiting the return of persons to places where they would be exposed to a real risk of irreparable harm such as a threat to life or a danger of torture or of cruel, inhuman or degrading treatment or punishment. While the protection against refoulement under the terms of the 1951 Convention foresees certain limited exceptions to the principle of non-refoulement, international human rights law sets forth an absolute prohibition, without exceptions of any sort.

degradation made subsistence farming difficult, and the freshwater supply was contaminated by salt water. While the complainant was not successful at the time, the Committee determined that under international human rights law, people displaced across borders in the context of climate change and disasters have the right not to be returned to a country where they would face a serious risk of irreparable harm to their right to life. **The Committee noted that without robust national and international efforts, the effects of climate change may expose individuals to a violation of their rights such that other countries could not send them back.**⁴³

27. In cases of large-scale influx or similar humanitarian crises involving cross-border displacement, where individual status determination may not be feasible or applicable, such as in the immediate aftermath of a disaster, when the situation in the country of origin remains fluid, **temporary or humanitarian protection or stay arrangements can provide a practical tool to protect people displaced across borders.** Such arrangements are without prejudice to the grant of refugee status and other forms of international protection and need also to be connected to longer-term strategies to ensure that the rights of temporarily protected people will be respected, and they will have access to solutions or long-term options where relevant.⁴⁴
28. For example, **Argentina's Special Environmental Humanitarian Visa Programme** provides humanitarian protection, planned relocation and durable solutions to disaster-displaced persons from Mexico, Central America, and the Caribbean. It grants an entry permit and a 3-year visa based on humanitarian reasons, which later may be converted to permanent residence. Resettled persons will have access to housing, maintenance, and support for a period of one year, through the sponsorship of a civil society organisation. **Italy's immigration legislation** allows renewable short-term residency permits to be issued to foreigners whose country of origin is in a situation of "contingent and exceptional calamity" that does not allow for a safe return. Recurrent flooding and riverbank erosion in Bangladesh have been found to amount to disasters that made safe return to the country of origin impossible.⁴⁵
29. Under international human rights law, **States are also bound to uphold the human rights of any person under their jurisdiction, which includes people displaced in the context of climate change.**⁴⁶ This includes people who move in the context of climate change, solely for economic reasons, such as a negative change in or loss of their livelihoods, where there is no risk of persecution or violence and their own country is able and willing to protect them. However, even persons without international protection needs are entitled to respect for their human rights. The

⁴³ UN Human Rights Committee, *Teitiota v New Zealand*, CCPR/C/127/D/2728/2016, 2020, available at: <https://documents.un.org/doc/undoc/gen/g20/237/12/pdf/g2023712.pdf?token=QGl64uohN8lmFkWyim&f e=true>.

⁴⁴ UNHCR, *Climate change impacts and cross-border displacement: International refugee law and UNHCR's mandate*, 12 December 2023, available at: <https://www.refworld.org/policy/legalguidance/unhcr/2023/en/147540>.

⁴⁵ UNHCR and Platform on Disaster Displacement (PDD), *Policy Brief: Protection of persons displaced across borders in the context of disasters and the adverse effects of climate change - Good practices to support implementation of the Global Compact on Refugees*, December 2023, available at: [Policy Brief - Disaster Displacement](https://www.unhcr.org/policy/brief-disaster-displacement).

⁴⁶ See also: Office of the High Commissioner for Human Rights (OHCHR) *Key Messages on human rights, climate change and migration*, OHCHR 2020, available at: <https://www.ohchr.org/sites/default/files/Documents/Issues/ClimateChange/materials/KMMigration.pdf>

effects of climate change are felt disproportionately by segments of the population that are already marginalized or in vulnerable situations.⁴⁷ Such persons may also have particular vulnerabilities that arise in the country where they find themselves that need to be addressed by other States and humanitarian actors when they cross borders.

30. In some countries, legal pathways exist under national migration laws for labour schemes or regional free movement protocols, such as the **Pacific Australia Labour Mobility (PALM) scheme**. This is a temporary migration program enabling unskilled, low-skilled and semi-skilled workers in participating Pacific nations to travel to Australia to address labour shortages across rural and regional Australia, and nationally for agriculture and select agriculture-related food product manufacturing sectors. It is noted that this program could provide opportunities for mobility for people who otherwise could find themselves in need of international protection under circumstances where relevant risks of persecution or serious human rights violations might arise. It is important to recall that in many situations, people displaced across borders who are refugees or otherwise in need of international protection **may travel in mixed movements alongside migrants moving for other reasons**.⁴⁸

RECOMMENDATIONS

To protect the human rights of those displaced in the context of climate change and disasters in the Pacific region, UNHCR recommends Australia:

- a. Strengthen Australia's Human Rights Framework for those under its jurisdiction, including persons displaced from the Pacific region in the context of climate change and disasters, by implementing without delay the recommendations of the Parliamentary Joint Committee on Human Rights, including by enacting a national Human Rights Act;⁴⁹
- b. Promote accession to the core universal human rights treaties and to the 1951 Convention, among non-States Parties in the Pacific region to ensure the protection of fundamental rights and freedoms within the region;⁵⁰

⁴⁷ UNHCR, *Climate Change, Displacement and Human Rights*, March 2022, available at:

<https://www.refworld.org/reference/themreport/unhcr/2022/en/124057>.

⁴⁸ UNHCR, *Climate change impacts and cross-border displacement: International refugee law and UNHCR's mandate*, 12 December 2023, available at: <https://www.refworld.org/policy/legalguidance/unhcr/2023/en/147540>.

⁴⁹ Parliamentary Joint Committee on Human Rights, *Inquiry into Australia's Human Rights Framework*, May 2024, available at:

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Human_Rights/HumanRightsFramework/Report. See also UNHCR, *Submission to the Parliamentary Joint Committee on Human Rights Inquiry into Australia's Human Rights Framework*, 1 July 2023, available at: <https://www.unhcr.org/au/media/2023-07-01-unhcr-submission-hr-framework-final-003-pdf>.

⁵⁰ Pacific Island countries that have not ratified the **International Covenant on Civil and Political Rights** include Cook Islands, Federated States of Micronesia, Kiribati, Niue, Solomon Islands, Tonga, and Tuvalu. Nauru signed the covenant in 2001, and Palau signed it in 2011 but neither has ratified it. Pacific Island countries that haven't taken any action regarding the **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** include Cook Islands, Federated States of Micronesia, Niue, Papua New Guinea, Solomon Islands, Tonga, and Tuvalu. Palau signed this Convention in 2011 but has not ratified it. Pacific Island countries that have not ratified the **International Covenant on Economic, Social and Cultural Rights** include Cook Islands, Federated States of Micronesia, Kiribati, Nauru, Niue, Samoa, Solomon Islands, Tuvalu, and Vanuatu. Palau has signed the Covenant in 2011 but not ratified it. Pacific Island countries that have not ratified the

- c. Support and strengthen awareness among Pacific nations of existing obligations under international human rights law, including the principle of non-refoulement. In parallel, and in consultation with UNHCR, support and strengthen Pacific nations to develop complementary protection laws and procedures in line with international law to better protect persons displaced in the Pacific region in the context of climate change and disasters;
- d. Adopt a human-rights based approach to climate action and strategies at local, national and regional levels and ensure effective participation of climate affected persons in the development of policies that affect their lives.

Statelessness and International Law

31. **The risks of statelessness can increase when people move, including during displacement situations in the context of climate change and disasters.** In 2020, hazardous weather events led to more than 30 million displacements, with most displaced persons remaining within their home countries. **While such displacement can be either internal or cross border, in both scenarios a risk of statelessness may arise for a number of reasons.**⁵¹ Statelessness may result in situations where individuals are unable to prove their nationality due to loss of documentation, or the inability to obtain replacement documentation due to challenges accessing consular services. Protracted or permanent displacement outside of one's country can sometimes result in passive loss of citizenship.
32. The children of people living in displacement may be at risk of statelessness either because of issues of proof of entitlement to nationality (e.g., challenges accessing birth registration and nationality documentation) or issues relating to entitlement to nationality (where nationality laws are not consistent with the standards that prevent and reduce statelessness), or both.⁵² Moreover, disasters have the potential to exacerbate the vulnerabilities of stateless people who, as non-citizens, risk loss of livelihoods and exclusion from disaster relief, health care and governments' climate change mitigation and adaption plans. **Specific efforts are needed to reduce statelessness risks for displaced people and to include stateless persons in climate action to strengthen their protection and resilience.**

RECOMMENDATIONS

In order to protect stateless persons and address risks of statelessness arising in the context of climate change and disasters, UNHCR recommends Australia:

Convention on the Elimination of All Forms of Discrimination against Women include Niue and Tonga. Palau signed the Convention in 2011 but has not ratified it.

⁵¹ UNHCR, *Statelessness and Climate Change*, October 2021, available at:

<https://www.unhcr.org/au/media/statelessness-and-climate-change>. See also: UNHCR, *Handbook on Protection of Stateless Persons*, 30 June 2014, available at:

<https://www.refworld.org/policy/legalguidance/unhcr/2014/en/122573>; Marilyn Achiron (updated by Radha Govil), *Nationality and Statelessness: Handbook for Parliamentarians* N° 22, UNHCR, July 2014, available at: <https://www.refworld.org/policy/legalguidance/unhcr/2014/en/100579>.

⁵² UNHCR, *Statelessness and Climate Change*, October 2021, available at:

<https://www.unhcr.org/au/media/statelessness-and-climate-change>.

- a. Ensure that stateless persons are included in practical measures, plans and policies designed to mitigate, respond, and adapt to the impacts of climate change, including access to fundamental rights and disaster relief;
- b. Engage in bilateral and regional arrangements aimed at preventing statelessness in the event of cross-border displacement in the context of climate change by putting in place and effectively implementing safeguards in national laws to ensure that every child has their birth registered, acquires a nationality at birth and that nationality cannot be withdrawn, lost or renounced if the person would be rendered stateless as a result. Promote dual nationality and waiving requirements for renunciation of previous nationality to acquire a new nationality as measures to prevent statelessness;
- c. Implement a statelessness determination procedure in Australia to identify and protect the rights of stateless people, including those displaced from the Pacific region in the context of climate change and disasters;⁵³
- d. Promote accession to the UN Statelessness Conventions to non-States Parties in the Pacific region to ensure prevention of statelessness and so that stateless persons enjoy their basic rights and protections without discrimination;⁵⁴
- e. Promote implementation of the Global Action Plan to End Statelessness in the Pacific region.

IV. INTERNATIONAL, REGIONAL, AND BILATERAL INITIATIVES

33. In Pacific Island countries, the adverse impacts of climate change are expected to compound existing displacement risks.⁵⁵ Small developing states are acutely sensitive to climate change effects such as oceanic warming, sea-level rise (resulting in salinization, flooding, and erosion), cyclones and mass coral bleaching. **These impacts can have significant socio-economic and ecological implications, such as on health, agriculture and aquaculture, and water security, which in turn have impacts on livelihoods, food security and human mobility.** The risk posed to small developing states is further complicated by their limited adaptive capacity and challenging geography. **Migration, relocation, and displacement (even as a last resort) may become more commonplace.**⁵⁶

⁵³ This determination permits stateless migrants to acquire a secure legal residence which in turn allows them to enjoy basic human rights and accumulate the number of years of residence necessary for naturalization: <https://www.unhcr.org/media/global-action-plan-end-statelessness-2014-2024>. See also: UNHCR, *Good practices in nationality laws for the prevention and reduction of statelessness, Handbook for Parliamentarians* N° 29, November 2018, <https://www.refworld.org/policy/opguidance/unhcr/2018/en/122321>.

⁵⁴ The **1954 Convention relating to the Status of Stateless Persons** has been signed by Fiji in 1972 and Kiribati succeeded in 1982. The Cook Islands, Federated States of Micronesia, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu have taken no action towards this convention. The **1961 Convention on the Reduction of Statelessness** has been succeeded by Kiribati in 1983. The Cook Islands, Federated States of Micronesia, Fiji, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu have taken no action towards this convention.

⁵⁵ See O. Hoegh-Guldberg, D. Jacob, M. Taylor, M. Bindi, S. Brown, I. Camilloni, A. Diedhiou, R. Djalante, K. Ebi, F. Engelbrecht, J. Guiot, Y. Hijioka, S. Mehrotra, A. Payne, S. I. Seneviratne, A. Thomas, R. Warren, G. Zhou, 2018, Impacts of 1.5°C Global Warming on Natural and Human Systems. In: *Global warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*, pp. 234-35.

⁵⁶ UNHCR, *Submission by UNHCR: UN Special Rapporteur on Climate Change: Report on addressing the human rights implications of climate change displacement including legal protection of people displaced across international borders*, January 2023, <https://www.refworld.org/reference/themreport/unhcr/2023/en/124267>.

International initiatives

34. The 2015 Nansen Initiative on Disaster-Induced Cross-Border Displacement, [*Agenda for the Protection of Cross-Border Displaced Persons in the context of Disasters and Climate Change*](#), adopted by 109 States in 2015 and developed from discussions in UNHCR's 63rd Executive Committee (EXCOM) meeting, observes that well supported and managed, migration has the potential to help people living in areas exposed to natural hazards, environmental deterioration and the adverse impacts of climate change to **avoid situations that otherwise may result in a humanitarian crisis and displacement in the future.**
35. To facilitate migration with dignity as a potentially positive way to cope with the effects of natural hazards, environmental degradation and climate change, **the following key actions are suggested:**
- (i) Reviewing, adapting or developing national legislation, as well as bilateral or sub-regional agreements, to facilitate temporary, circular or, where appropriate, permanent migration as means to cope with the effects of natural hazards, environmental degradation and climate change.
 - (ii) Preparing persons who envisage migration as a positive coping strategy to build their capacity to compete in the labour market.
 - (iii) Reviewing existing regional, sub-regional and bilateral free movement of persons agreements to determine to what extent such agreements already, or could better, facilitate international migration.⁵⁷
36. In this context it is also relevant to highlight the [*2018 Global Compact for Safe, Orderly and Regular Migration*](#) which relevantly committed States to cooperate to identify, develop and strengthen solutions for migrants compelled to leave their countries of origin owing to slow-onset natural disasters, the adverse effects of climate change, and environmental degradation, including by devising planned relocation and visa options, in cases where adaptation in or return to their country of origin is not possible.⁵⁸

Regional initiatives

37. Australia's strategy to increase engagement in Pacific Island countries was expounded in the Government's 2017 [*Foreign Policy White Paper*](#) which describes Australia's national interests and international engagement priorities for the decade ahead. Therein, in the context of responding to the region's fundamental challenges, Australia signalled its intention to engage with the Pacific with greater intensity and

⁵⁷ The Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change*, Volume I, December 2015, available at: [PROTECTION-AGENDA-VOLUME-1.pdf](https://www.nanseninitiative.org/PROTECTION-AGENDA-VOLUME-1.pdf) ([disasterdisplacement.org](https://www.nanseninitiative.org/))

⁵⁸ See also: UN General Assembly, *Transforming our world : the 2030 Agenda for Sustainable Development*, A/RES/70/1, 21 October 2015, <https://www.refworld.org/legal/resolution/unga/2015/en/111816>.

ambition, deliver more integrated and innovative policy and make further, substantial long-term investments in the region's development. Australia would also continue to **strengthen the capacity of the Pacific, particularly low-lying atoll states, to respond to climate change.**

38. In complement, the Pacific Islands Forum (PIF) has placed climate action at the forefront of its agenda through the endorsement of policy documents such as the [Boe Declaration on Regional Security](#) under which Pacific leaders reaffirmed the importance of developing a regional framework to address climate change. In 2016 PIF Leaders endorsed the [Framework for Resilient Development in the Pacific 2017-2030](#) (FRDP). **The Framework is a global first wherein the Pacific seeks to reduce their exposure to climate and disaster risk, support low carbon development and improve disaster response and reconstruction.** Further, the Framework takes an integrated approach to addressing climate change and disaster risk management and promotes voluntary commitments relating to human mobility, migration, and climate change in the region.
39. In the [2050 Strategy for the Blue Pacific Continent](#), PIF Leaders committed to, amongst other things, urgently advocating as a collective to reduce and prevent the causes and impacts of climate change and to **continue to pursue innovative measures to address climate change impacts and disaster risk.** As previously mentioned, Australia also endorsed the 2050 Strategy in recognition that climate change remains the single greatest threat to the livelihoods, security, and wellbeing of the Pacific community.
40. **A regional first in terms of comprehensively addressing the issues of migration, displacement, and planned relocation,** the [Pacific Regional Framework on Climate Mobility](#) was endorsed by Pacific Leaders at the Pacific Islands Forum Leaders' Meeting in November 2023. Although not legally binding, the framework aims to guide PIF governments, communities, non-state actors and partners in ensuring rights based and people-centred movement in the context of climate change, **including staying in place, planned relocation, migration, and displacement through a proactive, inclusive, and collaborative regional approach.** Relevant to the current context, the framework also commits States to explore opportunities to provide people who are compelled to cross borders in the context of the adverse effects of climate change with opportunities for humanitarian admission and stay as well as access to longer lasting and sustainable solutions including resettlement and regularisation of their legal status as relevant in line with domestic law.⁵⁹

Bilateral initiatives with Australia

41. In its inquiry into [Strengthening Australia's relationships in the Pacific region](#) (conducted in 2020-2022), the Australian Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade also found the direct and indirect impacts of climate change remain one of the gravest concerns of Pacific nations. The Committee thus

⁵⁹ Pacific Regional Framework on Climate Mobility, paragraph 39, available at: <https://disasterdisplacement.org/wp-content/uploads/2024/05/Pacific-Regional-Framework-on-Climate-Mobility.pdf>.

recommended that “**support for climate change mitigation and adaptation continue to be a high priority in Australia’s immediate regional assistance program**”.⁶⁰

42. While acknowledging the sensitivities around proposals of regional integration, in particular, compacts of free association, the Committee noted that **imminent increasing climate change impacts and disaster threats may alone necessitate some Pacific populations to consider migrating, perhaps firstly within the island region to less vulnerable environments**. It thus recommended that Australia start a dialogue with Pacific Island countries about compacts of association considerations and evaluate ideas for longer term Pacific region ‘deep integration’, in particular microstates most vulnerable to climate change instability.⁶¹
43. The Committee also recommended that Australia pursue steps to scale-up the Pacific Australia Labour Mobility program, better support career development, and provide pathways for permanent residency. While the Committee saw merit in elements of introducing a temporary displacement visa as suggested by some contributors to the inquiry, in the context of the COVID-19 pandemic, it instead recommended Australia consider creating a dedicated Pacific component within Australia’s permanent migration intake.⁶² With respect to the latter, Australia has recently opened a new pathway to enable the permanent migration of a select number of people from the Pacific Islands to Australia. **The Pacific Engagement Visa (PEV) was introduced in March 2024** to provide access to permanent residence in Australia for an annual quota (up to 3,000 visas, inclusive of partners and dependent children), made available through a ballot process for citizens of certain Pacific countries and Timor-Leste.⁶³ The stated objective of the pathway was to “strengthen country to country ties; support wider mobility within the region, thereby assisting the future regional response to climate change pressures; contribute to Pacific economies; and provide opportunities for cultural, business, educational, and skills exchange”.⁶⁴
44. Eligibility and selection for the Pacific Engagement Visa does not explicitly appear linked to vulnerability or displacement, but rather the applicant for the visa must be a citizen of a participating country (currently the Federated States of Micronesia, Fiji, Nauru, Palau, Papua New Guinea, Solomon Islands, Timor-Leste, Tonga, Tuvalu and Vanuatu);⁶⁵ the applicant or their parent must have been born in an eligible Pacific country; and be aged between 18-45 years to enter the ballot process for selection. There are also English language requirements; the requirement to have a formal

⁶⁰ Australian Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade, *Strengthening Australia’s relationships in the Pacific*, March 2022, report available at: [Strengthening Australia’s relationships in the Pacific – Parliament of Australia \(aph.gov.au\)](https://aph.gov.au/parliamentary-business/committees-and-inquiries/committees/parliamentary-joint-standing-committee-on-foreign-affairs-defence-and-trade/reports-and-publications/strengthening-australia-s-relationships-in-the-pacific).

⁶¹ Ibid.

⁶² Ibid.

⁶³ *Migration Amendment (Australia’s Engagement in the Pacific and Other Measures) Act 2023*; and the *Migration (Visa Pre-application Process) Charge Act 2023*; *Migration Amendment (Subclass 192 (Pacific Engagement) Visa) Regulations 2024*.

⁶⁴ Explanatory Memorandum, Migration Amendment (Australia’s Engagement in the Pacific and Other Measures) Bill 2023, available at: [JC008844.pdf;fileType=application/pdf \(aph.gov.au\)](https://www.aph.gov.au/parliamentary-business/committees-and-inquiries/committees/parliamentary-joint-standing-committee-on-foreign-affairs-defence-and-trade/reports-and-publications/strengthening-australia-s-relationships-in-the-pacific).

⁶⁵ Australian Department of Foreign Affairs and Trade, Pacific Engagement Visa, available at: <https://www.dfat.gov.au/geo/pacific/people-connections/people-connections-in-the-pacific/pacific-engagement-visa>.

ongoing job offer in Australia; and health and character requirements must also be satisfied. The Pacific Engagement Visa ballot opened on 3 June 2024.⁶⁶

45. **Another mobility pathway progressing is the Australia-Tuvalu Falepili Union**⁶⁷ which was initiated by a proposal from the then Prime Minister of Tuvalu to the Prime Minister of Australia in August 2023. Tuvalu sought to elevate the bilateral partnership to help safeguard its future, recognising that by 2050, it is estimated that half the land area of the capital, Funafuti, will be flooded by tidal waters daily.⁶⁸ The Australia-Tuvalu Falepili Union comprises a bilateral [treaty](#) between Tuvalu and Australia, as well as a commitment articulated in a joint leaders' statement signed on 9 November 2023.⁶⁹ The Union includes commitments between Tuvalu and Australia with respect to building climate resilience, supporting human mobility with dignity; elevating the relationship to one which is advanced, integrated and comprehensive; and protecting and promoting each Party's individual and collective security and sovereignty.
46. Importantly, Article 2 expressly provides the statehood and sovereignty of Tuvalu will continue, and the rights and duties inherent thereto will be maintained, notwithstanding the impact of climate change-related sea-level rise. While the agreement **expressly stipulates the desire of Tuvalu's people to continue to live in their territory where possible, it provides for the creation of a special human mobility pathway for citizens of Tuvalu.** This pathway will enable citizens of Tuvalu to live, study and work in Australia, access support on arrival, and Falepili visa holders would be eligible to apply for Australian citizenship. The initial annual allocation of up to 280 visas could be mutually adjusted each program year. Like the PEV, the visas would be allocated through a random ballot, managed by Australia and applicants would need to be at least 18 years old, but spouses and dependent children could be included.
47. Under Article 3(2) Tuvalu must ensure that its immigration, passport, citizenship, and border controls are robust and meet international standards for integrity and security and compatible with Australia's controls. For its part, Australia will assist Tuvalu to enable it to meet these obligations, noting that the pathway cannot open until appropriate integrity and security standards are met. While there have been some concerns raised about the agreement, most relevantly to the current context, with respect to **inadequate safeguards to explicitly address the potential impacts on the citizenship status of those who utilise the scheme (including risks of**

⁶⁶ Australian Department of Home Affairs, Pacific Engagement visa – Ballot registration, available at: <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/pacific-engagement/ballot-registration/ballot-country-status>.

⁶⁷ Falepili is a Tuvaluan word for the traditional values of good neighbourliness, care and mutual respect.

⁶⁸ Australian Department of Foreign Affairs and Trade, *Australia-Tuvalu Falepili Union*, available at: [Australia-Tuvalu Falepili Union | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](https://dfat.gov.au/australia-tuvalu-falepili-union).

⁶⁹ On 9 May 2024 Tuvalu Prime Minister and Australia's Foreign Minister signed a Joint Statement confirming both governments' shared commitment to elevating the partnership through the Falepili Union and an Explanatory Memorandum setting out joint understandings on the implementation and interpretation of the Falepili Union was also released. See further: [Tuvalu | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](https://dfat.gov.au/australia-tuvalu-falepili-union).

statelessness),⁷⁰ notable elements that recognize statehood and sovereignty and support human mobility with dignity are seen as welcome developments and a positive precedent for the region, and potentially beyond.⁷¹

RECOMMENDATIONS

To support climate change adaptation and strengthen measures to avert, minimize and address displacement in climate vulnerable Pacific Island countries, UNHCR recommends Australia:

- a. Expand and/or further develop immigration quotas to create pathways for safe, orderly, and regular migration from countries particularly affected by sea level rise or otherwise losing habitable territory as a consequence of the adverse effects of climate change;
- b. Develop new or strengthen existing entry or stay mechanisms based on humanitarian considerations, such as humanitarian visas that are harmonized, inclusive of forcibly displaced and stateless people, that can be utilized in predictable ways;
- c. Ensure that those living in highly climate-vulnerable countries or in particularly vulnerable circumstances, such as women and girls and those forcibly displaced, are included and prioritised in measures designed to mitigate, respond, and adapt to the impacts of climate change;⁷²
- d. Integrate disaster displacement into regional or bilateral agreements on the free movement of persons and ensure such agreements are inclusive of forcibly displaced and stateless people and incorporate appropriate safeguards to comprehensively protect fundamental human rights;
- e. Scale up adaptation financing and support to climate action in countries and host community areas where displaced people take refuge, or hope to safely return to following their displacement, by strengthening preparedness and building resilience to climate impacts. Ensure that climate action reaches those living in unstable and hard to reach areas, including displaced persons and their host communities.

V. CONCLUSION

48. UNHCR urges implementation of the recommendations contained herein and stands ready to assist efforts in both Australia and in Pacific Island nations, pursuant to its global mandate.

UNHCR
4 July 2024

⁷⁰ See further: The Peter McMullin Centre on Statelessness (PMCS), *Submission to the Joint Standing Committee on Treaties inquiry into the Australia-Tuvalu Falepili Union Treaty*, 19 April 2024, available at:

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/Australia-TuvaluAgreemen/Submissions.

⁷¹ See Parliamentary Joint Standing Committee on Treaties, *Inquiry into the Australia-Tuvalu Falepili Union*, submissions, available at: Submissions – Parliament of Australia (aph.gov.au). [Submissions – Parliament of Australia \(aph.gov.au\)](#).

⁷² UNHCR, *Gender, Displacement and Climate Change*, November 2022, available at: [5f21565b4.pdf \(unhcr.org\)](#).