

Vanishing Homelands: Climate Security, Displacement and Human Rights: A Pacific Focus

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Summary

Climate change is having profound impacts on the displacement of communities and the stability of peace and security. As climate displacement continues to rise at an unprecedented rate, it is compounded by many variables, such as the COVID-19 pandemic. This combination of factors has differing levels of influence according to any given scenario and can be described collectively as 'nexus dynamics'. This Policy Brief examines the protection of climate-displaced people, highlighting the limitations and effectiveness of existing refugee frameworks. It recognises a shift in the factors driving human displacement, such as climate change, which are not limited to 'the fear of persecution', as has traditionally defined 'refugees'. This Brief advocates for the implementation of a human rights-based framework to protect and preserve the life and dignity of those embarking on a relocation process, whether forced or voluntary. This includes empowering and engaging people in decision making processes surrounding their futures. It discusses how displacement is impacting the Pacific Region which is highly vulnerable to the impacts of climate change and is experiencing vanishing homelands due to rising sea levels. The conclusion offers a range of policy recommendations designed to assist Pacific states in the protection and support of climate-displaced persons and in the maintenance of peace and security.

List of Acronyms

CRRF	Comprehensive Refugee Response Framework
ECOSOC	United Nations Economic and Social Council
ExCom	United Nations High Commissioner for Refugees Executive Committee
GHG	Greenhouse Gas
IMCCS	International Military Council on Climate and Security
IOM	International Organization for Migration
IPCC	Intergovernmental Panel on Climate Change
OAU	Organisation of African Unity
RSD	Refugee Status Determination
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees

1. Introduction

The management of multiple crises simultaneously, such as the impacts of climate change coupled with a global pandemic, presents significant challenges. Equally, the global governance system is ill-equipped to deal with security risks posed on multiple fronts. *The World Climate and Security Report 2021*¹ found that, as climatic changes occur, the world faces higher security risks. The report defined 'climate security' as "climate change-exacerbated events that affect global security, including the security environment, security institutions or security infrastructure."² Global warming is resulting in rising sea levels, unpredictable weather patterns, and more frequent and intense catastrophic natural and human disasters. The convergence of climate change with other risks leads to compounding security threats for states and societies. Climate security is at the centre of the interaction between climate change, natural hazards, human systems and the drivers of insecurity. The subsequent impacts are posing challenges worldwide, aggravating political and socio-economic tensions, leading to displacement, irregular migration, poverty, state instability and sometimes violent conflict.³ The Intergovernmental Panel on Climate Change (IPCC) has indicated that the displacement of people may be one of the greatest consequences of climate change.⁴

Climate change disproportionately affects vulnerable people, such as Pacific Region communities, who reside in small island, low-lying states which experience frontline impacts. Most of these island nations "consider it the duty of [developed nations], who have been historically the main contributors to the increased GHGs [Greenhouse Gas] in the atmosphere, to assist with mitigation efforts and to help with adaptation."⁵

Studies suggest that, with warming of two degrees Celsius, displacement will be concentrated in the tropics and will result in involuntary displacement over distances greater than 1000 km.⁶ Rapid migration will occur in these tropical and low-lying states, with rising temperatures expected to exacerbate existing levels of poverty. There are various predictions in terms of the number of people who will be displaced by climate change globally, ranging from two hundred million⁷ to one billion⁸ by 2050. In the Pacific Region, it

¹ Expert Group of the International Military Council on Climate and Security ('IMCCS'), *The World Climate and Security Report 2021* (Washington, DC: Centre for Climate and Security, June 2021).

² IMCCS, *Climate and Security Report*, 12.

³ IMCCS, 12.

⁴ Intergovernmental Panel on Climate Change, *Third Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge: Cambridge University Press, 2001) 68.

⁵ Bob Lloyd, "Climate Change in Pacific Countries: A Review," *Policy Brief No. 20* from the Toda Peace Institute (September 2018) 8.

⁶ Intergovernmental Panel on Climate Change, "Impacts of 1.5C of Global Warming on Natural and Human Systems," in V Masson-Delmotte, O-H P Zhai, D Pörtner, J Roberts, P R Skea, A Shukla, W Pirani, C Moufouma-Okia, R Pé an, S Pidcock, J B R Connors, Y Matthews, X Chen, M I Zhou, E Gomis, T Lonnoy, M, and T Tignor (eds), *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* (United Nations, In Press, 8 October 2018) 175, 245.

⁷ United Nations High Commissioner for Refugees ('UNHCR') (article); "Climate Change is the Defining Crisis of Our Time and it Particularly Impacts the Displaced," by Tim Gaynor, posted 30 November, 2020.

⁸ EcoWatch (article); "One Billion People May Become Climate Refugees by 2050," by Maria Trimarchi and Sarah Gleim, posted 24 September, 2020.

is estimated that between 665,000 and 1,750,000 people, of a projected population of 20 million, will be displaced by 2050.⁹ The Pacific community, through the leadership of the Pacific Islands Forum, has recognised the link between climate change and security, as a priority issue, through the 2018 *Boe Declaration on Regional Security*¹⁰ and, more recently, *The 2050 Strategy for the Blue Pacific Continent*.¹¹

There has been little consistency in the language used to describe ‘climate-displaced persons’ and, to date, no internationally accepted definition. Key terms include ‘environmental refugees’, ‘climate change refugees’, ‘ecological migrants’, ‘climate change displaced people’, and ‘climate migrants’.¹² In the absence of a common definition, this Brief adopts ‘climate-displaced people’ as a broad term, recognising climate change impacts as the main factor behind displacement. Climate displacement can be divided into two categories: internal and international/transboundary movement. These categories are integral in determining legal and governance responsibilities, particularly in deciding who must carry the burden of protection and management of those displaced, and how subsequent policies can be developed. Climate displacement can also be further categorised according to whether it is ‘forced or voluntary’, ‘temporary or permanent’, and ‘immediate or gradual’.¹³

In the absence of mechanisms developed specifically for climate displacement, this Policy Brief first examines how current refugee and human rights frameworks may assist in managing this escalating crisis. It examines global trends, identifying experiences that might be applicable to the management of climate displacement in the Pacific Region. Though many states have considered policy and legal changes for the protection of internationally displaced persons, few states within the Pacific have implemented domestic instruments based on the guiding principles on internal displacement.¹⁴ However, for low-lying atoll states subject to inundation due to sea level rise, internal relocation may not be a viable option and they may be reliant on international protection. Kiribati is such an example of a state which has almost no capacity to relocate internally because of the lack of substantial topography.¹⁵ In a bid to minimise the future impacts of climate change, Pacific states such as Tuvalu and the Federated States of Micronesia are lobbying industrialised nations to drastically reduce their GHG emissions and thus decrease the risk of future climate displacement.¹⁶

⁹ Jillian Ash and Jillian Campbell, “Climate Change and Migration: The Case of the Pacific Islands and Australia,” *Pacific Studies* 36, no. 1 (2016): 53.

¹⁰ Pacific Islands Forum, 2018. “Boe Declaration on Regional Security”, <https://www.forumsec.org/2018/09/05/boe-declaration-on-regional-security/>

¹¹ Pacific Islands Forum, n.d. “The 2050 Strategy for the Blue Pacific Continent”, <https://www.forumsec.org/2050strategy/>

¹² Mostafa Mahmud Naser, “Climate Change-Induced Displacement: Definitional Issues and Concerns,” *Chicago-Kent Journal of Environmental and Energy Law* 2, no. 1 (2011): 1-52.

¹³ Fabrice G. Renaud, Janos J. Bogardi, Olivia Dun, and Koko Warner, “Control, Adapt or Flee: How to Face Environmental Migration,” *InterSecTions* 5, (January 2007): 1-44.

¹⁴ Phil Orchard, *Protecting the Internally Displaced: Rhetoric and Reality* (Oxon: Routledge, 30 October, 2018); United Nations Economic and Social Council (‘ECOSOC’), Resolution 1997/39, Guiding Principles on Internal Displacement, E/CN.4/1998/53/Add.2 (11 February, 1998), <https://undocs.org/E/CN.4/1998/53/Add.2>.

¹⁵ Alan Dupont and Graeme Pearman, “Heating Up the Planet: Climate Change and Security” (Lowy Institute Paper 12, New South Wales, Australia 2006).

¹⁶ Dupont and Pearman, “Heating Up the Planet”, 47.

This Brief first discusses climate security, focusing on *The World Climate and Security Report 2021*,¹⁷ which provides current context to the links between climate displacement and security. Secondly, it considers whether current refugee and human rights frameworks are appropriate mechanisms through which to protect climate-displaced people. The pivotal United Nations High Commissioner for Refugees (UNHCR) report, *In Harm's Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change*,¹⁸ is discussed to illustrate the complexity of issues surrounding climate displacement and security. Thirdly, the Brief considers climate displacement in the Pacific and evaluates some current exemplary management plans from this region. Finally, it concludes with recommendations to assist policy makers.

2. Climate Security: *The World Climate and Security Report 2021*

*The World Climate and Security Report 2021*¹⁹ found that forced displacement will likely remain in the top five pressing climate security phenomena during the following decade. Further, within the next twenty years, security risks emanating from climate change will present severe to catastrophic levels of risk. With the relative unpredictability of future climate change impacts, these risks will become higher in the years to come. The threat categories identified are: water security, ecosystem security, national security, health security, economic security, food security, infrastructure security, military security, international security, and novel security risks. Importantly, the report found that 'instability within nations' was ranked consistently as more severe, across all time periods, when compared with the 'instability between nations', highlighting the importance of national security as a priority.²⁰ The report explained how the most pressing security threats will come from climate change-induced disruptions to social systems. It observed that climate security adaptation and resilience solutions rarely account for local dynamics, or integrate the perspectives of local communities, and that these omissions inadvertently contribute to other security risks.

Defence forces will be increasingly overstretched as the ramifications of climate change intensify. Direct impacts regularly threaten military infrastructure and reduce the capacity of military forces. Conversely, the armed forces are amongst the actors that can most readily respond to such climate-driven events. The report found that the current level of understanding and preparation for climate security threats is exceedingly low and suggests that many nations may not be well positioned to confront such novel threats as they arise. In some cases, several types of actors are active in addressing issues, which has proven to be effective. In particular, cooperation between defence, diplomacy and development

¹⁷ Expert Group of the International Military Council on Climate and Security (IMCCS), *The World Climate and Security Report 2021* (Washington, DC: Centre for Climate and Security, June 2021).

¹⁸ UNHCR (Sanjula Weerasinghe), "In Harm's Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change," PPLA/2018/05 (December 2018), <https://www.unhcr.org/5c1ba88d4.pdf>.

¹⁹ Expert Group of the International Military Council on Climate and Security (IMCCS), *The World Climate and Security Report 2021* (Washington, DC: Centre for Climate and Security, June 2021).

²⁰ IMCCS, *Climate and Security Report*, 13.

agencies can lead to comprehensive and long-term impacts, since they address the different aspects of the climate-security nexus.²¹

Of the future pathways proposed in the report, the following are pertinent to this Policy Brief. To build resilience to such threats, policymakers and defence leaders must collaborate closely with natural and social scientists to forecast how new risks might evolve. Such an approach will require building capacity within institutions. Climate-proofing development for fragile states, such as those in the Pacific, is a priority for conflict prevention. Assistance should be aimed at climate resilience challenges such as water and food security, disaster preparedness, and, investing in ‘green recovery’ mechanisms that encourage investments in renewable energy and adaptive capacities. The report highlighted the need for states and international actors to take urgent action to update and develop international legal and policy mechanisms to include environmental and climate security impacts, such as the displacement of people.²²

3. Protection for Climate-Displaced People: Refugee and Human Rights Mechanisms

There has been much discussion pertaining to how to best protect climate-displaced people. The report, *In Harm’s Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change*,²³ considered how the international protection of refugees, based on refugee law frameworks, is provided by destination states. The report introduced the term ‘nexus dynamics’, that is, human movement that is driven by conflict and/or violence and disaster and/or the adverse effects of climate change. Nexus dynamics recognises that climate change is often not the only driver of displacement; there may be several contributing factors. The following section considers the pros and cons of refugee and human rights frameworks and their capacity to protect climate-displaced people.

3.1 Refugee Law and Frameworks

The *1951 Geneva Convention Relating to the Status of Refugees (Refugee Convention)*²⁴ gives ‘refugee’ a specific legal meaning that requires a ‘fear of persecution’ and that is not inclusive of most environmentally-induced circumstances, including climate displacement.

A refugee is defined as a person who;

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside

²¹ IMCCS, 31.

²² IMCCS, 82.

²³ UNHCR (Sanjula Weerasinghe), “In Harm’s Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change,” PPLA/2018/05 (December 2018), <https://www.unhcr.org/5c1ba88d4.pdf>.

²⁴ UNHCR, “Convention Relating to the Status of Refugees,” (‘Refugee Convention’), 28 July, 1951, 189 U.N.T.S. at 14.

the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it.²⁵

Refugees are persons in need of international protection as they are outside their country of origin and face serious threats against them from which their origin state cannot, or will not, protect them.²⁶ Therefore, under international law, refugees seek protection which is provided by an appropriate country of refuge. However, refugees must meet the international and domestic definitions of a refugee to satisfy the requirements of protection otherwise they risk being returned to their country of origin (refoulement).²⁷

International refugee protection is detailed in the *Refugee Convention and 1967 Protocol Relating to the Status of Refugees*,²⁸ as well as customary law (non-refoulement), state practice, multi-lateral and domestic legal instruments, international and domestic judicial decisions, United Nations (UN) General Assembly resolutions, UN Economic and Social Council resolutions (ECOSOC) and UNHCR's Executive Committee (ExCom) conclusions. Noted progress on the *Refugee Convention* was made in the 2016 *New York Declaration for Refugees and Migrants*,²⁹ and the 2018 *Global Compact on Refugees*.³⁰ Importantly, the *Compact* does acknowledge environmental factors, including climate change, as drivers of displacement. Additionally, *The Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa*,³¹ (commonly known as the OAU Convention), and the *Cartagena Declaration*³² are broader in their interpretations of what constitutes the definition of a refugee. They recognise people who may have fled natural disasters, which could include the impacts of climate change.³³

The UNHCR *Comprehensive Refugee Response Framework*³⁴ (CRRF) is the principal framework for providing and guiding the application of international protection. Where an individual cannot satisfy the refugee definition, they may be entitled to international 'complementary protection' which provides for temporary protection, or stay, arrangements.³⁵ Refugee Status Determination (RSD) is used to establish whether an

²⁵ "Refugee Convention," 28 July, 1951, 189 U.N.T.S. at 14.

²⁶ UNHCR, "Persons in Need of International Protection," (June 2017), <https://www.refworld.org/docid/596787734.html>.

²⁷ UNHCR, "Convention Relating to the Status of Refugees," ('Refugee Convention'), 28 July, 1951, 189 U.N.T.S. at 30, <https://www.unhcr.org/5d9ed32b4>

²⁸ UNHCR, "Protocol Relating to the Status of Refugees," 31 January, 1967, 606 U.N.T.S. at 267.

²⁹ United Nations ('UN') General Assembly, Resolution 71/1, *New York Declaration for Refugees and Migrants*, A/RES/71/1 (19 September, 2016), <https://undocs.org/en/A/RES/71/1>.

³⁰ United Nations General Assembly, Agenda 73/12, "Global Compact on Refugees," Part II, A/73/12 (2018), [https://undocs.org/en/A/73/12\(PartII\)](https://undocs.org/en/A/73/12(PartII)).

³¹ UNHCR, "OAU Convention Governing the Specific Aspects of Refugee Problems in Africa," 20 June, 1974, 14691 U.N.T.S 45.

³² UNHCR, "Cartagena Declaration on Refugees," 22 November, 1984, <https://www.unhcr.org/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html>

³³ UN General Assembly, Agenda 73/12, "Global Compact on Refugees," Part II, A/73/12 (2018), 2, [https://undocs.org/en/A/73/12\(PartII\)](https://undocs.org/en/A/73/12(PartII)).

³⁴ UN General Assembly, Resolution 71/1, *New York Declaration for Refugees and Migrants*, A/RES/71/1 (19 September, 2016), <https://undocs.org/en/A/RES/71/1>.

³⁵ UNHCR, "Persons in Need of International Protection," (June 2017), <https://www.refworld.org/docid/596787734.html>.

individual who seeks international protection satisfies the refugee criteria which is primarily the responsibility of states and is subject to political and legal circumstances.³⁶ RSD can be conducted using an individual or a group-based approach, depending upon the circumstances of migration and the magnitude of the refugee influx. An individual approach requires an in-depth examination of each applicant's case and their extenuating circumstances. Alternatively, a group-based approach is favoured where it is more practical and efficient to do so. This may be in situations of large-scale movements, catalysed by sudden changes in socio-political conditions.

Refugee legal frameworks play primary and secondary roles in international protection. A refugee legal framework is recognised as having a primary role when it is the dominant mechanism chosen to assess applications for refugee status and to grant protection. When a refugee legal framework is limited in its capacity to respond to the arrival of displaced persons, and is largely under-utilised in granting protection, it is considered to have a secondary role. This is an important distinction when considering cases of climate displacement. The UNHCR and the International Organization for Migration (IOM) have expressed objections to upholding 'refugee' in a definition for climate-induced movement because it does not fit the traditional definition of refugees as people fleeing persecution.³⁷

3.2 Human Rights Framework

The choice to advocate for a human rights-based approach is most often grounded in the preservation of human life and dignity.³⁸ Basic provisions, such as access to sanitation, health care, food, clean water, and shelter are entrenched in human rights treaties, primarily the 1948 *Universal Declaration of Human Rights*.³⁹ A human rights approach involves a non-discriminatory assessment of refugee applications⁴⁰ which includes environmental factors such as those induced by climate change. This approach recognises the capacity of the impacts of climate change to exacerbate civil and political issues that may place an individual at heightened risk for any one of the five *Refugee Convention* reasons (race, religion, nationality, membership of a particular social group or political opinion).

The guiding measures for persons in need of international protection⁴¹ do not consider the many individuals who will be displaced *within* State borders. The UNHCR explicitly notes that the combination of situations of environmental strains and/or disasters (natural or

³⁶ UNHCR (Sanjula Weerasinghe), "In Harm's Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change," PPLA/2018/05 (December 2018), <https://www.unhcr.org/5c1ba88d4.pdf>.

³⁷ UNHCR, "Climate Change, Natural Disasters and Human Displacement: A UNHCR Perspective," (October 2008), <https://www.unhcr.org/en-au/protection/environment/4901e81a4/unhcr-policy-paper-climate-change-natural-disasters-human-displacement.html>; International Organisation for Migration, *Migration, Climate Change and the Environment* (Geneva, Switzerland: IOM Policy Brief, 2009): 4–5.

³⁸ Ala Al-Mahaidi, "Securing Economic Livelihoods for Syrian Refugees: The Case for a Human Rights-based Approach for the Jordan Compact," *The International Journal of Human Rights* 25, no. 2 (2021): 203-230.

³⁹ UN General Assembly, Resolution 217(III)A, Universal Declaration on Human Rights, A/RES/217(III)A (10 December, 1948), [https://undocs.org/en/A/RES/217\(III\)](https://undocs.org/en/A/RES/217(III)).

⁴⁰ Mostafa Mahmud Naser, "Protecting Climate Change Induced Displacement in Bangladesh: Legal and Policy Responses" (PhD thesis, Macquarie University, 2012), 151-154.

⁴¹ UNHCR, "Persons in Need of International Protection," (June 2017), <https://www.refworld.org/docid/596787734.html>.

man-made) and conflict, frequently interlink and manifest in forced displacement. A human rights approach ensures that persons who are displaced internally will be recognised as deserving of protection, even where they are excluded from the ambit of the refugee law-based international framework. A human rights approach is therefore valuable in assessing status determination to identify how the combined consequences of conflict, and/or violence and disaster, and/or the adverse effects of climate change, support claims for protection.⁴²

In summary, the application of both refugee and human rights frameworks can be applied to the process of assessing the status of displaced people. However, as the number of variables that influence displacement are becoming more complex, particularly with the inclusion of the impacts of climate change, it would appear to be a fairer and more appropriate model to frame displacement, in the first instance, within a human rights framework.

3.3 Summary

In approaching applications for refugee status, where climate change has an underlying role in displacement, a human rights approach is preferred, due to its capacity to recognise status, when the offer for protection may be unavailable under the *Refugee Convention*.⁴³ Overall, the use of international refugee law frameworks, in conjunction with broader refugee criteria and specific domestic and regional migration policies, can address climate displacement through human rights-based protection measures. The capacity of destination states to provide international protection is not limited to its obligations under the *Refugee Convention*;⁴⁴ they can seek out alternative protection arrangements. Importantly, where destination states are limited in their capacity to assess applications for refugee status, a group-based approach is proposed as it has the capacity to alleviate the burden of individual assessments.

Throughout the report, *In Harm's Way*, analysis of cases of displacement often noted that much of the protection granted to individuals was recognised within a broader refugee context and through a humanitarian lens or a human rights approach. The case studies in the report (which also included the case of Haiti where a major earthquake in 2010 caused widespread displacement) were chosen by the UNHCR to illustrate how the impacts of climate displacement, in the context of nexus dynamics, pose challenges to the granting of protection under international refugee law. The case studies reveal that in order to provide sufficient support and protection to individuals displaced by climate change, receiving states should opt for broader refugee criteria, or a humanitarian approach, that is wider than the scope of the *Refugee Convention*.⁴⁵ In these cases, destination states may choose to adopt and/or amend their domestic migration frameworks to reflect more closely a human

⁴² UNHCR (Sanjula Weerasinghe), "In Harm's Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change," PPLA/2018/05 (December 2018), <https://www.unhcr.org/5c1ba88d4.pdf>.

⁴³ Sanjula Weerasinghe, "In Harm's Way," 96-98.

⁴⁴ UNHCR, "Convention Relating to the Status of Refugees," ('Refugee Convention'), 28 July, 1951, 189 U.N.T.S. 137.

⁴⁵ "Refugee Convention," 28 July, 1951, 189 U.N.T.S. 137.

rights approach, and grant displaced individuals international protection on a temporary and/or humanitarian basis. Further, they exemplify how having ‘a toolbox’ of law and policy to manage displacement provides an opportunity for the destination states to tailor protection measures to the unique circumstances of nexus dynamics-related movement.

The report, *In Harm’s Way*, illustrated that refugee status was recognised largely pursuant to broader refugee criteria and was not limited to a purely legal basis. Importantly, the report noted that regional refugee definitions, utilised at a domestic level, were more likely to facilitate the recognition of status than if the CRRF had been applied to that same case of displacement. This is because regional refugee definitions such as the one adopted by the *OAU Convention*,⁴⁶ are more generalised and steer away from requirements of persecutory conduct.⁴⁷ The report highlighted the limitations in the application and effectiveness of refugee frameworks in securing the necessary protection of climate-displaced people, particularly in the absence of persecution.⁴⁸

4. Pacific Initiatives

The importance of human rights framing the challenges surrounding climate displacement has been highlighted. The logic behind this approach is to ensure the inclusion of the variables (such as cultural influences) that contribute to each displacement scenario. Human rights frameworks can then accommodate refugee mechanisms resulting in a ‘tool box’ approach to any given situation.

Interestingly, there has been a landmark case in the Pacific which underlines the importance of a human rights framework. In 2019, a ruling was made on a complaint that had been lodged with the UN Human Rights Committee in 2015, by a Kiribati resident who was seeking asylum in New Zealand from the impacts of rising sea levels. The committee noted in the ruling that:

both sudden-onset events, such as intense storms and flooding, and slow-onset processes, such as sea level rise, salinization and land degradation, can propel cross-border movement of individuals seeking protection from climate change-related harm. The Committee is of the view that without robust national and international efforts, the effects of climate change in receiving States may expose individuals to a violation of their rights under articles 6 or 7 of the Covenant, thereby triggering the non-refoulement obligations of sending States. Furthermore, given that the risk of an entire country becoming submerged under water is such an extreme risk, the conditions of life in such a country may become incompatible with the right to life with dignity before the risk is realized.⁴⁹

⁴⁶ UNHCR, “OAU Convention Governing the Specific Aspects of Refugee Problems in Africa,” 20 June, 1974, 14691 U.N.T.S 45.

⁴⁷ Marina Sharpe, Laure Prevost and Marie-Eve Goblet, “The 1969 African Refugee Convention: Innovations, Misconceptions, and Omissions,” *McGill Law Journal* 58, no. 1 (September 2021): 95, 114.

⁴⁸ UNHCR (Sanjula Weerasinghe), “In Harm’s Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change,” PPLA/2018/05 (December 2018), 97, <https://www.unhcr.org/5c1ba88d4.pdf>.

⁴⁹ *Ioane Teitiota v. New Zealand (advance unedited version)*, CCPR/C/127/D/2728/2016, UN Human Rights

Despite the Committee determining that the applicant's right to life was not violated in the short term, this case does progress the need to consider climate displacement through a human rights lens and future state and international protections.

The Pacific Islands Forum recognised the climate-conflict nexus through *The 2050 Strategy for the Blue Pacific Continent*⁵⁰ and its predecessor, the 2018 *Boe Declaration on Regional Security*⁵¹ which affirmed "that climate change remains the single greatest threat to the livelihoods, security and wellbeing of the peoples of the Pacific...".⁵² Pacific leader Leituāla Kuiniselani Toelupe Tago-Elisara explained the linkages between climate, security and human rights when she wrote "We can't talk about climate security without talking about human security and the same way where we can't talk about climate and human security without talking about food security, without talking about water security, even our own health security and our broader social economic and environmental security."⁵³

Pacific states have been recognising and progressing their approaches to climate security and displacement, as illustrated by the following examples.

4.1 New Zealand

New Zealand Defence has recognised the robust measures it must take to be proactive in the midst of a growing climate crisis and has developed a plan to ensure that adaptation, mitigation and engagement strategies are central to its Defence Force.⁵⁴ This is essential for providing greater security in light of climate risks on a national scale. Climate considerations are now included in military operational planning and concurrent complex responses to natural disasters and other security risks. In conjunction with preparedness, New Zealand Defence has also outlined intentions to reduce its emissions and environmental impacts. Though this plan is a valuable exemplar, it makes little mention of how defence forces will assist displaced people, or prepare for climate-induced displacement. This is pertinent as New Zealand's neighbouring states are some of the most vulnerable to climate change.

New Zealand has established a system of migration pathways through bilateral agreements known as the Pacific Access Category Resident Visa.⁵⁵ These agreements can provide safer and more secure migration patterns using pre-emptive planning. This is particularly important for nations that are already aware of the declining liveability of their homelands.

Committee (HRC), 7 January 2020,12, available at: <https://www.ref-world.org/cases,HRC,5e26f7134.html> [accessed 26 September 2021].

⁵⁰ *Pacific Wayfinder: Advancing regional security through research*, <https://pacificsecurity.net/pacific-wayfinder-advancing-regional-security-through-research/>

⁵¹ Pacific Islands Forum, "Boe Declaration on Regional Security," (Fiji: 2018), <https://www.forumsec.org/2018/09/05/boe-declaration-on-regional-security/>.

⁵² Pacific Islands Forum, "Boe Declaration," 1(i).

⁵³ *Pacific Wayfinder: Advancing regional security through research*, <https://pacificsecurity.net/pacific-wayfinder-advancing-regional-security-through-research/>

⁵⁴ New Zealand Ministry of Defence, "Responding to the Climate Crises: An Implementation Plan," (New Zealand: November 2019).

⁵⁵ New Zealand Immigration, "Information about Pacific Access Category Resident Visa," accessed 28 April, 2021, <https://www.immigration.govt.nz/new-zealand-visas/apply-for-a-visa/about-visa/pacific-access-category-resident-visa>.

Rather than waiting for climate displacement to occur, pre-emptive planning can ensure international or internal migration pathways are accessible and available before the onset of a climate or environmental disaster.

Migration pathways can allow persons from one state to migrate to another as the impacts of climate change diminish the liveability and security of their homelands.⁵⁶ This has many benefits, including: improving community engagement and interstate relations, encouraging organised migration, preserving social and cultural connections of communities after migration, creating safe international relocation pathways and more harmonious integration of potential climate change-displaced people. If these pathways exist, they may provide an immediate opening for safe migration without the risk of refoulement in the event of unprecedented environmental disasters.⁵⁷

The agreement established between New Zealand, Tuvalu, Kiribati and other low-lying island states provides the closest resemblance to such a pathway.⁵⁸ New Zealand recognises that the movement of the people of these island states is less likely to be in the nature of sudden flight and more likely to be pre-emptive. For example, New Zealand may accept 75 Tuvaluans each year through the immigration service's Pacific Access Category.⁵⁹

The establishment of migration pathways is an important step forward and provides safe and guaranteed routes of migration prior to forced displacement. Additionally, these agreements place some of the burden of climate displacement on industrialised states by requiring them to initiate support and protection in a manner that does not overwhelm migration pathways and refugee status determination resources. However, these migration pathways make no reference to environmental degradation and do not explicitly acknowledge climate displacement. Further, registrations for these migration pathway categories are subject to changes and have recently been suspended, due to the COVID-19 pandemic.

4.2 Fiji: Planned Displacement and Relocation Guidelines

The *Republic of Fiji's Displacement Guidelines in the Context of Climate Change and Disasters*,⁶⁰ aims to reduce the vulnerabilities associated with displacement when they occur, and to implement robust solutions to reduce the drivers of displacement.⁶¹ The *Planned Relocation Guidelines: A Framework to Undertake Climate Change Related Relocation*,⁶² promotes the adoption of planned relocation solutions for communities which

⁵⁶ Jane McAdam, "Refusing Refuge in the Pacific: (De)Constructing Climate-Induced Displacement in International Law," in E Pigué, A Pecoud and P de Guchteneire (eds), *Migration and Climate Change* (Cambridge University Press, 2011).

⁵⁷ Jane McAdam, "Refusing Refuge," 21.

⁵⁸ New Zealand Immigration, "Information about Pacific Access Category Resident Visa," accessed 28 April, 2021, <https://www.immigration.govt.nz/new-zealand-visas/apply-for-a-visa/about-visa/pacific-access-category-resident-visa>.

⁵⁹ New Zealand Immigration, "Pacific Access Category".

⁶⁰ Ministry of Economy – Republic of Fiji, "Displacement Guidelines: In the Context of Climate Change and Disasters," (Fiji: 2019).

⁶¹ Ministry of Economy, "Displacement Guidelines," 8-10, 16.

⁶² National Legislative Bodies/National Authorities – Republic of Fiji, "Planned Relocation Guidelines: A Framework to Undertake Climate Change Related Relocation," (Fiji: 2018).

are likely to be displaced by climate change. These guidelines form part of national adaptation strategies, particularly in the context of disasters and slow onset climate change events. Whether displacement occurs in regulated intakes, or unforeseen influxes, having relocation solutions in place better ensures community safety and security. Further, the document encourages planned relocation solutions to: incorporate an inclusive and gender responsive consultative and participatory process; coordinate collaboration among stakeholders; facilitate clear and comprehensive procedures and dialogue. Importantly, Fiji's *Guidelines* recognise that the inclusion of 'custom', including traditional knowledge, is an essential component to a human rights-based framework as it builds community resilience and embeds innovation into climate change adaptation.⁶³

In addition, Fiji has drafted a *Climate Change Bill*,⁶⁴ which is currently in its second draft and open for public consultation. Together, these legal and policy documents will provide a foundation for future preparedness in the context of climate displacement.

4.3 Pacific pathways

Maintaining long term peace across the Pacific requires understanding and addressing the dimensions of climate security. The engagement and empowerment of Pacific communities as climate leaders is part of the key to addressing these challenges. This includes emphasising the importance of hearing the voices of women and young people who are often underrepresented in Pacific forums. This approach recognises that while Pacific communities are some of the people most vulnerable to the impacts of climate change⁶⁵, they have significant contributions to climate solutions. In particular, their capacity to guide much-needed transformational change pertaining to how the global community can live within the bounds of nature. The traditional custom (culture, knowledge, practices and understanding) of Pacific islanders can provide a valuable approach to protecting humanity and the environment.⁶⁶ The inclusion of "traditional customary law and knowledge, together with contemporary indigenous knowledge and indigenous ways of climate change adaptation",⁶⁷ will have many benefits including the preservation of the cultural identity of displaced people.

⁶³ National Legislative Bodies/National Authorities – Republic of Fiji, "Planned Relocation Guidelines: A Framework to Undertake Climate Change Related Relocation," (Fiji: 2018).

⁶⁴ Republic of Fiji, "Draft Climate Change Act 2020", https://www.economy.gov.fj/images/CCIC/uploads/BILL/Fiji_Climate_Change_Bill-Draft-2-for-Public-consultation-18-November-2020.pdf

⁶⁵ Intergovernmental Panel on Climate Change, "Impacts of 1.5C of Global Warming on Natural and Human Systems," in V Masson-Delmotte, O-H P Zhai, D Pörtner, J Roberts, P R Skea, A Shukla, W Pirani, C Moufouma-Okia, R Pé an, S Pidcock, J B R Connors, Y Matthews, X Chen, M I Zhou, E Gomis, T Lonnoy, M, and T Tignor (eds), *Global Warning 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* (United Nations, In Press, 8 October 2018) 245.

⁶⁶ Cosmin Corenea, "Migration and Human Rights in the Wake of Climate Change: A Policy Perspective over the Pacific," (UNU-EHS Publication Series, Policy Report no. 2, September 2017).

⁶⁷ Volker Boege, "Two Years On: The Toda Pacific Declaration on Climate Change, Conflict and Peace -Weaving Mats, Building Bridges, and the Net of Indra," June 2021, <https://toda.org/global-outlook/two-years-on-the-toda-pacific-declaration-on-climate-change-conflict-and-peace-weaving-mats-building-bridges-and-the-net-of-indra.html>.

5. Conclusion

The impacts of climate change and its security implications are inseparable. This is particularly applicable to Pacific States that are frontline in terms of climate impacts and also face pre-existing vulnerabilities. *The World Climate and Security Report 2021*⁶⁸ proposed that climate policy interventions should be conflict-sensitive as illustrated by the approach by New Zealand Ministry of Defence. Climate displacement planning across Pacific nations should include the involvement of defence forces in the interest of ongoing national security.

The UNHCR report *In Harm's Way*⁶⁹ provided an in-depth analysis of migration patterns in the wake of environmental disasters, compounded by pre-existing socio-political and economic struggles. The report made special note of the need for a human rights approach combined with protecting climate change-displaced persons using international refugee law-based mechanisms. Without a human rights approach, climate-displaced persons may fall outside of the ambit of the refugee definition and could remain without national or international protection.

In the Pacific Region, there is a three-fold onus on industrialized states, such as Australia and New Zealand. Firstly, the need to cap their GHG emissions to limit temperature increases to prevent further damage, including climate displacement. Secondly, to assist Pacific nations in adaptation measures as they adjust to some of the inevitable impacts of climate change. Thirdly, to increase their current and future intake capacity of climate-displaced persons. This responsibility may include the adoption and enforcement of international agreements that recognise the contribution of industrialized states to the existential climate threat now burdening the Pacific.⁷⁰

Pacific states may choose to adopt a human rights-based approach when responding to climate displacement, as seen in the Kiribati case, to preserve the dignity, cultural identity and wellbeing of individuals. Opting for a human rights-based approach would offer climate-displaced persons the rights and privileges that do not exist for them under the current refugee framework. Having these rights echoed in legally enforceable domestic, and/or regional frameworks, would then hold states accountable to not only protect climate-displaced people, but to also encourage them to take affirmative measures that would reduce the impacts of climate change.⁷¹ Refugee law and policies, working in combination with human rights, may provide the best options for Pacific states, in the absence of dedicated international climate displacement mechanisms. The challenge of managing

⁶⁸ Expert Group of the International Military Council on Climate and Security (IMCCS), *The World Climate and Security Report 2021* (Washington, DC: Centre for Climate and Security, June 2021).

⁶⁹ UNHCR (Sanjula Weerasinghe), "In Harm's Way – International Protection in the Context of Nexus Dynamics between Conflict and Violence and Disaster or Climate Change," PPLA/2018/05 (December 2018), <https://www.unhcr.org/5c1ba88d4.pdf>.

⁷⁰ John Campbell, Olivia Warrick and UN Economic and Social Commission for Asia and the Pacific ('ESCAP'), "Climate Change and Migration Issues in the Pacific," (Fiji: ESCAP Pacific Office, August 2014).

⁷¹ Jakob Schou Kupferberg, "Migration and Dignity – Relocation and Adaptation in the Face of Climate Change Displacement in the Pacific – A Human Rights Perspective," *The International Journal of Human Rights*, (2021): 1-26.

climate displacement is a mounting global imperative as the homelands of communities from across the Pacific are vanishing.

6. Recommendations

The following seven recommendations may be helpful for planning and preparations surrounding climate change impacts, aiming to reduce the likelihood of climate displacement and conflict. When displacement is inevitable, these recommendations highlight the need to ensure that pathways and protections are in place and accommodate movement and protect the lives of citizens. The first five recommendations are applicable globally, while the final two recommendations are more focused on Pacific Island states but can apply to other nations.

Recommendation 1: Develop a climate displacement definition

Due to the range of terms in usage, and the lack of a commonly accepted definition, there is a need to develop a commonly accepted definition of climate displacement and climate-displaced people. Advantageously, a definition would reduce the burden on the refugee legal framework to include climate displacement within its scope.⁷² In the absence of a definition, an imbalance in procuring the safety of climate-displaced persons will continue to arise, disproportionately impacting individuals and societies in climate-vulnerable states, such as the Pacific.

The following definition is proposed by the authors of this Policy Brief, as a basis for further discussion:

Climate displacement refers to the movement away from one's homeland (internal or international) necessitated by the present and/or future impacts of climate change. Displacement may be temporary or permanent, planned or unplanned, and voluntary or involuntary. Climate change needs only to be the predominant reason for displacement, and may fall within an amalgamation of reasons. Climate-displaced persons are those who migrate due to the impacts of climate change as the predominant factor.

Recommendation 2: Develop conflict-sensitive climate policies

To minimise the likelihood of conflict surrounding climate displacement, conflict-sensitive climate policies and approaches are required. *The World Climate and Security Report 2021* proposed that conflict prevention in the following areas has a significant impact on livelihoods with the potential for violent conflict:⁷³ “access to political power and governance; land, water, and extractive resources; delivery of basic services; and justice and

⁷² Mostafa Mahmud Naser, “Protecting Climate Change Induced Displacement in Bangladesh: Legal and Policy Responses” (PhD thesis, Macquarie University, 2012), 151.

⁷³ Expert Group of the International Military Council on Climate and Security (IMCCS), *The World Climate and Security Report 2021* (Washington, DC: Centre for Climate and Security, June 2021) 30.

security.”⁷⁴ Conflict-sensitive policies require development by cross disciplinary experts coming together, such as social scientists and armed forces, with affected communities to plan the most appropriate pathways forward.

Recommendation 3: Frame climate displacement in a human rights approach

Policy and legislative instruments adopting a human rights-based framework will provide additional support and protection to climate-displaced persons. It is a state responsibility to take actions to protect a person’s right to life and this extends to the health and viability of the environment in which they are situated and on which they subsequently rely. Further, a human rights-based approach facilitates: participation (multi-sectoral/transboundary), accountability of state actors (when international law is non-binding), non-discrimination and equality in decision making, and empowerment to exercise rights and freedoms. It focuses on the preservation of human dignity and does not allow for human rights abuses. A human rights framework requires stronger protections against refoulement and sufficient access to humanitarian assistance.

Recommendation 4: Develop an international climate displacement treaty and regional action plans

As climate displacement is a comparatively new challenge, when compared with other internationally recognised forms of migration, there is currently minimal protection offered by customary law and international treaties. Therefore, there is an opportunity for the global community to either amend existing international laws, or develop a new framework using a human rights-based approach. This Policy Brief has focused on examining how climate displacement could be best managed using existing human rights and refugee instruments. This is a practical but compromised position given that existing instruments were drafted before there was knowledge of climate displacement. While a global treaty may risk being too flexible and include too many exceptions to ensure its purpose is met,⁷⁵ it may provide a useful foundation for more localised instruments. For example, treaties created in bilateral or regional forums (e.g., the Pacific Islands Forum) could be more effective in garnering regional engagement in a timely and cost-effective manner.

Regional action plans may sit under a climate displacement treaty and framework. They will provide specific and practical methods of preventing climate displacement and/or ensuring safe movement and resettlement. It is important that action plans include military operational planning for large scale displacement influxes, internally or externally.⁷⁶ If action plans can be developed at a regional scale, this would enhance ongoing security

⁷⁴ IMCCS, *Climate and Security Report*, 30.

⁷⁵ Adelle Thomas and Lisa Benjamin, “Policies and mechanisms to address climate-induced migration and displacement in Pacific and Caribbean small island developing states,” *International Journal of Climate Change Strategies and Management* 10, no. 1 (2018): 86, 90.

⁷⁶ New Zealand Ministry of Defence, “Responding to the Climate Crises: An Implementation Plan,” (New Zealand: November 2019).

relationships. Cooperation at state and regional levels will improve the efficiency of action plan initiatives and solidify disaster preparedness, response and recovery.⁷⁷

Recommendation 5: Develop climate displacement visas and pathways

As demonstrated by New Zealand, a climate displacement visa can be issued domestically for persons who are subject to climate displacement from neighbouring states, but cannot attain protection under the *Refugee Convention*. This may be best suited as a temporary solution while the international community arrives at global solutions regarding individual state responsibilities to provide protection. Providing a climate displacement visa may entitle an individual to a permanent or temporary stay depending upon the circumstances. It is not uncommon for individuals displaced by environmental disasters to intend to return home once it is safe to do so and they may not need to seek the same protections afforded to those whose home state is no longer habitable.⁷⁸ Therefore, a level of flexibility is required with such a visa programme. Establishing migration pathways through bilateral agreements can provide safer and more secure migration patterns by adopting pre-emptive planning. These pathways could be linked to the visa initiative.

Recommendation 6: Incorporate community engagement, including traditional culture, in climate displacement approaches

The importance of empowering and including the views of local people in decisions surrounding their futures is an imperative underpinning any future climate displacement approach. This includes the incorporation of Pacific traditional customary knowledge, law and practices. Respecting and incorporating cultural identity and protocols is likely to reduce the risk of conflict.

Recommendation 7: Strengthen the role of Pacific Islanders in climate change forums

Pacific Islanders are some of the communities most vulnerable to the impacts of climate change. They carry a significant burden in relation to climate-displacement, and therefore should have a genuine and recognised voice, “front and centre in relocation endeavours”,⁷⁹ surrounding climate action, adaptation, mitigation and migration plans.

⁷⁷ Cosmin Corendea, “Migration and Human Rights in the Wake of Climate Change: A Policy Perspective over the Pacific,” (UNU-EHS Publication Series, Policy Report no. 2, September 2017).

⁷⁸ Camillo Boano, Roger Zetter and Tim Morris, “Environmentally Displaced People: Understanding the Linkages Between Environmental Change, Livelihoods and Forced Migration,” (England: The Refugee Studies Centre’s Forced Migration Policy Briefings, November 2008).

⁷⁹ Volker Boege and Ria Shibata, “Climate Change, Relocation and Peacebuilding in Fiji: Challenges, Debates and Ways Forward,” November 2020, 15, https://toda.org/assets/files/resources/policy-briefs/t-pb-97_volker-boege-and-ria-shibata.pdf.

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