

NAVIGATING INJUSTICE

CLIMATE DISPLACEMENT
FROM THE PACIFIC ISLANDS
OF TUVALU AND KIRIBATI TO
AOTEAROA NEW ZEALAND

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Cover: Funafuti atoll in the Pacific Island country of Tuvalu. The average height of land on Funafuti is 2m above sea level. Approximately 6,000 people live on Funafuti (around 60% of Tuvalu's population), experiencing firsthand the effects of sea level rise, coastal erosion, king tides, and other effects of climate change. © Amnesty International

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GLOSSARY

Adaptation (climate change adaptation): changes in processes, practices and structures to moderate potential damages or to benefit from opportunities associated with climate change.¹

Aotearoa New Zealand: *Aotearoa* is the Māori name for the country of New Zealand.² The term Aotearoa New Zealand is used throughout this report.

Climate displacement (or climate-induced displacement or climate-related displacement): movement of people caused (in whole or in part) by the adverse effects of climate change. Climate change may be the primary reason or one of several reasons for which people move.

Climate change (or anthropogenic climate change): a change of the climate that is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and that is in addition to natural climate variability observed over comparable time periods.³

Climate change and disasters: this term is used in this report to encompass both extreme weather events and slow onset changes that are induced by anthropogenic climate change or whose patterns and intensity are influenced by, or related to, climate change (such as sea level rise, extreme weather events, more intense and frequent cyclones, droughts, king tides and floods), as well as natural or man-made disasters, including environmental disasters that are not directly attributable to climate change – such as tsunamis, earthquakes, volcanic eruptions and so forth. While not all disasters are attributable to climate change, their effects may be compounded by the climate crisis and vice versa.

Mitigation (climate change mitigation): efforts to reduce or prevent emission of greenhouse gases—a group of compounds that trap heat in the atmosphere—in order to curb climate change.

Loss and damage: the unavoidable impacts of climate change that cannot be prevented by mitigation and adaptation measures. Those suffering loss and damage have a right to remedy, including financial compensation. Remedy for loss and damage should be seen as a form of reparation.

Pacific People: refers to individuals from a Pacific Island Country, or people who may have links to several different Pacific Island Countries. For the purposes of this report, it refers specifically to a person's citizenship or nationality and is not a statement of race or ethnicity.

Pacific Island Countries: the Cook Islands, Fiji, Kiribati, Marshall Islands, Federated States of Micronesia, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. These countries are also often described as Small Islands Developing States. They are characterized by small but growing populations, limited resources, remoteness, vulnerability to climate change and other external shocks and common sustainable development challenges.

1 United Nations Framework Convention on Climate Change (UNFCCC), *Introduction: Adaptation and Resilience*, undated, <https://unfccc.int/topics/adaptation-and-resilience/the-big-picture/introduction>

2 See "Aotearoa" in *Te Aka Māori dictionary*, <https://maoridictionary.co.nz>

3 UNFCCC, adopted 1992, entered into force 21 March 1994; Paris Agreement, adopted 12 December 2015, entered into force 4 November 2016, Article 1.



The Tuvalu stage at the 2024 Pasifika Festival in Auckland. © Amnesty International

COP: Conference of the Parties, governing body of the UN Framework Convention on Climate Change, representing all states that are parties to the Convention.

CCPR: United Nations Human Rights Committee, body of independent experts that monitors the implementation of the International Covenant on Civil and Political Rights.

INZ: Immigration New Zealand (Aotearoa New Zealand).

IPCC: Intergovernmental Panel on Climate Change.

IPT: Immigration & Protection Tribunal (Aotearoa New Zealand).

MBIE: Ministry of Business, Innovation and Employment (Aotearoa New Zealand).

MFAT: Ministry of Foreign Affairs and Trade (Aotearoa New Zealand).

PRFCM: Pacific Regional Framework on Climate Mobility.

PAC: Pacific Access Category Resident Visa.

RSE: Recognised Seasonal Employer Limited Visa.

SQ: Samoan Quota Resident Visa.

UNFCCC: United Nations Framework Convention on Climate Change.

EXECUTIVE SUMMARY

As the plane descends towards Tuvalu's capital on Funafuti atoll, a thin strip of land emerges from the vast blue Pacific Ocean. Approximately 6,000 people live on Funafuti (around 60% of Tuvalu's population). Tuvalu's average elevation is less than 2m above sea level, with the country's highest point being less than 5m above sea level. Its vulnerability to the external environment is immediately apparent.

Sam (not his real name) grew up in Funafuti. He helps his aunties to rear pigs and carries out errands on his motorcycle around the island. Sam was born with a disability but due to the country's limited health care facilities, he has never received a proper diagnosis for his condition. Sam's greatest fear is the sea because he cannot swim. His fears are not unfounded – in March 2024, a king tide of 3-4m washed over the island, flooding the roads and sweeping into peoples' homes. Sam talked passionately about his desire to be reunited with family: "I really want to go to New Zealand... to see my parents. It's been nine years". *Sam* was separated from his parents when he was aged 21 and their family migrated to Aotearoa New Zealand. The country would not grant *Sam* a visa, due to his disability.

Kiribati is also a low-lying atoll country in the Pacific. Around 136,000 people live on 20 out of the country's 32 islands. Most of them are no more than 2-3m on average above sea level.

Teretia (not her real name), from Kiribati, left for Aotearoa New Zealand to assist her family. She described experiencing firsthand the impacts of climate change in Kiribati. She recalled the sea entering her home, that she was sharing with "30-40 people squashed together". At times, with "the sea coming closer and the wind being very strong" she was "thinking to put [her] little nephews inside buckets, in case the sea comes in."

In Aotearoa New Zealand, she struggled after her application for a visa extension was declined. She lived in fear that authorities would deport her due to her irregular migration status.

For people living in the Pacific, coastal proximity increases the risk of exposure to the effects of human-induced climate change, particularly from rising sea levels, coastal erosion, king tides and floods. As equatorial and tropical countries, these islands are more likely to suffer from extreme heat and increased droughts, as well as rapid-onset events such as cyclones, whose intensity and frequency are increased by climate change. Sea level rise constitutes an existential threat for low-lying islands that are projected to increasingly lose land to the encroaching ocean. Climate-driven impacts are compounded by exposure to other disasters such as tsunamis, volcanic eruptions and earthquakes. These create a relentless cycle of danger for already at-risk communities, that also results in the displacement of individuals or groups.

The climate crisis threatens a host of human rights, including the right to life, health, an adequate standard of living and the right to a clean, healthy and sustainable environment. As climate change worsens existing social inequalities and increases economic hardship, many are forced to migrate, often without realizing the extent to which climate change is driving their displacement. States' duty to protect people from the impacts of climate change – and therefore from being forcibly displaced from their homes – is widely recognized. In contrast, providing options for people impacted by the climate crisis to move across borders largely remains a subject of intense debate.



Funafuti atoll in the Pacific Island country of Tuvalu. The average height of land on Funafuti is 2m above sea level. Approximately 6,000 people live on Funafuti (around 60% of Tuvalu's population), experiencing firsthand the effects of sea level rise, coastal erosion, king tides, and other effects of climate change. © Amnesty International

As climate change worsens existing social inequalities and increases economic hardship, many are forced to migrate, often without realizing the extent to which climate change is driving their displacement.

Many have sought opportunities to migrate elsewhere: Aotearoa New Zealand is home to the largest diaspora of Pacific Peoples. Among them are 4,653 Tuvaluans and 3,225 I-Kiribati. However, it remains complicated for people from Pacific Island Countries to obtain visas. In the absence of migration pathways specifically dedicated to people displaced by the climate crisis, those needing to move across borders must navigate the limited opportunities in other areas such as labour migration. Consequently, those migrating risk falling through the cracks of stringent – at times discriminatory – immigration requirements. Like *Sam* from Tuvalu, they may be prevented from ever being admitted to Aotearoa New Zealand or fall into irregularity after admission like *Teretia* from Kiribati.

The international community's failure to mitigate and adapt to climate harm, coupled with states' increasingly restrictive approaches to international migration, are subjecting people to a double injustice.

This report focuses on climate displacement from the Pacific Islands of Tuvalu and Kiribati to Aotearoa New Zealand. It is based on extensive field and desk research carried out in Aotearoa New Zealand and Tuvalu between December 2023 and July 2025. Amnesty International collected first-hand testimonies of more than 142 Pacific People, including 68 Tuvaluans and 47 I-Kiribati.

HUMAN RIGHTS IMPACT OF CLIMATE CHANGE AND DISASTERS IN TUVALU AND KIRIBATI

Pacific Island Countries like Tuvalu and Kiribati are experiencing the worst effects of the climate crisis, despite contributing a negligible amount to global emissions. As well as being disproportionately impacted by the climate crisis, limited economic resources mean they have less capacity to adapt to the climate crisis and disasters without significant support – financial and technical – from the international community. In addition, the colonial history of resource extraction, environmental degradation and exploitation make it harder for Pacific Peoples to adapt and survive in the context of the climate crisis today. High income, high-emitting countries, which bear the greatest responsibility for climate change, must do more to support Pacific countries to adapt to the climate crisis.

THE RIGHT TO WATER



Climate change is adversely affecting the human right to water, which includes the availability of sufficient water for personal and domestic use. Without adequate and sufficient water, sanitation and hygiene, peoples' health, well-being and dignity are severely compromised.

A combination of increasing temperatures, droughts, changes in rainfall and sea-water incursions are impairing water quality and availability. Both Tuvalu and Kiribati rely on rainwater harvesting and to a lesser extent groundwater, but face significant challenges related to water quality and availability due to climate change.

Less than 25% of the population are likely to have access to clean drinking water in Kiribati, with salination and bacterial contamination being key problems. Ensuring adequate amounts of water supply, and that it meets clean drinking water standards, remains a challenge that is being exacerbated by the climate crisis.

THE RIGHT TO ADEQUATE FOOD



Climate change also negatively impacts the right to adequate food. Food must be affordable and accessible to all.

Tuvalu and Kiribati have limited accessible and arable land to sustain their own food production through agriculture and farming. The availability of fresh, quality and nutritious foods is limited by the inability to grow more diverse food supplies locally and results in a high dependence on imported and processed foods. Interviewees expressed concern at the increasing cost, quality and availability of imported foods.

Around 80% of people in Tuvalu and Kiribati rely on subsistence agriculture. Increased heat, drought, floods and salination of the water supplies – all of which are compounded by the climate crisis – mean that people have greater difficulty growing crops themselves, as the quality of soil is negatively affected. Fishing is also hampered by changes to sea surface temperatures, coral bleaching and ocean acidification.

THE RIGHT TO ADEQUATE HOUSING



People's right to adequate housing is affected by storm surges, king tides, coastal erosion, cyclones and rising sea levels. These damage and destroy homes, and reduce available land, leading to overcrowding, and trigger temporary or permanent displacement. The right to an adequate standard of living encompasses the right to housing. Such housing should be safe, secure, affordable and keep out the elements.

In Kiribati and Tuvalu, access to land is intrinsically linked to adequate housing, economic opportunities and food security. The climate crisis adds to existing challenges of lack of available land, insecure land tenure and increased population density – driven in part by people moving from the outer islands to urban centres because of the impacts of climate change.

Several people interviewed by Amnesty International noted that flooded houses were becoming increasingly common.

THE RIGHT TO HEALTH



Climate change is undermining people's right to health. It provokes and exacerbates negative health outcomes, including vector borne, respiratory and skin conditions, as well as mental health and non-communicable disease. Persons with disabilities, medical conditions and older people are more vulnerable to the impacts of climate change, such as extreme heat.

The rights to water, food, housing and health are directly interconnected with the right to a clean, healthy and sustainable environment. As these rights establish the preconditions for the right to life, the impact of the climate crisis on them jeopardizes the right to live with dignity.

CLIMATE ACTION

Both Tuvalu and Kiribati have taken significant steps in terms of climate mitigation and adaptation. They have reduced their own small emissions, adopted climate policies, built up the islands through land-raising projects and constructed sea walls.

Tuvalu and Kiribati are projected to face significant costs arising from loss and damage due to future climate change-related disasters. These forecasts do not consider the non-economic losses such as loss of language and culture. However, the responsibility to tackle the climate crisis is not theirs alone. Tuvalu and Kiribati will likely require significant climate financial and technological assistance to meet their mitigation targets and actualize their adaptation plans.

Adequate climate finance is crucial to help lower-income countries mitigate and adapt to the effects of climate change and to protect their populations from its resulting human rights harms. Providing adequate climate finance and other means of implementation to lower-income states is not only an obligation for some states under the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement, but also for all states in a position to do so under the principle of international cooperation and assistance stipulated by international human rights law.

THE DEBATE ON CROSS-BORDER MIGRATION IN THE CONTEXT OF CLIMATE CHANGE AND DISASTERS

The idea of cross-border migration as adaptation in the context of climate change and disasters is not without controversy.

The Pacific Regional Framework on Climate Mobility (PRFCM) and the Falepili Union, an Australia-Tuvalu bilateral agreement, show a willingness by governments in the region to explore cross-border, rights-based migration pathways. The PRFCM “recognis[ed] the critical role that rights-based migration – whether internal or cross-border – can play in enabling people to move safely and on their own terms in the context of climate change”. The Falepili Union will allow a capped number of Tuvaluans to relocate to Australia each year in the context of the climate crisis. In 2025 over 80% of the population of Tuvalu applied for the “Falepili visa”, confirming the interest by affected communities in migration opportunities.



The people of Tuvalu are doing what they can to grow food—using containers, raised beds, and collected rainwater—because the ground is contaminated with salt water and weather extremes are worsening. © Amnesty International

Migration is but one of many ways in which people seek safety and adapt to the worsening effects of the climate crisis. Pacific People interviewed by Amnesty International strongly emphasized that they should have the agency to make decisions about their own lives – supporting both their prerogatives to remain in their countries or to consider migration opportunities. These voices cannot be silenced or ignored.

A human rights approach requires ongoing consultation and active participation of impacted communities in the design of climate solutions, as well as the obligation to respect, protect and promote everyone’s rights, whether people stay or migrate.

MIGRATING TO AOTEAROA NEW ZEALAND: A DISCRIMINATORY LOTTERY

Aotearoa New Zealand has not introduced any immigration pathway specifically dedicated to people affected by climate change and disasters. In endorsing the PRFCM, Aotearoa New Zealand committed to explore opportunities for migration in the context of the climate crisis. Yet, it has no current plans to introduce specific climate-related visas.

The country offers visa schemes reserved for people from Pacific Island Countries, including the Recognised Seasonal Employers Limited Visa (RSE), the Pacific Access Category Visa (PAC) and the Samoan Quota Resident Visa (SQ). While the RSE scheme is a short-term opportunity for seasonal work that cannot be converted to a longer-term visa, PAC and SQ could provide opportunities for long term relocation for people impacted by climate change. They provide admission and permanent residency to a limited number of nationals of Kiribati, Tuvalu, Tonga, and Fiji (PAC), and Samoa (SQ). PAC has undeniably offered some people a lifeline to escape deteriorating living conditions and disasters in the islands. However, interviewees generally refuted the idea of considering PAC as an accessible migration pathway for people needing to migrate in the context of the climate crisis. Both schemes operate through an electronic ballot system which randomly draws applicants up to the number of individuals

specified in national quotas. A lottery system where people's migratory perspectives are dependent on pure luck can hardly be considered an adequate or dignified response to the migration needs of people impacted by the climate crisis.

The requirement to secure an "acceptable" job offer within a set time frame is often an insurmountable obstacle for people who are outside of Aotearoa New Zealand. The job requirement may also lead applicants into situations of extreme pressure, abuse and exploitation. The schemes prioritize Aotearoa New Zealand's economic considerations rather than rights-based or humanitarian ones. In fact, requirements exclude anyone who is perceived as a potential cost to the country's education or health systems or is unable to find "acceptable" work. This disproves the claims made by consecutive governments that these schemes may be flexible enough to adequately respond to climate displacement.

In addition, the stringent age and health requirements exclude people that are among the most exposed to the adverse impacts of climate change, including older people, people with disabilities and people with medical conditions. Several Tuvaluans with disabilities were separated from their families in the process of migrating to Aotearoa New Zealand. The cases followed a consistent pattern: after families were drawn in the PAC ballot, if a family member was found not to meet health standards, INZ either rejected the family's application or put it on hold. Often, applicants were required to undergo diagnostic tests that were not available in countries with limited medical infrastructure, such as Tuvalu – forcing them to travel to Fiji or other countries. This came at great cost to families living in some of the lowest-income countries in the world. During these months-long waiting periods, they experienced extreme pressure, fearing that the whole family's application would be rejected, risking losing an offer of employment and running out of money. Families were effectively forced to withdraw their family members with disability from the application, even before receiving a rejection from INZ, to ensure the rest of the family could leave.

People with disabilities who were unable to travel with their families ended up in a situation of prolonged family separation. INZ's official policy excludes people who were withdrawn or not included in earlier visa applications with their families from the possibility of ever receiving a medical waiver, and INZ prevented them from even temporary visits.

The combined effect of these requirements violates the principle of non-discrimination and is fundamentally incompatible with human rights law. It is grossly disproportionate, having the effect of impairing and nullifying the enjoyment of several human rights, including the right to family unity and children's rights.

PACIFIC PEOPLE AT RISK OF DEPORTATION

Everyone has the right to be protected against forcible removal to a place where they may be at real risk of suffering serious violations of their human rights, including risks associated with disasters and the impacts of climate change.

Aotearoa New Zealand does not have a policy instructing how to consider climate change impacts in deportation decisions and does not provide dedicated protections in the context of climate change and disasters. In 2014-2024, 3,495 people were deported to Pacific Island Countries due to breaches of Aotearoa New Zealand's Immigration Act 2009, including 55 to Tuvalu and 60 to Kiribati. As of 2017, about 5,000 Pacific People were at risk of deportation from the country due to their irregular immigration status.

Since 2012, an increasing number of people from Tuvalu and Kiribati have appealed to Aotearoa New Zealand's authorities to challenge their deportations, citing risks upon return related to climate change and disasters. Some had unsuccessfully claimed international protection and refugee status. As of November 2024, no Pacific People in Aotearoa New Zealand had been granted refugee status

in relation to risks caused by climate change in their countries of origin, contributing to a perception among Pacific communities that applications for international protection may be unlikely to succeed.

Tuvaluans and I-Kiribati have used ministerial, and tribunal appeals to resist deportation. Section 61 (s. 61) of the Immigration Act 2009 gives the Minister of Immigration the authority to grant a visa of any type, at their absolute discretion, to people with an irregular migration status. However, the outcomes of s. 61 requests are rigged with uncertainty, as these are granted on a fully discretionary basis.

People who are liable for deportation can also file a humanitarian appeal to the Immigration and Protection Tribunal (IPT). Amnesty International's review of decisions on humanitarian appeals filed by nationals of Tuvalu and Kiribati revealed that between 2013 and 2024, appeals mentioning climate change, among other reasons, have had a rate of success of about 74%.

The "humanitarian appeals" system, however, also has significant limitations. First, one can appeal only after becoming "liable for deportation" (for example, overstaying their visa). Second, the humanitarian appeal remains an exceptional measure that does not adequately and consistently protect people from risks that affect an entire population or large segments of it. Third, the legal framework created inconsistencies, where cases presenting similar climate change impacts resulted in different outcomes. These limitations highlight the need for a system that better protects people impacted by the climate crisis.

Protection from deportation is contingent on first falling into irregular status, forcing individuals into legal limbo before their pleas for safety can even be heard. Irregular migration status involves serious human rights risks. Those who lived with irregular migration status in Aotearoa New Zealand recounted how scared they were of interacting with the authorities for any activity, no matter how important, including releasing statements to the police about crimes, going to the hospital, accessing essential services, or doing simple daily activities outside home. Many shared their difficulties in accessing healthcare. The higher costs imposed on them had a chilling effect, preventing them from getting treatment, at great risk to their health and well-being.

Protection mechanisms should allow the automatic suspension of deportation liability for an entire group - allowing them access to regular status and full exercise of their human rights - where return is impossible due to the serious human rights impacts of climate change and disasters on entire communities. This would be the case for nationals of the countries most affected by climate change, such as Tuvalu and Kiribati, where sea level rise and other impacts of climate change constitute an existential threat on human rights for entire communities. The same principle applies to groups and individuals impacted by major disasters, such as cyclones, tsunamis, earthquakes, volcanic eruptions, in the aftermath of such disasters.



In Tuvalu, where the highest elevation is less than 5 metres, there is no higher ground to go to in the event of a tsunami. © Amnesty International

CONCLUSION

People living in Pacific Island Countries are on the front lines of climate change and disasters. They face rising seas, extreme weather events, and the erosion of their homelands. Communities have shown extraordinary resilience, pursuing adaptation and mitigation strategies to safeguard human rights and guarantee that people can remain on their lands. However, the scale and urgency of the threat requires far greater international cooperation and support. Many in the Pacific see migration as a necessary part of adaptation. Aotearoa New Zealand has an obligation to respect, protect and promote the human rights of those who move in response to climate change. This means facilitating those affected to rebuild their lives across borders.

Aotearoa New Zealand's current immigration policy framework fails to reflect leadership when it comes to climate-affected Pacific Peoples. Regular pathways for migration are limited, arbitrary and discriminatory. It is imperative that Aotearoa New Zealand urgently reforms its immigration policies and adopts a rights-based approach to climate-related displacement.

Aotearoa New Zealand – and the international community – must act now to protect the rights and dignity of Pacific Peoples in the face of the climate crisis, both at home and in their country of destination. Anything less is a betrayal of our shared responsibility to uphold human rights and ensure climate justice.

AOTEAROA NEW ZEALAND SHOULD:

- Increase the range of rights-based migration opportunities available to Pacific People and adopt complementary pathways to admission for people displaced in the context of climate change and disasters. Establish rights-based visas targeting people impacted by climate change and disasters, prioritizing admission for those who are unable to meet the PAC and SQ requirements.
- Ensure access to international protection and durable solutions for Pacific People in Aotearoa New Zealand who would face a real risk of serious human rights harm related to climate change and disasters if returned. Due to the risk of climate-related serious human rights violations upon return, suspend all deportations to Tuvalu and Kiribati.
- Review domestic migration laws and policies to ensure that they align with applicable international human rights law, are non-discriminatory and free from exploitation.
- Ensure the effective enjoyment of economic, social and cultural rights – including the right to an adequate standard of living – for all people with irregular migration status in Aotearoa New Zealand.
- Rapidly and equitably phase out all fossil fuel use and scale up funding for climate adaptation, mitigation, loss and damage.

All recommendations to the Aotearoa New Zealand Government must be addressed in a way that upholds obligations under Te Tiriti o Waitangi and International Indigenous human rights law.

METHODOLOGY

This report focuses on the human rights situation of Pacific People migrating to Aotearoa New Zealand in the context of the climate crisis. It is based on extensive field and desk research carried out between December 2023 and July 2025, including consultations from mid-2023 with Pacific community leaders, researchers and non-governmental organizations (NGOs).⁴

Amnesty International collected first-hand testimonies of more than 142 Pacific People. The majority of interviewees were nationals of Tuvalu (68) and Kiribati (47). Nationals of Tonga (20), Vanuatu (4) and Samoa (1) were also interviewed.⁵ Interviews took place in Aotearoa New Zealand (115), Tuvalu (24) and Fiji (3).⁶ Some interviewees in Aotearoa New Zealand were also New Zealand citizens.

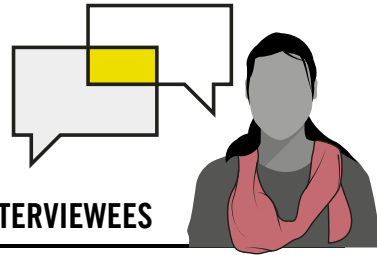
Interviews took place in a variety of formats to respect Pacific cultural practices and protocols, as well as confidentiality and the safety of interviewees. This included focus group discussions, inspired by Indigenous Pacific research approaches often referred to as *Talanoa* (or *Maroro* in I-Kiribati),⁷ where interviewees share their stories and personal experiences around the research questions in face-to-face group discussions, allowing for an open, free-flowing dialogue in Pacific culturally appropriate ways. At the same time, each participant was offered anonymity and the possibility to have one-to-one interviews with Amnesty International researchers.⁸ Follow-up individual interviews were conducted to ensure confidentiality at either the request of Amnesty International or the interviewees themselves. Interviews with people who had irregular migration status or with people with disabilities were often conducted separately to respect their privacy. Unless otherwise mentioned, all names of Pacific People interviewed for this report have been changed to pseudonyms (always italicized) using the following convention on first mention: *pseudonym* (not his/her real name). Some identifying characteristics have been omitted to preserve anonymity. Interviews were conducted in English, I-Kiribati, Tongan and Tuvaluan – with the assistance of interpreters.

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- 4 Meetings with Pacific community leaders occurred in mid-2023 and between 10 to 17 December 2023 in Aotearoa New Zealand. Group and individual interviews, as well as meetings with government officials, were conducted in Aotearoa New Zealand from 1 to 16 March 2024, and to Tuvalu via Fiji from 18 to 25 March 2024. Interviews in Fiji were conducted on 1 April 2024. Limited follow-up interviews were conducted in April 2024 and April 2025. In Aotearoa New Zealand, Amnesty International visited Auckland and its surroundings, and in March 2024 also travelled to Blenheim (South Island) to meet with seasonal workers, and to Wellington where researchers met Aotearoa New Zealand government officials, the Tuvalu High Commission, and a former government representative, now member of parliament. In Tuvalu, all interviews and meetings took place on the Funafuti atoll.
 - 5 Approximately 58% of interviewees were women and 42% were men.
 - 6 Interview with two young Tuvaluans and their guardian, Fiji, 1 April 2024.
 - 7 Other Pacific languages may use different terminology to *Talanoa* which has origins in different Pacific languages, including Fijian, Samoan and Tongan, but the concept is now accepted as an appropriate research methodology in other Pacific Islands Countries. See Unaisi Nabobo-Baba, *Knowing and Learning: An Indigenous Fijian Approach*, 2006, https://books.google.co.nz/books?hl=en&lr=&id=ok2aOX9sX2oC&oi=fnd&pg=PR3&dq=Unaisi+nabobo-baba+talanoa&ots=vhJJh_alxa&sig=LEqEzQwU7sxDM5A8Mh2Ng3VEc28&redir_esc=y#v=onepage&q=Unaisi%20nabobo-baba%20talanoa&f=false; Laumua Tunufa'i, "Pacific Research: Rethinking the Talanoa 'Methodology'", 2016, *New Zealand Sociology*, Volume 31, Issue, https://www.researchgate.net/publication/316557360_Pacific_research_Rethinking_the_talanoa_%27Methodology%27_and_Climate_Home_News and *Climate Home News*, "The Talanoa Dialogue explained", 10 December 2018, <https://www.climatechangenews.com/2018/12/10/talanoa-dialogue-explained>. For examples of maroro-based research, R. Namoori-Sinclair, *The Impact of PAC Policy on Pacific Women's Health and Wellbeing: The Experiences of Kiribati Migrants* (Master's thesis, Victoria University of Wellington) 2021; or T. Schütz, *Navigating Health Practices for I-Kiribati Immigrants in New Zealand* (Doctoral thesis, Te Herenga Waka—Victoria University of Wellington), 2022.
 - 8 Amnesty International did not provide financial incentives to interviewees. However, we respected the Māori cultural practice – deeply rooted in Aotearoa New Zealand – of offering *koha*, a "gift, present, offering, donation, contribution – especially one maintaining social relationships and has connotations of reciprocity" as defined by *Te Aka Māori* dictionary (<https://maoridictionary.co.nz>). To show reciprocity, respect and hospitality to people offering their time and space, Amnesty International offered *koha*, often in the form of an Amnesty International t-shirt, reimbursement of food or transport costs, or supermarket vouchers of an equivalent value. Refreshments were provided during most interviews, but some groups were reimbursed for the cost of hosting a meeting to allow them to provide food and drinks in accordance with their own traditions and customs.

INTERVIEWS TOOK PLACE IN A VARIETY OF FORMATS TO

RESPECT PACIFIC CULTURAL PRACTICES AND PROTOCOLS

AS WELL AS CONFIDENTIALITY AND THE SAFETY OF INTERVIEWEES



Amnesty International also consulted the governments of Aotearoa New Zealand and Tuvalu. The organization's delegation met with Aotearoa New Zealand government officials from the Ministry of Business, Innovation and Employment (MBIE), the Ministry of Foreign Affairs and Trade (MFAT) and the Tuvalu High Commission in Aotearoa New Zealand on 5 March 2024. In Tuvalu, the organization met with the Minister for Climate Change, the Acting Police Commissioner, the Attorney General and the Secretary for the Ministry of Labour between 19 and 22 March 2024. Both the Tuvalu and Aotearoa New Zealand governments showed a willingness to engage and share information on their plans and actions to address climate change, climate displacement, and immigration from the Pacific. Further information was provided by MFAT in follow-up email exchanges.

Amnesty International also submitted official requests for information to the government of Aotearoa New Zealand on 19 July 2024. Amnesty International received a response letter from the Minister of Immigration, Hon Erica Stanford, on 16 August, followed by a response from MBIE with extensive information, treated under New Zealand's Official Information Act 1982, on 31 October 2024. Amnesty International also submitted a request for information to MFAT on 31 July 2024 and received a reply on 21 October 2024. Where relevant, the content of these responses is reflected in this report.

A copy of the Executive Summary to this report was sent to Tuvalu, Kiribati and Aotearoa New Zealand governments on Friday 5 September 2024. As at the date of publication of this report, no substantive replies were received from these governments.

Desk research included academic and policy literature on climate displacement, an extensive analysis of Aotearoa New Zealand's domestic legislation and policy on immigration, and an in-depth review and statistical analysis of 125 decisions taken by Aotearoa New Zealand's Immigration and Protection Tribunal on "humanitarian appeals" against the deportation of citizens of Tuvalu and Kiribati. Annexure 1 to this report includes a separate summary methodology used to conduct this quantitative case review.

In Aotearoa New Zealand, the organization met with the Aotearoa Tongan Response Group, New Zealand Kiribati National Council (NZKNC), various community law centres, and Tuvalu Auckland Community Trust, as well as international NGOs, lawyers and several others. In Tuvalu, Amnesty International researchers spoke to Fusi Alofa Association (a disability organization), Live and Learn, Tuvalu Climate Action Network (TuCAN), Tuvalu Council of Women, Tuvalu Red Cross, Tuvalu Youth Council and Women for Change. In June 2025, Amnesty International shared a condensed summary of this report with a selected group of Pacific leaders as part of a final consultation on key findings and recommendations.



A land reclamation project in Funafuti, predicted to last for approximately 25 years, where sand is dredged from the lagoon and placed in large bags that settle for up to a year before seedlings are planted, then eventually buildings will be constructed and people can move onto the new land. © Amnesty International

This report builds on existing Amnesty International research examining climate-related human rights impacts across the world. This includes the impact of heat waves and floods in Pakistan,⁹ drought in Madagascar,¹⁰ and how climate change and energy transition projects threaten Indigenous Peoples' rights for the Sami people in the Arctic.¹¹ This report has also been prepared in parallel with upcoming work on climate displacement in other parts of the world.

Amnesty International expresses immense gratitude to all the Pacific People interviewed for this report who willingly shared their lived experiences and knowledge. Amnesty International also acknowledges with gratitude the contributions of Pacific organizations and community leaders, and broader civil society organizations, in particular the extensive support offered by the NZKNC, TuCAN and Tuvalu Auckland Community Trust. Amnesty International also extends its gratitude to the Pacific activist who supported this research as a consultant, offering precious guidance on culturally appropriate methodologies and contributing to this report.

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- 9 Amnesty International, *Drowned: The Human Cost of Deadly Floods in Pakistan* (Index: ASA 33/6214/2022), 15 November 2022, <https://www.amnesty.org/en/documents/asa33/6214/2022/en/>; Amnesty International, *Pakistan: Extreme weather: Searing heatwaves and torrential rains in Pakistan, and their impact on Pakistan* (Index: ASA 33/5828/2022), 8 July 2022, <https://www.amnesty.org/en/documents/asa33/5828/2022/en/> (Amnesty International, *Extreme weather*), *Uncounted: Invisible Deaths of Older People and Children During Climate Disasters in Pakistan*, (Index: ASA 33/9007/2022), 5 May 2025, <https://www.amnesty.org/en/documents/asa33/9007/2025/en/> (Amnesty International, *Uncounted*)
- 10 Amnesty International, *It Will be too Late to Help us Once We are Dead: The Human Rights Impact of Climate Change in Drought-Stricken Southern Madagascar* (Index: AFR 35/4874/2001), 26 October 2021, <https://www.amnesty.org/en/documents/afr35/4874/2021/en/> and Amnesty International, *"That Suffering Still Haunts Me Even Here" – The Struggle for Human Rights of the Antandroy People Displaced by Climate Change from Southern Madagascar* (Index: AFR 35/0075/2025), 30 July 2025, <https://www.amnesty.org/en/documents/afr35/0075/2025/en/>
- 11 Amnesty International and the Saami Council, *Just Transition or 'Green Colonialism'?* (Index: EUR 20/8913/2025), 2025, https://www.amnesty.no/sites/default/files/2025-01/Rapport_Just%20transition%20or%20%27Green%20colonialism%27%20_WEB.pdf

1. INTRODUCTION: FIGHTING AGAINST A DOUBLE INJUSTICE

“It’s not fair that I cannot go. Please, New Zealand, I would like to come and see my family and parents. I would like to work in New Zealand and look for a job.”

Sam (not his real name), a 32-year-old man from Tuvalu who was refused a visa due to his disability and has therefore not seen his family in over a decade; interviewed in Funafuti, March 2024

“I came here because I am sick. I have blood pressure problems. I have diabetes and hypertension, but I am feeling so much healthier here than in the islands. I tried [to apply for resident visas] but they were declined because of my sickness. I then came with a visitor visa; my children are here... They advised me to go back home. But there is no medical help there. I still do ‘some business’ to support my medical costs, like making handicrafts, garlands...”

I am an older person. Since I was a kid, I saw a huge change because of climate change. I experienced waves going through the house in the village, and that had never happened when I was a child... Water coming out of nowhere, coming up in the middle of the land, I had never seen that before. Before you could see waves coming from the coast, but nowadays it just comes up out of nowhere. It is immediate. The sea comes from the ground.”

Fiafia (not her real name), 68-year-old Tuvaluan woman with irregular migration status in Aotearoa New Zealand, 14 March 2024

The international community’s failure to both mitigate and adapt to climate change, coupled with states’ increasingly restrictive approaches to international migration, are subjecting people internationally displaced in the context of the climate crisis to a double injustice.

The climate emergency is an unprecedented global human rights crisis. Human-caused climate change – primarily driven by the burning of fossil fuels – involves not only a rise in the global average temperature but also a range of disruptions to ecosystems. Climate change affects food and water security, health, agricultural productivity, infrastructure and economies, with some states more vulnerable than others. Climate change and environmental degradation seriously threaten the enjoyment of civil, political, economic, social and cultural rights of present and future generations and, ultimately, the future of humanity. Its impact affects millions of people, particularly those historically marginalized, threatening a host of human rights. These include the right to life, physical integrity, health, an adequate standard of living and the right to a clean, healthy and sustainable environment, self-

determination, cultural rights and the right to effective remedies,¹² as also documented by international and regional jurisprudence.¹³

Increasingly, livelihoods are also impacted by the inevitable and irreversible effects of climate change – commonly referred to as loss and damage. This includes the destruction of homes and infrastructure, loss of property and income, with adverse impacts on gender and social equality.¹⁴ Climate change is also causing cultural losses, threatening adaptive capacity and may result in the irrevocable loss of sense of belonging, cultural practices, identity and a sense of connection to ancestral lands or place, particularly for Indigenous Peoples.¹⁵ Certain industries and employment are likely to be disrupted by the climate crisis and severe weather events. Increasingly hotter days make it difficult to work in the sun during daytime, while severe weather can disrupt transport, infrastructure and the ability to engage in work safely.¹⁶ Climate change disproportionately affects individuals and groups who are already subjected to multiple and intersecting forms of intra- and intergenerational discrimination, or who are marginalized as a result of historical and structural inequalities. It affects people living in poverty, often forcing them to switch from subsistence agriculture and fishing (three quarters of people in the Pacific rely on this to support their livelihoods)¹⁷ to other forms of labour, with implications for labour migration.¹⁸

CLIMATE CHANGE AND ENVIRONMENTAL DEGRADATION SERIOUSLY THREATEN THE ENJOYMENT OF **CIVIL** **POLITICAL** **ECONOMIC** **SOCIAL** **&** **CULTURAL RIGHTS** OF PRESENT AND FUTURE GENERATIONS AND, ULTIMATELY, **THE FUTURE OF HUMANITY**



- 12 See for example Amnesty International, *Stop Burning our Rights! What Governments and Corporations Must Do to Protect Humanity From the Climate Crisis* (Index: POL 30/3476/2021), 7 June 2021, <https://www.amnesty.org/en/documents/pol30/3476/2021/en/>; also see Amnesty International, *Americas: Amicus curiae submitted by Amnesty International to the Inter-American Court of Human Rights on climate emergency and human rights* (Index: AMR 01/7332/2023), 15 December 2023, <https://www.amnesty.org/en/documents/amr01/7332/2023/en/>
- 13 Inter-American Court of Human Rights (IACtHR), Advisory Opinion AO-32/25 of May 29, 2025 Requested by the Republic of Chile and the Republic of Colombia: Climate Emergency and Human Rights, 2025, https://www.corteidh.or.cr/opiniones_consultivas_cfm?lang=en; European Court of Human Rights (ECtHR), *Verein Klima Seniorinnen Schweiz and Others v. Switzerland*, Application 53600/20, Grand Chamber Judgment, 9 April 2024, <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22%3A%22002-14304%22%7D>; UN Human Rights Committee on Civil and Political Rights (CCPR), *Ioane Teitiota v. New Zealand*: Views Adopted by the Committee Under Article 5 (4) of the Optional Protocol, Concerning Communication 2728/2016, 23 September 2020, UN Doc. CCPR/C/127/D/2728/2016 (CCPR, *Ioane Teitiota v. New Zealand*); *Portillo Cáceres et al. v. Paraguay*, Communication 2751/2016, 20 September 2019, UN Doc. CCPR/C/126/D/2751/2016, para. 7.4; IACtHR, Advisory Opinion OC-23/17 on the Environment and Human Rights, 15 November 2017, https://www.corteidh.or.cr/docs/opiniones/seriea_23_ing.pdf (IACtHR, Advisory Opinion OC-23/17); African Commission on Human and Peoples' Rights, General Comment 3 on the African Charter on Human and Peoples' Rights on the Right to Life (Article 4), para 3; ECtHR, *Cordella and Others v. Italy*, Application 54414/13 and 54264/15, Judgment, 24 January 2019, <https://hudoc.echr.coe.int/eng/#%7B%22itemid%22%3A%22002-12310%22%7D>, para. 157; San José, Costa Rica and International Court of Justice (ICJ), Advisory Opinion on the Obligations of States in Respect of Climate Change, 23 July 2025, <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>
- 14 IPCC, *2023: Climate Change 2023: Synthesis Report*, Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)], IPCC, Geneva, Switzerland, pp. 35-115, doi: 10.59327/IPCC/AR6-9789291691647; p. 17 (IPCC, *2023: Climate Change 2023: Synthesis Report*)
- 15 IPCC, *2023: Climate Change 2023: Synthesis Report* (previously cited), p. 17.
- 16 Amnesty International, *Drowned: The Human Cost of Deadly Floods in Pakistan* (previously cited); Amnesty International, *Extreme weather* (previously cited); Amnesty International, *Uncounted* (previously cited).
- 17 Australian Centre for International Agricultural Research (ACIAR), *Annual Operational Plan 2021-22*, August 2021, Section 5: ACIAR in the Indo-Pacific, <https://www.aciar.gov.au/sites/default/files/2021-08/AOP-21-22-pacific-island.pdf>, pp. 53-62.
- 18 IPCC, *2023: Climate Change 2023: Synthesis Report* (previously cited), Ch 8

CLIMATE CHANGE AND DISASTERS IN THE PACIFIC

The climate crisis is already seriously harming people's enjoyment of their human rights worldwide, especially in lower-income, small island, coastal or arid countries that are most exposed to the effects of climate change and have the least resources to deal with them. High income, high-emitting countries, which bear the greatest responsibility for climate change, must do more to support other countries to adapt to the climate crisis.

Except for Papua New Guinea, 90% of Pacific People live within 5km of the coastline, with more than one quarter living within one kilometre of it.¹⁹ This coastal proximity increases the risk of exposure to the effects of climate change, particularly from rising sea levels, coastal erosion and floods, as well as water and soil contamination and salinization. Equatorial and tropical countries are more likely to suffer from extreme heat, storm surges, more frequent droughts and extreme weather events. Extreme heat has been linked to more people dying prematurely and becoming ill, and increased occurrence of disease.²⁰ These effects pose a serious threat to people's right to physical and mental health.²¹

Climate-driven impacts in Pacific Island Countries are compounded by exposure to other disasters not directly attributable to climate change, such as tsunamis, volcanic eruptions and earthquakes – creating a relentless cycle of danger for already at-risk communities, that also results in the displacement of individuals or groups. This report explicitly focuses on the vulnerability of Tuvalu and Kiribati as low-lying island nations uniquely impacted by rising sea levels, and because internal displacement is unlikely to be a sufficient response. The need for climate migration opportunities is therefore more urgent in the context of these countries.

Pacific Island Countries have contributed less than 0.03% to the total global greenhouse gas emissions.²² As lower income countries, they are limited in their ability to fund post-disaster responses, long-term adaptation or mitigation measures. Ultimately, they are also unable to realize the right to effective remedies and the progressive improvement of economic, social and cultural rights in line with their international human rights obligations without international cooperation and support.²³



19 Andrew, Bright, de la Rua, Teoh, Vickers, *Coastal proximity of populations in 22 Pacific Islands Countries and Territories*, 30 September 2019, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6768456/#:~:text=half%20the%20population%20of%20the,5%20km%20of%20the%20coast>.

20 IPCC, *2023: Climate Change 2023: Synthesis Report* (previously cited)

21 See Amnesty International, "Climate change and health – what's the connection?", 18 October 2024, <https://www.amnesty.org/en/latest/campaigns/2024/10/climate-change-and-health-whats-the-connection/> (Amnesty International, "Climate change and health").

22 Pacific Community (SPC), "Climate Change in the Pacific Region", undated, <https://climatechange.flagship.spc.int/climate-change-pacific-region> (accessed on 16 September 2025).

23 International Institute for Environment and Development (IIED), "Poorest countries at greatest risk of losses and damage from climate change", 25 August 2022, <https://www.iied.org/poorest-countries-greatest-risk-losses-damage-climate-change>

THE CHALLENGES OF CLIMATE DISPLACEMENT

In 2019, the International Organization for Migration estimated that 320,000 people were displaced by disasters between 2008 and 2017 in the Pacific.²⁴ As climate change worsens social inequalities, livelihoods and economic hardship, many are forced to migrate, often without realizing the extent to which climate change is driving their displacement.²⁵

States' duty to protect people from the impacts of climate change – and therefore not to be forcibly displaced from their homes – is widely recognized. In contrast, recognizing that people impacted by the climate crisis should have the option to move across borders largely remains a subject of intense debate. In the words of Ian Fry, former UN Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change, “There are simply insufficient pathways for persons displaced across international borders due to climate change to move regularly across borders, and they are therefore put at significant risk to various human rights violations.”²⁶

The general absence of migration pathways specifically dedicated to the admission of people displaced by the climate crisis means that those needing to move across borders must navigate the limited opportunities offered by immigration policies in other areas, such as labour migration. Consequently, some or most of those looking at migrating internationally risk falling through the cracks of stringent – at times discriminatory – immigration requirements. They may be prevented from ever being admitted to another country or fall into irregularity after admission. This situation contrasts with the increasing instances of states recognizing that the climate crisis is already forcing people to move across borders, indirectly acknowledging the need to provide policy responses to those displaced internationally.

In 2019, a group of 27 law students from several Pacific Island Countries “turned heartbreak into action”, and began advocating to Pacific leaders to take the issue of climate change and human rights to the International Court of Justice (ICJ).²⁷ Their initiative led, in July 2025, to the ICJ issuing a landmark Advisory Opinion bolstering the fight for climate justice and accountability,²⁸ recognizing states' legal obligations vis-à-vis climate change, human rights, and climate-induced displacement. It recognized that states have a customary international law obligation to cooperate on addressing the adverse effects of sea level rise due to climate change.²⁹ Sea level rise constitutes an existential threat for low-lying island nations in the Pacific.³⁰ In particular, the vulnerability of small island developing states – owing to both their geographic circumstances and level of development – puts them at a higher risk of harms from the

24 International Organization of Migration (IOM), *Climate Change and Migration in Vulnerable Countries*, 2019, https://publications.iom.int/system/files/pdf/climate_change_and_migration_in_vulnerable_countries.pdf

25 Shen and Gemenne, “Contrasted views on environmental change and migration: The case of Tuvaluan migration to New Zealand”, 2011, *International Migration*, 49: e224-e242 DOI: <https://doi.org/10.1111/j.1468-2435.2010.00635.x>

26 UN Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change, Report: *Exploring Approaches to Enhance Climate Change Legislation, Supporting Climate Change Litigation and Advancing the Principle of Intergenerational Justice*, 28 July 2023, UN Ref A/78/255, para. 64 (UN Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change, *Exploring Approaches to Enhance Climate Change Legislation*).

27 Pacific Islands Students Fighting Climate Change (PISFCC), Official Website Home Page, <https://www.pisfcc.org/>

28 Amnesty International, “Global: International Court of Justice’s landmark opinion bolsters fight for climate justice and accountability”, 23 July 2025, www.amnesty.org/en/latest/news/2025/07/global-international-court-of-justices-landmark-opinion-bolsters-fight-for-climate-justice-and-accountability/

29 ICJ, Advisory Opinion on the Obligations of States in Respect of Climate Change, 23 July 2025, <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>, paras. 364-365, including reference to Article 1 of the Charter of the United Nations (ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change*).

30 Al Jazeera, *Kiribati: The Sinking Islands Being Destroyed by Climate Change*, 9 December 2014, <https://youtu.be/9P7jXveokDY>. See also S. Salem, *Climate Change and the Sinking Island States in the Pacific*, 9 January 2020, <https://www.e-ir.info/2020/01/09/climate-change-and-the-sinking-island-states-in-the-pacific/>. These forecasts have earned the low-lying atoll nations the unenviable title of the “sinking islands”. Amnesty International does not support the use of this language, as several interviewees explained it had negative and disempowering connotations. We favour language adopted by climate activists, like Pacific Climate Warriors, claiming that “we are fighting, not drowning”: Inside Story, “Not drowning, fighting”, 3 June 2021, <https://insidestory.org.au/not-drowning-fighting/>

THE INTERNATIONAL ORGANIZATION FOR MIGRATION ESTIMATED THAT

320,000

PEOPLE WERE DISPLACED
BY DISASTERS BETWEEN
2008 AND 2017 IN THE PACIFIC

climate crisis. Rising sea levels have been acknowledged by the ICJ as an unavoidable consequence of climate change and potentially leading to the forced displacement of populations within their territory or across borders. Rising sea levels also affect the territorial integrity of states and their permanent sovereignty over their natural resources.³¹

PACIFIC PEOPLE LIVING IN AOTEAROA NEW ZEALAND

Aotearoa New Zealand is home to the largest diaspora of Pacific People.³² Some 442,632 people in the country identify as Pacific People,³³ constituting 8.9% of the total population. Most are Samoans, followed by Tongans and Cook Islands Māori.³⁴ Among them are 4,653 Tuvaluans and 3,225 I-Kiribati. A research study commissioned by the New Zealand Ministry of Foreign Affairs and Trade (MFAT) to better understand the impact of climate change on the movements of people in the Pacific Region noted that “[w]hile climate change is not the sole context for many migration decisions, it is becoming an increasingly important factor alongside more typical considerations of socio-economic betterment.”³⁵

With the Pacific Regional Framework on Climate Mobility (PRFCM), Aotearoa New Zealand joined Pacific Island nations in recognizing “the critical role that rights-based migration – whether internal or cross-border – can play in enabling people to move safely and on their own terms in the context of climate change”.³⁶ While supporting communities to stay in place is a key element of the PRFCM, it also reaffirmed the urgency of addressing migration that is already occurring as a form of adaptation.

Despite this, MBIE has stated that there are no current plans to develop climate-related migration policies.³⁷ Further, none of the five priority actions identified in Aotearoa New Zealand’s 2018 action

31 ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), paras. 356-357

32 The Treasury of Aotearoa New Zealand (*Te Tai Ōhanga*), “Analytical paper: Pacific peoples’ wellbeing (AP23/01)”, 4 April 2023; Encyclopedia of New Zealand, “Pacific Islands and New Zealand”, undated, <https://teara.govt.nz/mi/pacific-islands-and-new-zealand/print>

33 Stats NZ *Tātauranga Aotearoa*, “2023 Census Population Counts (by Ethnic Group, Age, and Māori Descent) and Dwelling Counts”, 29 May 2024, <https://www.stats.govt.nz/information-releases/2023-census-population-counts-by-ethnic-group-age-and-maori-descent-and-dwelling-counts/> (accessed on 16 September 2025). This represents an increase of about 16% from 2018, when 381,642 people usually residing in the country identified as Pacific Peoples; New Zealand Foreign Affairs and Trade (MFAT), “Pasifika New Zealand”, undated, <https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/pacer-plus/pasifika-new-zealand>; Stats NZ *Tātauranga Aotearoa*, “Place and Ethnic Group Summaries: Tuvaluan”, 2018, <https://www.stats.govt.nz/tools/2018-census-ethnic-group-summaries/tuvaluan> (accessed on 16 September 2025); Stats NZ *Tātauranga Aotearoa*, “Place and Ethnic Group Summaries: Kiribati”, 2023, <https://www.stats.govt.nz/tools/2018-census-ethnic-group-summaries/kiribati> (accessed on 16 September 2025).

34 Infometrics, “First Detailed Insights From the 2023 Census”, 3 October 2024, <https://www.infometrics.co.nz/article/2024-10-first-detailed-insights-from-the-2023-census>

35 Burson, Marsters, Bedford and Morrison, *Pacific Peoples and Climate (Im)Mobility: A Synthesis Report on Scale, Pattern and Impact, now and in the Future*, 30 June 2024, <https://disasterdisplacement.org/resource/synthesis-report-pacific-immobility/>, p. 21 (Burson and others, *Pacific Peoples and Climate (Im)mobility*).

36 Pacific Islands Forum Secretariat (PIFS), *Pacific Regional Framework on Climate Mobility (PRFCM)*, adopted at the 52nd Pacific Islands Forum Leaders Meeting from 6-10 November in Rarotonga, Cook Islands, 2023, <https://forumsec.org/publications/pacific-regional-framework-climate-mobility>, para. 28 (PIFS, *PRFCM*).

37 Erica Stanford, Minister of Immigration, Aotearoa New Zealand, letter in response to Amnesty International’s letter requesting further information on any policies or proposals to consider new visa categories for Pacific people impacted by climate change, 16 August 2024, on file with Amnesty International.

plan on “Pacific climate change-related displacement and migration” considered opportunities for safe cross-border migration pathways for affected populations.³⁸

Accessing Aotearoa New Zealand, even temporarily, remains complicated for Pacific People.³⁹ No Pacific Islands nation is on Aotearoa New Zealand’s visa waiver list at the time of this report, meaning that even short visits require a visa. Meanwhile, calls by Pacific governments, including Fiji, Samoa and Tonga for Pacific-wide free movement remain far from being achieved, including due to resistance from Aotearoa New Zealand.⁴⁰

TE TIRITI O WAITANGI AND INDIGENOUS PEOPLES’ RIGHTS

Māori are the Indigenous Peoples of Aotearoa New Zealand, and their right to self-determination is reaffirmed and upheld in the country by two key documents, *He Whakaputanga o te Rangatiratanga o Niu Tirenī* (Declaration of Independence)⁴¹ and *Te Tiriti o Waitangi* (referred to as *Te Tiriti*).⁴² However, despite the guarantees for self-determination included in *Te Tiriti*, Amnesty International expresses concern over repeated failures to fully uphold Māori rights to self-determination, including as established under *Te Tiriti* obligations.⁴³

38 The 2018 New Zealand Cabinet Paper, “Pacific Climate Change-related Displacement and Migration: A New Zealand Action Plan” has represented successive governments’ main engagement on the issue. The plan identified five key actions, including to: 1) use International Development Cooperation (IDC) funding to avert and delay climate-related displacement and prepare for Pacific climate migration; 2) facilitate regional dialogue and explore a regional approach; 3) strengthen international language and frameworks through multilateral action; 4) champion progressive development of international law; 5) commission robust research. Government-released documentation outlining the actions taken and their follow up showed a prioritization of supporting adaptation in place, international relocations, or developing international discussion areas of international law such as the preservation of statehood or maritime zones in the face of the climate crisis and sea level rise. No direct mentions or considerations of cross-border migration opportunities were made, besides enhancing support to the development of the PIFS, *PRFCM* (previously cited) and supported research on climate mobility; see MFAT, *OIA 28929: Climate Migration to New Zealand*, 30 January 2024, www.mfat.govt.nz/assets/OIA/OIA-2024/OIA-28929-Climate-migration-to-New-Zealand-30-January-2024.pdf

39 Aside from Tokelauans, Cook Islanders and Niueans, who all hold New Zealand citizenship.

40 The Canberra Times, “New Zealand pushes back on Pacific-wide free movement”, 5 July 2023, <https://www.canberratimes.com.au/story/8258446/new-zealand-pushes-back-on-pacific-wide-free-movement/>; Radio New Zealand (RNZ), “Pacific islanders ‘have a very high-risk of overstaying’ NZ immigration expert”, 12 March 2025, <https://www.rnz.co.nz/international/pacific-news/544499/pacific-islanders-have-a-very-high-risk-of-overstaying-nz-immigration-expert>; Australian Broadcasting Corporation (ABC), “Fiji re-ignites calls for visa-free travel between Australia, New Zealand, and the Pacific”, 14 June 2023, <https://www.abc.net.au/pacific/programs/pacificbeat/prasad-calls-for-free-travel-between-australia-and-nz/102476574>; PMN, “Calls for visa-free travel amid climate crisis”, 17 June 2024, <https://pmn.co.nz/read/pacific-region/calls-for-visa-free-travel-amid-climate-crisis>; Devpolicy Blog, “Free movement of people within the Pacific: How?”, 15 March 2024, <https://devpolicy.org/free-movement-of-people-within-the-pacific-20240315/>

41 *He Whakaputanga o te Rangatiratanga o Niu Tirenī* (Declaration of Independence of New Zealand), first signed by 34 Northern Māori rangatira (chiefs) on 28 October 1835, He Whakaputanga collected a further 18 signatures by 1839, <https://www.archives.govt.nz/discover-our-stories/the-declaration-of-independence-of-new-zealand>

42 A treaty signed between the British Crown and over 500 Māori chiefs in 1840, See <https://teara.govt.nz/en/te-tiriti-o-waitangi-the-treaty-of-waitangi/print>

43 The impacts of colonisation continue, with serious ongoing human rights issues. See for example, Amnesty International, *Aotearoa New Zealand Joint Submission to the UN Committee Against Torture*, 2023, IOR40/6871/2023 that highlights the overrepresentation of Māori People in the criminal justice system, that Māori children make up two-thirds of the children placed in state care (in violation of rights to family life and culture). In 2024, the CEDAW Committee called on Aotearoa New Zealand to ensure the free, prior and informed consent of Indigenous women, with meaningful consultations and participation of Indigenous women in decisions that impact them. It also noted challenges for Māori women included access to justice, family violence, access to health care, education, equal pay and employment opportunities – see Committee on the Elimination of Discrimination Against Women, *Concluding Observations on the ninth periodic report of New Zealand*, 30 October 2024, UN doc. CEDAW/C/NZL/CO/9. See also UN Human Rights Committee, *Universal Periodic Review: Compilation on New Zealand: Report of the Office of the United Nations High Commissioner on Human Rights*, 20 February 2024, UN doc. A/HRC/WG.6/46/NZL/2 that similarly noted racial discrimination in the criminal justice system, education, health, housing and employment. The UN Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twenty-first and twenty-second periodic reports of New Zealand*, 22 September 2017, UN doc. CERD/C/NZL/CO/21-22, noted with concern the disproportionate number of Māori People in the criminal justice system, and discrimination in health care, education and housing. It also noted that the Aotearoa New Zealand government appeared not to have fully upheld obligations related to free, prior and informed consent and consultation (obligations under international law and *Te Tiriti*). The Committee additionally noted concerning policies impacting Pacific People and refugees and migrants. Additionally, findings and reports of the Waitangi Tribunal, a standing commission of inquiry, makes recommendations on claims brought by Māori relating to policies, actions or omissions by the government that are alleged to have breached the promises made in the Treaty of Waitangi. For example, the Tribunal’s Hauora Report (Wai 2575), released in 2019 found health policies did not adequately uphold *Te Tiriti* obligations, and equity in health outcomes. (Waitangi Tribunal website, <http://www.waitangitribunal.govt.nz/en/inquiries/kaupapa-inquiries/health-services-and-outcomes>, accessed on 22 September 2025).

People interviewed in this research have often referred to their ancestral links with Māori, and their wish to engage in dialogue with the Indigenous Peoples of Aotearoa New Zealand in seeking migration and protection opportunities.

In this context, Aotearoa New Zealand's 2018 *Action Plan on Pacific climate change-related displacement and migration* stated that:

“Aotearoa New Zealand’s unique Treaty of Waitangi obligations and arrangements between Māori and the Crown require that policy development and policy responses must also involve iwi [an extended kinship group], hapū [a kinship group] and Māori in recognition of their Treaty partnership as well as their own status, and acknowledge the whakapapa [genealogy or ancestral] links Māori have with Pacific people and Te Moana-nui-ā-Kiwa [the Pacific Ocean].”⁴⁴

Amnesty International calls on all governments to uphold Indigenous Peoples' rights, including in Aotearoa New Zealand, where decision-making and policy development needs to take place through a process that upholds *Te Tiriti*.

In the research report, *Six Kōrero*, which included conversations with six Māori leaders about climate mobility, it was stated:

“Principles of partnership in the Treaty would necessitate The Crown and Māori working together to figure out what options there are, to involve Māori in decision-making and to ensure that Māori are best positioned to support people in the Pacific; the Crown cannot simply come to Māori with proposals on actions in this space. Māori should also work directly with Pacific leaders and people to identify needs, common goals, opportunities for shared benefit. Effectively, a ‘triangle of engagement’ is needed between Māori, Pacific and Crown stakeholders to develop a framework of action around future Pacific climate mobility.”⁴⁵

44 Burson and others, *Pacific Peoples and Climate (Im)mobility* (previously cited), p. 31.

45 S. Morrison, T. Vaioleti and L. Vaioleti, *Six Kōrero: Climate Change Mobility Research*, 2024, University of Waikato, <https://www.waikato.ac.nz/assets/Uploads/Research/Research-Enterprise-Waikato/Research-at-Waikato/Updated-PDFs/Six-Korero.pdf>, p. 10.

2. THE IMPACT OF CLIMATE CHANGE ON TUVALU AND KIRIBATI

“Most of the edible crops are grown in lowlands. Before the islands will ever be submerged, food security is already being greatly affected. People depend on the land and without the land there is no food.”

Teo (not his real name), 55-year-old from Tuvalu, Aotearoa New Zealand, 15 March 2024



Climate change and environmental disasters are affecting the human rights of people across all Pacific Islands Countries. Low-lying atoll nations (that are all less than an average of 5m above sea level) in the Pacific such as Tuvalu, Kiribati and the Marshall Islands – are more exposed to the effects of sea level rises. On current projections, sea levels for countries such as Tuvalu and Kiribati could increase by as much as 15cm in the next 30 years.⁴⁶ While sea level rise presents a grave threat to the low-lying islands, the effects of this are not limited to the risk of islands being increasingly overtaken by the ocean. Long before this happens, other human rights to water, food security, health and adequate housing – and the right to a clean and healthy environment – are being substantially impacted.

Countries like Kiribati and Tuvalu also fall under the UN's least-developed country (LDC) status because of their geographic remoteness, vulnerability to economic shocks, and dependence on imports for essential items such as food, fuel and medicines.⁴⁷ This follows a broader global pattern where the states in the lowest income category are experiencing the worst effects of the climate crisis even though they contribute the least to emissions.⁴⁸ There is a duty on higher income, higher emitting countries to protect and cooperate to prevent climate harms, including through climate finance and technological support.

For centuries, Pacific Peoples have resisted systems of colonization, exploitation, and discrimination imposed by imperial powers.⁴⁹ While this has varied across locations, forced relocation and loss of land, livelihoods and language are all part of the colonial history of Pacific Island Countries that has been well documented. Resource extraction, such as intense mining and plantation agriculture, has led to soil depletion, deforestation and loss of biodiversity. In the case of Banaba Island (Kiribati), harmful phosphate mining has contributed to the environmental destruction of the island, causing most of its population to be displaced to other islands in Fiji or Kiribati.⁵⁰ Decades of nuclear testing have also left a lasting legacy on the right to a clean and healthy environment in the Marshall Islands, French Polynesia and Kiribati.⁵¹ Overfishing⁵² has destroyed the coral reefs and disrupted marine ecosystems,

46 NASA, "NASA analysis shows irreversible sea level rise for Pacific Islands", 25 September 2024, <https://www.nasa.gov/science-research/earth-science/nasa-analysis-shows-irreversible-sea-level-rise-for-pacific-islands/> (NASA, "NASA analysis shows irreversible sea level rise for Pacific Islands")

47 See for example, UN Trade and Development (UNCTAD), "UN list of least developed countries", <https://unctad.org/topic/least-developed-countries/list>; and UNFCCC, "Frequently asked questions about LDCs, the LEG and NAPAs", <https://unfccc.int/process-and-meetings/bodies/constituted-bodies/least-developed-countries-expert-group/frequently-asked-questions-about-ldcs-the-leg-and-napas>

48 International Institute for Environment and Development, "Poorest Countries at greatest risk of losses and damage from climate change", 25 August 2022, <https://www.iied.org/poorest-countries-greatest-risk-losses-damage-climate-change>; UN Special Rapporteur on the Right to Development, Report: *Climate Justice: Loss and Damage*, 17 July 2024, <https://www.ohchr.org/en/documents/thematic-reports/a79168-report-special-rapporteur-right-development-surya-deva-climate>, para. 43.

49 While many Pacific Island nations gained independence in the 1970s, Australia, Aotearoa New Zealand, France, UK and USA continue to play an active role in regional governance, including as it relates to security, economics, politics and science. There are 14 Pacific Island Countries, and 13 territories across the Pacific – some of which are actively seeking self-determination and independence such as Kanaky New Caledonia. Tuvalu (previously known as the Ellice Islands) gained independence from the UK in 1978, and Kiribati (previously known as the Gilbert Islands) gained independence in 1979.

50 International Center for Advocates Against Discrimination (ICAAD), "The displacement and dispossession of Banaba: Justice for Rabi", 2023, <https://icaad.ngo/2023/02/27/the-displacement-and-dispossession-of-banaba-an-overview/> and ABC News, "Australian company Centrex under fire from Banaban islanders displaced by past phosphate mines", 30 August 2023, <https://www.abc.net.au/news/2023-08-30/australian-mining-company-centrex-banaba-atoll-pacific-kiribati/102785064>

51 Nicholas Hoare, "Australia's Pacific Maralinga: Nauru's war of rehabilitation in nuclear perspective", 2024, *International Review of Environmental History*, Volume 9, Issue 2, https://press-files.anu.edu.au/downloads/press/n11734/pdf/05_hoare.pdf; Bolton, *Addressing Humanitarian and Environmental Harm from Nuclear Weapons: Kiritimati (Christmas) and Malden Islands, Republic of Kiribati*, 2018, https://www.academia.edu/36581596/Addressing_Humanitarian_and_Environmental_Harm_from_Nuclear_Weapons_Kiritimati_Christmas_and_Malden_Islands_Republic_of_Kiribati; Nic McClellan, "Nuclear testing and racism in the Pacific Islands", in Steven Ratuva (editor) *The Palgrave Handbook of Ethnicity*, 2019. Also, in 2024 Vanuatu, Samoa and Fiji urged the adoption of a prohibition on "ecocide" as an international crime recognized by the International Criminal Court. See: Spheres of Influence, "Ecocide on Trial: Pacific Islands change environmental perspectives", 23 June 2025, <https://spheresofinfluence.ca/ecocide-on-trial-pacific-islands-change-environmental-perspectives/>

52 World Economic Forum, "These Pacific islands have an innovative scheme to prevent overfishing in their waters", 26 June 2021, <https://www.weforum.org/stories/2021/06/subsidized-fishing-man-made-tragedy/>

and proposals for deep sea mining⁵³ are likely to make matters worse. This has had a significant impact on Pacific People's ability to survive and adapt in the context of the climate crisis.⁵⁴

Although this research primarily focuses on Tuvalu and Kiribati due to the existential threat of rising sea levels on these low-lying island countries, none of it is intended to exclude or minimize the impacts that the climate crisis is having on all Pacific Island Countries, or the need for inclusive, comprehensive and effective regional responses to climate change.

2.1 TUVALU BACKGROUND

Tuvalu is situated over 1,000km north of Fiji and consists of six atolls (circular-shaped reef islands with a central lagoon) and three reef islands, with the highest point being less than 5m above sea level. Tuvalu has only one airport, with transport to the outer islands by boat, which operates on an irregular schedule.

As the plane descends towards Tuvalu's capital, a thin strip of land emerges from the vast blue ocean. Approximately 6,000 people (around 60% of the country's 9,853 population)⁵⁵ live on Funafuti. The total land mass in Tuvalu is less than 30km², and its vulnerability to the external environment is immediately apparent. The main island on Funafuti atoll stretches up to 12km long but is only 400m wide. At its narrowest point, it is a few metres wide with both the ocean and lagoon visible at the same time. The average height of land on Funafuti is 2m above sea level. The airport runway doubles as a recreation and sporting area on afternoons when there are no flights arriving. Dwellings on the main island have corrugated iron roofing to act as a catchment for the rain-water tanks that are installed in most households throughout the main island.

Tuvalu has an equatorial climate, meaning it is hot year-round and has an average daily maximum temperature of around 32°C during the day. It rarely drops below 20°C even at night.

Subsistence or semi-subsistence living is common in Tuvalu with more than 69% of the population involved in growing food crops or cultivating livestock. The main crops include coconut, swamp taro, breadfruit and banana. Primary livestock are pigs, chickens and ducks. Fishing is also a primary food source.⁵⁶

Tuvalu's resident population increased slightly in 2022, with a small decrease in population in Funafuti, matched with a slight increase for the outer islands.⁵⁷ Around 90% of the population are of Tuvaluan ethnicity, with some 4% of people identifying as both Tuvaluan and I-Kiribati.⁵⁸ In 2024, Tuvalu

53 Fiji Times, "Deep sea mining – its impact in the Pacific", 22 February 2025, <https://www.fijitimes.com.fj/deep-sea-mining-its-impact-in-the-pacific/>; Greenpeace Australia Pacific, "What are the problems with deep sea mining?", 1 January 2025, <https://www.greenpeace.org.au/learn/problems-with-deep-sea-mining/>

54 PacificOcean.info, "The lasting impact of colonial rule on Pacific Island governments", 12 January 2025, <https://pacificocean.info/2025/01/12/the-lasting-impact-of-colonial-rule-on-pacific-island-governments/>; Greenpeace, "The truth about the Pacific: Colonialism, capitalism, climate change, nuclear testing and extractivism", 27 May 2025, <https://www.greenpeace.org.au/article/the-truth-about-the-pacific-colonialism-capitalism-climate-change-nuclear-testing-and-extractivism/>

55 Tuvalu Central Statistics Division, Social Statistics Release – Vital, Migration and Population Estimates Release 5, 27 March 2024, <https://stats.gov.tv/news/social-statistics-release/>

56 Nationally 17% of households are engaged in fishing, but this was more common in rural households than Funafuti (as high as 32% in rural areas) (see: Tuvalu Central Statistics Division, 2022 *Household Income and Expenditure Survey (HIES) Report*, 2024, https://spccfpstore1.blob.core.windows.net/digitalibrary-docs/files/0a/0a7fde6f1b219e498839816bb650e915.pdf?sv=2015-12-11&sr=b&sig=jSle4MKuvjLr3nLI9AhVwqd6vCqUHxmuAPN0ImqRhuc%3D&se=2026-03-03T09%3A04%3A55Z&sp=r&rsc=public%2C%20max-age%3D864000%2C%20max-stale%3D86400&rsct=application%2Fpdf&rscd=inline%3B%20filename%3D%22Tuvalu_2022_HIES_report.pdf%22

57 Tuvalu Central Statistics Division, *Tuvalu Population and Housing Census 2022-23*, 2022, https://stats.gov.tv/download/85/population-and-housing-census/1836/tuvalu_2022_census_report.pdf, p. 6 (Tuvalu Central Statistics Division, *Tuvalu Population and Housing Census 2022-23*). The recent decline in urbanization is often explained by incentives that were offered to people to return to the outer islands during the Pandemic.

58 Tuvalu Central Statistics Division, *Tuvalu Population and Housing Census 2022-23* (previously cited), p. 11.



Funafuti atoll in the Pacific Island country of Tuvalu. The average height of land on Funafuti is 2m above sea level. Approximately 6,000 people live on Funafuti (around 60% of Tuvalu's population), experiencing firsthand the effects of sea level rise, coastal erosion, king tides, and other effects of climate change. © Amnesty International

experienced marginal population growth (of around 0.71%) – meaning that births exceeded emigration and deaths.⁵⁹ The average household in Funafuti was at 7-8 people per household in 2017 and anticipated to grow.⁶⁰

The International Labour Organization has estimated Tuvalu's employment participation rate at just under 25%.⁶¹ Gross Domestic Product (GDP) per capita in Tuvalu was on average US\$6,500 in 2023, but this does not necessarily reflect household earning potential through domestic labour (with minimum hourly wages being US\$2 per hour).⁶² Contributions to GDP include remittances from nationals living abroad and income from fishing (licences and maritime employment). Employment is concentrated in the services sector, and this accounts for around 53% of working people. Around one in four people work in the informal economy, which fails to provide crucial workplace and social protections and consistent liveable incomes. Around 30% of men of working age are employed, compared to around 20% of women.⁶³

According to the 2022 Census, around 1,278 people (or 13% of the population over five years of age) self-identified as having experienced some form of disability (identified as difficulty in seeing, hearing, walking, remembering or concentration, self-care or communication).⁶⁴ Those with severe disabilities

59 Countrymeters, Tuvalu population, 2025, <https://countrymeters.info/en/Tuvalu> (accessed on 14 September 2025)

60 According to 2017 Tuvalu Census data, reflecting an increase from 6-7 people in 2012. There was a limited follow-up survey in 2020, but no record of household sizes has been published. Average household size in rural areas was 5 people in 2017.

61 International Labour Organization (ILO), "Tuvalu: Country Factsheet [working draft]", 2024, https://labordoc.ilo.org/discovery/fulldisplay/alma995361292802676/41ILO_INST:41ILO_V2 (ILO, "Tuvalu: Country Factsheet").

62 World Population Review, "GDP per capita by country: Tuvalu", 2025, <https://worldpopulationreview.com/country-rankings/gdp-per-capita-by-country#title> – note this website references the World Bank, UN and International Monetary Fund (IMF) rankings that all use slightly different methodology to calculate GDP.

63 ILO, "Tuvalu: Country Factsheet" (previously cited).

64 UNICEF recently reported that as many as 12% of children in Tuvalu have at least one functional difficulty (UNICEF, *Children With Disabilities in Asia and the Pacific: A Statistical Overview of Their Well-being*, May 2025, https://data.unicef.org/wp-content/uploads/2025/06/Asia-Disability-report-5_16_2_AFCCC-v2.pdf); (UNICEF, *Children With Disabilities in Asia and the Pacific*; a 2018 Disability Study funded by Australian Aid in collaboration with the *Fusi Alofa* (Disability Association in Tuvalu) carried out field research and identified 466 persons living with disabilities (H. Tavola, *Tuvalu Study on People with Disability*, DFAT/Pacific Women Shaping Pacific Development, July 2018, <https://pacificdata.org/data/dataset/438f410b-72d7-4655-ba92-36563a7ad600/resource/c7f3f981-2f58-41dd-903e-462a316d1f40/download/Tuvalu%20Study%20on%20People%20With%20Disability%20Full%20Report%20July%202018>).

are often cared for by relatives. Around 4% of the population suffers from non-communicable diseases, with hypertension, high blood pressure and diabetes being the most prevalent.⁶⁵ Average life expectancy in Tuvalu is 67 years, around 15 years less than in Aotearoa New Zealand.⁶⁶

Tuvalu has 11 health centres and one hospital. The World Health Organization (WHO) describes Tuvalu's health system as having "limited health-care facilities, scarcity of medical professionals and inadequate access to essential medicines and technologies".⁶⁷ Tuvalu offers a compensated overseas medical treatment programme for conditions that cannot be treated within the country, but people also seek treatment abroad at their own cost if they are unable to access or be prioritized through this scheme.

2.2 KIRIBATI BACKGROUND

Kiribati⁶⁸ is another low-lying atoll nation in the Pacific. It comprises 32 islands, of which only about 20 are inhabited. Most of these islands are no more than 2-3m on average above sea level. The total land area is limited, with around 811km² spread over a much larger oceanic area of 3.5 million km². Kiribati has an estimated population of around 136,000 people.⁶⁹

Around half the population lives in the Tarawa atoll, which is around 30km² of land. The land here is less than 3m above sea level, the average width of the land being up to 450m wide. In South Tarawa, Kiribati, more than 60,000 people live in a land area of around 15km², and the average household size is over seven people according to the 2022 Census.⁷⁰ It is not uncommon for 15 to 20 people to live together.⁷¹ *Teretia* (not her real name), a young I-Kiribati woman, currently living in Aotearoa New Zealand, recalled living in a two-room house with "30-40 people squashed together" in Tarawa. In addition to overcrowding, only half the people living in Tarawa have family who own land there, with one in 10 households not having a proper lease or tenancy arrangement. This leads to insecure tenure and frequent land disputes.⁷²

The islands of Kiribati are spread across the equator with a humid, tropical climate. The temperatures remain stable and consistently hot throughout the year. On the hottest days it reaches around 33°C and does not drop below 20°C. Under a high emissions scenario, this temperature is expected to rise by up to 3.8°C and trigger increased heat waves and flooding.⁷³

Up to 76% of households in Kiribati engage in some form of agriculture, livestock or fishing (or a combination of these) to support subsistence or semi-subsistence living. The main crops grown locally include coconut, breadfruit, pumpkin, banana or root vegetables, and livestock primarily consists of rearing pigs and chickens.⁷⁴ Kiribati's GDP is one of the lowest among the Pacific Island Countries, and

65 Tuvalu Central Statistics Division, Tuvalu Population and Housing Census 2022-23 (previously cited), pp. 19-32.,

66 World Bank Group, Life Expectancy at Birth, Total (Years) - Tuvalu, 2023, <https://data.worldbank.org/indicator/SP.DYN.LE00.IN?locations=tv>; World Health Organization (WHO), "New Zealand: Health data overview", 2023, <https://data.who.int/countries/554> (WHO, "New Zealand: Health data")

67 WHO, "Our work in Tuvalu", <https://www.who.int/tuvalu/our-work>

68 Although Amnesty International did not travel to Kiribati, the organization conducted extensive desk research and interviews with around 50 I-Kiribati people in Aotearoa New Zealand. In some larger group meetings, attendance was fluid, with people coming and going throughout the meeting, therefore it is hard to give an exact number.

69 Worldometer, Kiribati Population, 2025, <https://www.worldometers.info/world-population/kiribati-population> (data from 2023 suggests the population was 133,000 in that year, so this figure is based on projected growth).

70 Kiribati National Statistics Office, *Kiribati Census Atlas 2022*, <https://nso.gov.ki/population/kiribati-census-atlas-2022/>

71 Republic of Kiribati, *Island Report Series 6. South Tarawa*, 2012, https://theasiadialogue.com/wp-content/uploads/2017/12/6_SOUTH-TARAWA-revised-2012.pdf (Republic of Kiribati, *Island Report Series 6. South Tarawa*)

72 Republic of Kiribati, *Island Report Series 6. South Tarawa* (previously cited), pp. 8-9.

73 WHO and UNFCCC, *Climate Change and Health Country Profile 2017: Kiribati*, 2017, <https://iris.who.int/bitstream/handle/10665/260411/WHO-FWC-PHE-EPE-15.51-eng.pdf?sequence=1> (WHO and others, *Climate Change and Health Country Profile: Kiribati*)

74 Kiribati National Statistics Office, *Kiribati Agriculture and Fisheries Report based on 2020 Census*, <https://nso.gov.ki/census/kiribati-agriculture-and-fisheries-report-based-on-2020-census/> (Kiribati National Statistics Office, *Kiribati Agriculture and Fisheries*)



A local villager wades through a small lagoon that at high-tide reaches the base of homes near the village of Tangintebu on South Tarawa in the central Pacific island nation of Kiribati on May 25, 2013. © Sara Medici/Getty Images

there is a heavy dependence on imported foods. Average annual household income is US\$10,863, with around 46% of this spent on food.⁷⁵ Remittances accounted for 8.4% of GDP in 2020.⁷⁶

The labour participation rate is 48% in the country (with just over half in formal employment and the remainder self-employed or in the informal sector). Around two thirds of people work in the services sector. Around 40% of women and 56% of men work.⁷⁷

As of June 2025, Kiribati's population had risen by 1.64% in the last year.⁷⁸ In the 2022-2023 year, 633 people engaged in seasonal work in Aotearoa New Zealand through the Recognised Seasonal Employer Limited Visa (RSE) scheme.⁷⁹

A 2015 census reported that around 11,863 people (or 9% of the population) were living with disabilities. This figure suggests a substantial under reporting of people with disabilities – with WHO suggesting about 16% of people globally are currently living with a disability.⁸⁰ However, a more recent UNICEF report suggested the prevalence of children with one or more functional difficulties is much higher at 21%.⁸¹

There are four hospitals, 30 health centres and 75 health clinics in the country. Like Tuvalu, these resources are inadequate for the population, and Kiribati is under-resourced in terms of essential medical equipment and qualified medical professionals.⁸²

The average life expectancy in Kiribati is 66 years, around 15 years less than the average life expectancy in Aotearoa New Zealand.⁸³

75 Kiribati National Statistics Office, *Kiribati Agriculture and Fisheries* (previously cited).

76 ILO, "Kiribati: Country Fact Sheet [working draft]", 2024, <https://www.ilo.org/media/533496/download> (ILO, "Kiribati: Country Fact Sheet")

77 ILO, "Kiribati: Country Fact Sheet" (previously cited).

78 Geodatos, "Population of Kiribati", 2025, <https://www.geodatos.net/en/population/kiribati>

79 ILO, "Kiribati: Country Fact Sheet" (previously cited).

80 WHO, "Disability", https://who.int/health-topics/disability#tab=tab_1

81 UNICEF, *Children with Disabilities in Asia and the Pacific* (previously cited).

82 WHO, "Our work in Kiribati", <https://www.who.int/kiribati/our-work>; The Borgen Project, "Healthcare in Kiribati is steadily improving", October 2020, <https://borgenproject.org/healthcare-in-kiribati/>

83 WHO, "New Zealand: Health data" (previously cited); World Bank, Life expectancy at birth, total (years) – Kiribati, <https://data.worldbank.org/indicator/SP.DYN.LE00.IN?locations=KI> (accessed on 14 September 2025).

2.3 HUMAN RIGHTS IMPACT OF CLIMATE CHANGE AND DISASTERS IN TUVALU AND KIRIBATI

Tuvalu contributes less than 0.003% to global greenhouse emissions,⁸⁴ while Kiribati only contributes 0.0002%.⁸⁵ By comparison, Aotearoa New Zealand contributes more than 43 times Tuvalu's emissions and 650 times the emissions of Kiribati.⁸⁶ By 2050, some predictions suggest that Tuvalu might have around 50% of its current land mass subsumed by water. By 2100, 95% of the land would likely be under water.

Kiribati is facing a similar fate – where predictions are that sea levels will rise by around 50cm by 2100.⁸⁷ Many scientific studies anticipate that sea level rise is irreversible, even if immediate action is taken to reduce carbon emissions.⁸⁸ Climate change leads to an increased intensity and frequency of dangerous rapid-onset weather events such as storm surges and king tides, extreme heat and flooding. It also triggers slow-onset events, including the alteration of precipitation patterns, droughts, sea-level rise, salt-water intrusion, ocean acidification and coastal erosion. While Kiribati and Tuvalu are not in the direct path of cyclones, they can at times experience the effects of other cyclones in the region.⁸⁹

The climate crisis has very real and significant impacts on the right to adequate housing and related human rights. For example, storm surges, king tides, coastal erosion and rising sea levels damage and destroy homes and reduce available land, often leading to overcrowding. Fishing is being impacted by changes to sea surface temperatures, coral bleaching and ocean acidification. The quality of soil is negatively affected by saltwater intrusion from storm surges and king tides, as well as droughts.⁹⁰ The quality and availability of nutritious and diverse food sources is having knock-on impacts on the right to health.⁹¹ Likewise, the amount and quality of drinking water is impacted by droughts and floods.⁹²

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- 84 Secretariat of the Pacific Regional Environment Programme (SPREP), “Tuvalu on 1.5 to stay alive – ‘there is no time to waste’”, 15 November 2024, <https://www.sprep.org/news/tuvalu-on-15-to-stay-alive-there-is-no-time-to-waste>; Climate Watch, Tuvalu, https://www.climatewatchdata.org/countries/TUV?end_year=2022&start_year=1990#ghg-emissions
- 85 Republic of Kiribati, *Nationally Determined Contribution (Revised)*, November 2022, https://www.emission-index.com/countries/kiribati/unfccc.int/sites/default/files/NDC/2023-03/221213_Kiribati_NDC_Web_Quality.pdf; Climate Watch, Kiribati, <https://www.climatewatchdata.org/countries/KIR>
- 86 In 2022, Aotearoa New Zealand emitted 0.13% of global emissions (see <https://www.climatewatchdata.org>).
- 87 IPCC, *2023: Climate Change 2023: Synthesis Report* (previously cited), Chapter 5; NASA, “NASA analysis shows irreversible sea level rise for Pacific Islands” (previously cited), World Bank, “New World Bank research outlines adaptation pathways for Pacific atoll countries”, 14 November 2024, <https://www.worldbank.org/en/news/press-release/2024/11/14/protect-accommodate-or-retreat-new-world-bank-research-outlines-adaptation-pathways-for-pacific-atoll-countries> (World Bank, “New World Bank research outlines adaptation pathways”).
- 88 IPCC, *2023: Climate Change 2023: Synthesis Report* (previously cited), Chapter 5; NASA, “NASA analysis shows irreversible sea level rise for Pacific Islands” (previously cited), World Bank, “New World Bank research outlines adaptation pathways” (previously cited).
- 89 For example, large waves from Cyclone Pam more than 1,000km away still affected Tuvalu and Kiribati in 2015. See Hoeke and others, “Severe flooding in the atoll nations of Tuvalu and Kiribati triggered by a distant tropical Cyclone Pam”, Vol 7 – 2020, <https://www.frontiersin.org/journals/marine-science/articles/10.3389/fmars.2020.539646/full>; Britannica, “Cyclone Pam”, <https://www.britannica.com/topic/Cyclone-Pam>
- 90 Tui and Fakhruddin, “Food for thought: Climate change risk and food (in)security in Tuvalu”, Science Direct, December 2022, <http://www.sciencedirect.com/science/article/pii/S2590061722000424>; and Tuvalu Household Income and Expenditure Survey (2022), previously cited.
- 91 WHO, UNFCCC and Government of Tuvalu, *Health and Climate Change Country Profile: Tuvalu*, 2020, https://cdn.who.int/media/docs/default-source/climate-change/cc-health-climate-change-2020-tuvalu.pdf?sfvrsn=4dada945_3&download=true (WHO and others, “Health and Climate Change Country Profile: Tuvalu”); World Bank Group, *Climate Risk Country Profile: Kiribati*, 2021, https://climateknowledgeportal.worldbank.org/sites/default/files/country-profiles/15816-WB_Kiribati%20Country%20Profile-WEB.pdf (World Bank Group, *Climate Risk Country Profile: Kiribati*)
- 92 WHO and others, “Health and Climate Change Country Profile: Tuvalu” (previously cited); World Bank Group, *Climate Risk Country Profile: Kiribati* (previously cited).

Climate change is known for being a “threat multiplier”, meaning that it exacerbates pre-existing social, economic and other inequalities. Different groups are therefore impacted to different extents. Various human rights bodies have stated that, due to pre-existing inequalities and discrimination, women,⁹³ children,⁹⁴ persons with disabilities,⁹⁵ older persons⁹⁶ and other at-risk groups⁹⁷ are disproportionately affected by the human rights impacts of climate change. Existing inequalities and poverty increase in places where there is heavy reliance on subsistence or semi-subsistence living because people do not have the resources to cope with the effects of climate change in the absence of adequate social protection measures.

Below, we outline four key areas where people’s human rights are harmed by the climate crisis in Tuvalu and Kiribati:



ACCESS TO CLEAN DRINKING WATER

(SECTION 2.3.1)



FOOD INSECURITY

(SECTION 2.3.2)



ACCESS TO LAND AND ADEQUATE HOUSING

(SECTION 2.3.3)



THE RIGHT TO HEALTH

(SECTION 2.3.4)

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- 93 UN Committee on the Elimination of all Forms of Discrimination Against Women (CEDAW), General Recommendation 37 (1028) on Gender-related dimensions of disaster risk reduction in the context of climate change, 13 March 2018, CEDAW/C/GC/37.
- 94 UN Committee on the Rights of the Child, “Follow-up visit to the Pacific and the Pacific Launch of the Committee’s General Comment 26”, November 2023, <https://www.ohchr.org/en/events/events/2023/crc-follow-visit-pacific-and-pacific-launch-committees-general-no-26>; and CRC, General Comment 26 on Children’s Rights and the Environment with a Special Focus on Climate Change, 22 August 2023, UN Doc. CRC/C/GC/26 (CRC, General Comment 26).
- 95 UN Office of the High Commissioner for Human Rights (OHCHR), *Analytical Study on the Promotion and Protection of the Rights of Persons with Disabilities in the Context of Climate Change*, 22 April 2020, UN Doc. A/HRC/44/30 (OHCHR, *Analytical Study on the Rights of Persons with Disabilities in the Context of Climate Change*).
- 96 OHCHR), *Analytical Study on the Promotion and Protection of the rights of Older Persons in the Context of Climate Change*, 30 April 2021, Un Doc. A/HRC/47/46 (OHCHR, *Analytical Study on the Rights of Older Persons in the Context of Climate Change*).
- 97 UN Special Rapporteur on the Rights of Indigenous Peoples, Report: *Climate Change*, 1 November 2017, A/HRC/36/46; Committee on the Elimination of Discrimination Against Women, the Committee on Economic, Social and Cultural Rights (CESCR), Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, Committee on the Rights of the Child, Committee on the Rights of Persons with Disabilities, *Joint Statement on “Human Rights and Climate Change”*, 16 September 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24998>; IACtHR, Advisory Opinion OC-23/17, (previously cited).

While acknowledging that there are several at-risk groups who will face a disproportionate impact from the effects of climate change, in this report Amnesty International focuses on the effects of climate change on people with disabilities and people with medical conditions who spoke with us in section 2.2.5 below.

These elements are directly interconnected with the right to a clean, healthy and sustainable environment, which the UN has recognized as a stand-alone human right.⁹⁸ Since water, food, housing and health establish the preconditions for the right to life, the impact of the climate crisis on these rights jeopardizes the right to live with dignity.⁹⁹

2.3.1 ACCESS TO CLEAN DRINKING WATER

“While various challenges regarding access to water and sanitation have long existed in Tuvalu, the effects of climate change are increasing and will further increase the country’s vulnerability and exacerbate water scarcity, saltwater intrusions, sea level rise and frequency of extreme weather events.

I observed in Kiribati that the effects of climate change are no longer a threat but a reality for people’s every day life.”

UN Special Rapporteur on the Right to Water and Sanitation (2012), following a visit to both Tuvalu and Kiribati



A combination of increasing temperatures, shortage of fresh water, increased salination, increased evaporation, changes in rainfall and sea-water incursions (all climate-related) are impairing water quality and availability. Droughts and increased extreme heat days are predicted to increase with the effects of climate change which is likely to limit access to adequate and clean drinking water for Tuvaluans and I-Kiribati people in the future.¹⁰⁰ Both Tuvalu and Kiribati rely on rainwater harvesting and to a lesser extent groundwater, but face significant challenges related to water quality and availability due to climate change.¹⁰¹ The UN Special Rapporteur on the human right to safe drinking water and sanitation noted as early as 2012 that the everyday impacts of climate change were being felt by Tuvaluans in terms of access to water and that this in turn could lead to increased

98 UN Human Rights Council, Resolution 48/13. The human right to a clean, healthy and sustainable environment, adopted on 8 October 2021, UN Doc. A/HRC/RES/48/13. See also: UN General Assembly (UNGA), Resolution 76/300. The human right to a clean, healthy and sustainable environment, adopted on 28 July 2022, UN Doc. A/RES/76/300.

99 The content of the right to live in dignity is not rigidly defined, however, in its General Comment 36 on the Right to Life, the CCPR indicated, among others, that “measures called for to address adequate conditions for protecting the right to life include, where necessary, measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care, electricity and sanitation, and other measures designed to promote and facilitate adequate general conditions, such as the bolstering of effective emergency health services, emergency response operations (including firefighters, ambulance services and police forces) and social housing programmes” (para. 26). It also indicated that “[i]mplementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, inter alia, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change caused by public and private actors” (para. 62); see CCPR, General Comment 36 on Article 6 of the International Covenant on Civil and Political Rights (ICCPR), 30 October 2018, UN Doc. CCPR/C/GC/36. Also, the IACtHR, for example, referred to access to, and the quality of, water, food and health as a necessary “condition for a decent life” that has a “significant impact on the right to a decent existence and the basic conditions for the exercise of other human rights”. The Court has also included environmental protection as a condition for a decent life; See IACtHR, Advisory Opinion OC-23/17 (previously cited), para. 109

100 IPCC, 2023: *Climate Change 2023: Synthesis Report* (previously cited), Chapter 4.

101 MIT Climate Portal, “Freshwater and Climate Change”, 14 April 2022, <https://climate.mit.edu/explainers/freshwater-and-climate-change>; A. Tiareti and B. Mahmood, “Sea Level Rise Impact on Underground Freshwater Lens - A Case Study”, 18 September 2019, Proceedings of Water New Zealand, <https://www.researchbank.ac.nz/items/f18eac7e-5b25-4c95-89d9-24d1a010eba9>; SPREP, “Coastal inundation from sea level rise identified as main risk to water quality and availability in Tuvalu”, 28 March 2024, <https://www.sprep.org/news/coastal-inundation-from-sea-level-rise-identified-as-main-risk-to-water-quality-and-availability-in-tuvalu>.



Tuvaluan woman with her sons by their water tank. © Amnesty International

risk of many water-borne illnesses.¹⁰² In 2020, a visit by the UN Committee on the Rights of the Child also expressed deep concern about the rights of children and access to safe drinking water in the context of climate change.¹⁰³ In November 2022, Tuvalu declared a state of emergency as it grappled with drought conditions. Kiribati also declared a state of emergency, being affected by the same dry weather conditions.

Aleki (not her real name), who lives with her husband, her four children and her sister's family in Funafuti, told us about the challenge of getting clean drinking water. "We take buckets and go to the government building for filtered water every day for drinking. I carry the buckets on the motorcycle to go to collect the water," she shared. "In 2022 there was a big drought in Tuvalu. The government gave people water at the end of the airstrip. We were allowed six buckets of water a day for our household of nine people. We bought water from the store to drink as well, as we needed water for other things, like to wash. The Tuvalu government then got a larger desalination plant, but we can still sometimes taste the salt in it."¹⁰⁴

Masina (not her real name), an older woman who has a physical disability, described the changes she observed over the more than 26 years she has lived in Funafuti: "I have seen changes along the years. Sometimes there is more rain, but mostly the dry season is difficult. Drought always happens." Two women relatives also shared, "we are worried about water".¹⁰⁵

In a group interview with women from Tuvalu, who now live in Aotearoa New Zealand,¹⁰⁶ the women recalled a drought in October 2011 when they queued for water for hours in the morning and again at night to collect rationed water from government distribution points. In response to that drought, the

102 UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, Report: *Mission to Kiribati, 23-26 July 2012*, 1 July 2013, UN Doc. A/HRC/24/44/Add.2 (UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, *Mission to Kiribati*)

103 UN Committee on the Rights of the Child (UNCRC), Concluding Observations: Tuvalu, 31 March 2020, UN Doc. CRC/C/TUV/CO/2-5

104 Interview with Aleki, 29-year-old Tuvaluan woman, Tuvalu, 21 March 2024.

105 Interview with Masina and three other women (her family members), Tuvalu, 22 March 2024.

106 Interview with group of 10 women from Tuvalu, Aotearoa New Zealand, 16 March 2024.

Australian and Aotearoa New Zealand defence forces sent humanitarian relief, including additional desalination equipment.¹⁰⁷ *Kaia* (not her real name), is 61 years old and said that even though it was a state of emergency, they held traditional dances to welcome the arrival of humanitarian assistance because it was important in their culture.¹⁰⁸ *Tala* (not her real name) is a 39 year old seasonal worker from Tuvalu living in Aotearoa New Zealand. She also recalled the 2011 drought and mentioned concerns about frequent water scarcity in the capital of Funafuti.¹⁰⁹

Teo (not his real name), a Tuvaluan community leader living in Auckland, described the challenges of accessing clean drinking water on the outer islands: “When there are droughts you dig more and more for water. The more you scratch, the more salt will be in the well. Once you have salt in the well, it will stay there forever. The droughts are more frequent and last longer. When there’s droughts you can see the trees just falling. We are observing droughts, cyclones, sea level rise. You don’t know what the future will be like, and these are only the effects we know about.”¹¹⁰

According to a Tuvalu government survey in 2022,¹¹¹ most households have two water tanks (of 10,000 litres) for an average household size of up to seven people. The water tanks collecting rainwater supply require regular maintenance and cleaning to ensure the water supply is not contaminated with salt or bacteria.¹¹² Some households have additional water filters on their tanks to improve water quality, but these are imported and expensive. For larger households and during drought periods, this does not provide sufficient and good quality drinking water to the population on its own. Ensuring adequate amounts of water supply, and that it meets clean drinking water standards, remains a challenge within Tuvalu, and one that is being exacerbated by the effects of the climate crisis.

Studies show that less than 25% of the population are likely to have access to clean drinking water in Kiribati, with salination and contamination with bacteria being key problems.¹¹³ *Joena* (not her real name), aged 17, moved for school in Aotearoa New Zealand. She spoke of missing her parents in Kiribati and said they always complain about the water: “They buy water to drink and they use the water from the well to shower. They say it is salty and getting worse and worse. When they were younger, they used to drink the water from the wells. Now you cannot anymore.”¹¹⁴

Others described how the water is often salty and that they collect rationed water from the government. A few interviewees described getting diarrhoea illnesses from drinking the water.¹¹⁵ Amnesty International spoke to experts at a World Water Day event in Tuvalu on 22 March 2024 and a doctor at the hospital, who confirmed that water quality and water-borne illnesses increase particularly during floods and droughts.

The human right to water includes the availability of sufficient water for personal and domestic use, such as for drinking, personal sanitation, clothes washing, food preparation and personal

107 BBC News, “Australia, New Zealand in airlift to drought-hit Tuvalu”, 7 October 2011, <https://www.bbc.co.uk/news/world-asia-pacific-15210568>

108 Interview with *Kaia*, Tuvaluan woman, Aotearoa New Zealand, 16 March 2024.

109 Interview with *Tala*, a 39-year-old Tuvaluan woman, Aotearoa New Zealand, 3 March 2024.

110 Interview with *Teo*, a 55-year-old man from Tuvalu, Aotearoa New Zealand, 15 March 2024.

111 Government of Tuvalu, Funafuti Water Survey Report 2022, <https://www.tuvaluclimatechange.gov.tv/sites/default/files/2023-05/Funafuti%20water%20survey%20report.pdf>

112 A survey found that around 84% of households are using drinking water contaminated by *E. Coli*, with only 5% of households using a safely managed drinking water service. In spite of this, access to basic drinking water is close to universal (99%) and around 90% of the population has access to wash and hygiene services. See UNICEF, SPC, UNFPA, DFAT, *Tuvalu Multiple Indicator Cluster Survey (MICS) 2019--2020: Snapshot of Key Findings*, 2020, <https://www.spc.int/digitalibrary/get/zotc5>, p. 40.

113 Child Fund, “Tackling safe water challenges in Kiribati”, 15 August 2023, <https://childfundalliance.org/blog/2023/08/15/tackling-safe-water-challenges-in-kiribati/>

114 Interview with *Joena*, a 17-year-old from Kiribati, Aotearoa New Zealand, 8 March 2024.

115 “Tragically, Kiribati has the highest infant mortality rates in the Pacific, often linked to diarrhoea, dysentery and gastroenteritis from unsafe drinking water.” Child Fund, “Tackling safe water challenges in Kiribati”, 15 August 2023, <https://childfundalliance.org/blog/2023/08/15/tackling-safe-water-challenges-in-kiribati/>

and household hygiene. UN General Comment 15 provides that the right to water and the right to sanitation are distinct but related rights.¹¹⁶ The right to water and sanitation also falls under Goal 6 of the Sustainable Development Goals and is an integral part of the right to an adequate standard of living under the International Covenant on Economic, Social and Cultural Rights (ICESCR) (Article 11). Furthermore, the Convention on the Elimination of All Forms of Discrimination against Women (Article 14(h)), the Convention on the Rights of the Child (CRC) (Article 24(2)) and the Convention on the Rights of Persons with Disabilities (CRPD) (Article 28(2)a) also protect the right to water. The International Court of Justice's Advisory Opinion on the Obligations of States with respect to Climate Change states:

“The Court is thus of the view that the adverse effects of climate change, including, inter alia, the impact on the health and livelihoods of individuals through events such as sea level rise, drought, desertification and natural disasters, may significantly impair the enjoyment of certain human rights, in particular, the right to life, the right to health, the right to an adequate standard of living, which encompasses access to food, water and housing, the right to privacy, family and home, and the rights of women, children and indigenous peoples.”¹¹⁷

The Court further acknowledged that climate effects are displacing populations and exacerbating water shortages.¹¹⁸

Without adequate and sufficient water, sanitation and hygiene, people's health, well-being and dignity are severely compromised. States' duty to protect the right to a clean, healthy and sustainable environment is essential for the enjoyment of these human rights.

2.3.2 FOOD INSECURITY

“Before, we used to plant banana and pawpaw – this is harder now due to salination. Everything is imported.”

Interview with four women, Funafuti, Tuvalu, 22 March 2024



Tuvalu and Kiribati have limited accessible and arable land to sustain their own food production through agriculture and farming. The only larger scale farming on Funafuti (sometimes referred to as the “Taiwan garden” because it is supported through Taiwanese donor funds) had only three vegetables (cucumber, capsicum and cabbage)¹¹⁹ that were grown at scale at the time of Amnesty International's visit. A small selection of imported fruits and vegetables, some frozen, were available in small local supermarkets. The availability of fresh, quality and nutritious foods is limited by the inability to grow more diverse food supplies locally and results in a high dependence on imported and processed foods. Several interviewees expressed concern at the increasing cost of imported foods. At times when shipments are delayed, including due to inclement weather, there can be shortages of various

116 CESCR, General Comment 15, The right to water, 2003, U.N. Doc. E/C.12/2002/11 (2002), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 105 (2003).

117 ICJ, *Summary of the Advisory Opinion of 23 July 2025, Obligations of States in Respect of Climate Change*, <https://www.icj-cij.org/node/205627>

118 ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), para. 73.

119 See for example, Taiwan Embassy, “Horticulture project: Tuvalu”, https://www.taiwanembassy.org/tv_en/post/126.html (accessed on 2 September 2025). There are only three large scale farms for all of Tuvalu, which supply up to 16 fruits and vegetables on a seasonal basis that are available for local purchase.

food items.

“If the cargo ship is delayed, there isn't enough food in the shop. We have to wait for the next cargo ship to come. We just do without.”

Aleki, a 29-year-old woman from Tuvalu, interviewed in Tuvalu, 21 March 2024

Residents who are lucky enough to have small garden plots build raised garden beds to avoid salt-water seepage from the ground and rely on home-made fertilizer. Traditional plants grown include breadfruit, a root vegetable, also known as “dalo” on some islands, and coconut, among others. Interviewees described how it was getting more difficult to plant traditional crops or too expensive to pay for food.

“What I know is it's a big change, we see the evidence (of climate change). ...For the plantation of taro, when it is high tide, the saltwater kills the plants... They (family in Tuvalu) are raising crops off the ground and go to the Taiwan garden to get vegetables.”

Kaia, a 61-year-old Tuvaluan woman, Aotearoa New Zealand on 16 March 2024

“I work in the construction industry, building new houses with bricks. I earn AU\$300 per week for work. It is very good for the family, but food is expensive. We go fishing, but we don't grow our own food.”

Tomu (not his real name), 34-year-old, Tuvalu, 21 March 2024

Aleki is from the island of Vaitupu but was living in Funafuti with her four children and her sister's family. She described how she used to eat home-grown vegetables such as taro, banana and breadfruit growing up. Now her three children mostly eat food she buys from the shops. Her parents migrated to Fiji because they are vegetarian and found the lack of food diversity challenging. “There is nowhere here to grow and plant vegetables,” she said. “We buy all our food. It's imported food. Because of the saltwater coming up from the ground, it is now difficult to plant on the island.”¹²⁰

Luka (not his real name), a Tuvaluan man living in Auckland, said: “We called the coconuts the trees of life. It is the best fruit you could eat, you weave its strings, we build our houses [with it]. But now it's not really available any more to Tuvaluans.”¹²¹

Kiribati is almost entirely dependent on imported food.¹²² *Akineti* (not her real name) a 56-year-old I-Kiribati woman living in Aotearoa New Zealand said: “In Kiribati you hardly find good food. You can find only rice and canned stuff. You don't have vegetables or stuff like that. We don't grow our food at home. There are heat waves, droughts and king tides and they have destroyed all these plants.”¹²³ Her daughter *Ameria* (not her real name) added: “When I went back [to Kiribati] it felt like it was a skeleton. You cannot see coconut trees any more or papaya trees. That was the change I saw. Before on the main road you had a lot of shade from the trees when you were walking, there was no sunlight on the road, and now there's nothing, all the trees are destroyed.”¹²⁴

120 Interview with *Aleki*, 29-year-old Tuvaluan woman, Tuvalu, 21 March 2024.

121 Interview with *Luka*, 49-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024.

122 World Bank Group, Climate Risk Country Profile: Kiribati (previously cited).

123 Interview with *Akineti*, a 64-year-old I-Kiribati woman, Aotearoa New Zealand, 13 March 2024.

124 Interview with *Ameria*, a 41-year-old I-Kiribati woman, Aotearoa New Zealand, 13 March 2024.



The people of Tuvalu are doing what they can to grow food by using containers, raised beds and collected rainwater, because the ground is polluted with salt water and weather extremes are worsening. © Amnesty International

The lack of nutritious and diverse foods was noted by Tuvaluans and I-Kiribati people now living in Auckland. Luka said, “With land being inundated, there is less available land to cultivate. We cannot have vegetables, no vitamins, no nutritious food. You are forced to rely on... buying processed canned food which is very unhealthy for us.”¹²⁵

Sami (not his real name) said: “It is hard to plant food in Tarawa because of the limited space. Houses are built too close to each other. We are so close to our neighbours that we could turn off their TV if you have the same TV model and remote control. We didn’t get cyclones, but we get king tides in Kiribati, and it is getting worse... Salt is touching the ground, so it is hard to grow food, there is no fish and [there is] overfishing by big vessels and companies. Fish is now scarce, [there is] not enough work. [It is] getting worse by the day.”

A woman with disabilities from Tuvalu described the depletion of fish from Funafuti in a report by the Pacific Disability Forum:

“Over 20 years of living in Funafuti, there has been a decrease in the abundance of fish and water quality. The coastal waters are now full of solid waste, which reduces water flow and damages the fish habitat. Fishing for tuna used to happen close to the shore but now fishers use global positioning systems to locate fishing grounds and travel further and fish for longer hours. Overfishing is happening due to the use of sophisticated fishing technologies, including drift nets and outboard motors.”¹²⁶

125 Interview with Luka, a 49-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024.

126 Quote by a Tuvaluan woman participant with disabilities, in Pacific Disability Forum, *Disability and Climate Change in the Pacific: Findings from Kiribati, Solomon Islands and Tuvalu*, August 2022, <https://pacificdisability.org/wp-content/uploads/2022/08/PDF-Final-Report-on-Climate-Change-and-Persons-with-Disabilities.pdf>, p. 19.

While the lack of arable land is a challenge, additional factors such as increased heat, drought, floods and salination of the water supplies are all compounded by the climate crisis and has meant that people are finding it increasingly difficult to supplement imported food with what they are able to grow themselves.

The right to food is enshrined in international human rights law¹²⁷ and the Sustainable Development Goals (SDGs).¹²⁸ The SDGs include specific goals around expanding small-scale food producers by secure and equal access to land and other resources, and by implementing resilient agricultural practices that strengthen capacity for adaptation to climate change, extreme weather, drought, flooding and other disasters.

The ICESCR offers further guidance on the interpretation of the right to sufficient, quality and diverse food in line with culture. Article 11(1) recognizes “the right of everyone to an adequate standard of living for himself and his family, including adequate food... and to the continuous improvement of living conditions”. In particular, sub article (2) includes the obligation on states to improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition, and developing or reforming agrarian systems to ensure sufficient utilization of natural resources. States should also work towards equitable distribution of world food supplies, considering the challenges faced by food-importing countries (such as Tuvalu and Kiribati).

In its General Comment 12, the UN Committee on Economic, Social and Cultural Rights (CESCR) highlighted that the right to food requires the state to ensure the availability of adequate food either from cultivable land or other natural resources, or from distribution and market systems. The right to food further requires that food be affordable and accessible to all, including those who are discriminated against or who face barriers or risks in obtaining adequate food. It also requires that food be of sufficient quantity and quality to meet the nutritional needs of individuals and be culturally acceptable.¹²⁹

Tuvalu and Kiribati have ratified the Convention on the Rights of the Child, which outlines the right of children to adequate nutritious food (Article 24 2(c) under the right to Health; Article 26 on the right to social security and under Article 27, right to an adequate standard of living).



Planting in barrels in Tuvalu. © Amnesty International

127 The CEDAW recognizes the right of pregnant and lactating women to nutrition in Article 12(2) in the context of maternity protection. The CRC recognizes the right of children to adequate nutrition in Article 24(2)(c) and (e) in the context of the right to health and in Article 27 (3) in the context of the right to an adequate standard of living. The Convention on the Rights of Persons with Disabilities (CRPD) recognizes the right to food in Article 25(f) and right to health in Article 28(1) in the context of the right to an adequate standard of living. The ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited) noted that climate change threatens food security and sustainable development.

128 Article 11, ICESCR; SDG n. 2: “End hunger, achieve food security and improved nutrition and promote sustainable agriculture”

129 CESCR, General Comment 12, The Right to Adequate Food, 1999, UN Doc. E/C.12/1999/5 (1999), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.6 at 62 (2003).

2.3.3 THE RIGHT TO ADEQUATE HOUSING

“Before we had rain and wind, now we also have waves into the houses and onto the roads.”

Opono (not his real name), 36-year-old seasonal worker interviewed in Aotearoa New Zealand, 3 March 2024



In Pacific Islands nations, access to land is intrinsically linked to adequate housing, economic opportunities and food security. Most people in the Pacific continue to rely on subsistence farming¹³⁰ to supplement food and incomes,¹³¹ which requires access to land for cultivation and livestock. The climate crisis adds to existing challenges of lack of available land (inherent in being small island states), insecure land tenure¹³² and increased population density – driven in part by people moving from the outer islands to urban centres because of the impacts of climate change.¹³³

Sudden-onset climate events such as storms, floods and cyclones can cause the destruction of local housing, trigger temporary or permanent displacement, and often have severe economic and social impacts. Climate change is resulting in coastal land erosion which threatens the ability to continue to live in the islands. In the words of the UN Special Rapporteur on the Right to Adequate Housing, “[N]atural disasters and the climate crisis have enormous impacts on the enjoyment of the right to housing, with exponential increases in these effects anticipated in the decades to come.”¹³⁴

Iosefa (not his real name) is a 29-year-old man from Tuvalu, interviewed while he was in Aotearoa New Zealand as a seasonal worker. He has seen how climate change has caused differences on the island. The coastal areas where he used to spend time as a teenager are now inundated by king tides and waves. He said it “floods every year” and when the sea reached his house, it could flood up to a metre high.

Several people noted that flooded houses were becoming increasingly common. “Just this week with the high tide, my niece posted photos of the house all flooded,” said *Kaia*, a Tuvaluan woman.¹³⁵ In February and March 2024, the king tides in Tuvalu reached a peak of more than 3.38m.¹³⁶ Coupled with an extreme rainfall event, new areas of the island flooded for the first time, according to reports

130 Around 80% of all Pacific People are primary subsistence or semi-subsistence producers, relying on meeting most of their daily needs for produce through family or village gardens. See Georgeou and others, “Food security and small holder farming in Pacific Island countries and territories”, 11 April 2022, <https://journals.plos.org/sustainabilitytransformation/article?id=10.1371/journal.pstr.0000009>

131 The ILO has estimated Tuvalu’s employment participation rate at just under 25%, see ILO, “Tuvalu: Country Factsheet” (previously cited).

132 Rebecca Monson, “Land tenure, climate adaptation and legal pluralism in a Pacific town: ‘This is the real story’”, <https://www.sciencedirect.com/science/article/pii/S0264275125000320>; “Property, climate change, and community relocation in the Pacific”, *The Routledge Handbook of Property, Law and Society*, 1st Edition, 2022, <https://www.taylorfrancis.com/chapters/edit/10.4324/9781003139614-9/property-climate-change-community-relocation-pacific-rebecca-monson>. These publications highlight how diverse legal tenure systems in place across the Pacific complicate the issue of internal climate displacement or relocation. Gender, marital status, ethnicity and cultural ties may determine whether a person can access communal or traditional lands, and if so, where. Colonial title schemes, while supporting formal land registration, do not guarantee equal land rights to land ownership and inheritance to women (see also for example, UN Women, *Gender Equality Brief for Tuvalu*, March 2022, https://asiapacific.unwomen.org/sites/default/files/2022-12/UN_WOMEN_TUVALU.pdf).

133 Campbell, *Policy Brief No. 49: Climate Change and Urbanisation in Pacific Island Countries*, Toda Peace Institute, September 2019, https://www.researchgate.net/publication/368571674_Climate_Change_and_Urbanisation_in_Pacific_Island_Countries

134 UN Special Rapporteur on the Right to Adequate Housing, Report: *Climate Change and the Right to Adequate Housing*, 2019, UN Doc. A/64/255, Report: *Towards a Just Transition: The Climate Crisis and the Right to Adequate Housing*, 2022, UN Doc. A/HRC/52/28.

135 Interview with *Kaia*, a 64-year-old Tuvaluan woman, Aotearoa New Zealand, 15 March 2024.

136 ABC News, “King tides cause new levels of devastation in Tuvalu, as nation weighs up Falepili Union treaty”, 7 April 2024, <https://www.abc.net.au/news/2024-04-07/tuvalu-weighs-falepili-union-treaty-king-tides/103669542>

of locals. In Tuvalu, frequent flooding and damage to housing as a result of the climate crisis has become normalized.

Luka, who now lives in Aotearoa New Zealand, previously worked for the Tuvalu government for more than two decades. He witnessed the cost of the climate crisis and its destruction on housing and infrastructure. He described how, over time, the costs were more devastating to the economy and people's lives. In 2015, Cyclone Pam (Category 5) cost US\$10 million¹³⁷ in damages. He described to Amnesty International the costs and consequences of climate change: "That tells you the intensity. Imagine now with higher frequency and higher costs. It's making us look elsewhere even if our heart is there."¹³⁸

"As the land shrinks, people start fighting over land. We are used to [sharing] but there is competition over resources now, so conflict starts," said *Eseta* (not her real name), a Tuvaluan woman who was born and raised in Kiribati but also lived in Tuvalu.¹³⁹

Others described challenges with king tides, coastal erosion, storm surges and water coming into houses in Kiribati.

Sulata (not her real name), a 31-year-old I-Kiribati woman, described the effects of Cyclone Pam: "We were walking and I heard the splash of water. We were shocked [by] the wind and all of a sudden everything got inundated with water. All the houses there are not permanent buildings. Everything in the road was floating."¹⁴⁰

Manaia (not his real name), aged 18, explained that he has lived most of his life in Kiribati and had to relocate due to coastal erosion. "I'm aware of how the weather can be bad," he said. "We relocated internally, within the same island. We moved to another house. We were living close to the coast and there were strong winds, the coconut trees were falling and the water was eating up the beach, so we moved further inside the island."¹⁴¹

Eleni (not her real name) is 22 years old and was born in Aotearoa New Zealand to I-Kiribati parents. She has recently visited Kiribati and said: "It makes me sad to see our families' homes destroyed by the king tides. They tell us about beaches they used to go to and they do not exist anymore. There's a graveyard, and when I was there that was also under water."¹⁴²

An I-Kiribati woman on a temporary work visa in Aotearoa New Zealand said: "Climate change is a big issue, we need to move homes because of it. I am here [in Aotearoa New Zealand] and if I go back, I don't know if I will still have land there."¹⁴³



Prefabricated accommodations used to host media during the 2019 Pacific Island Forum converted into housing in Funafuti, Tuvalu. © Amnesty International

137 World Bank Group, "Tuvalu gets continued support for Cyclone Pam recovery", 15 September 2015, <https://www.worldbank.org/en/news/press-release/2015/09/15/tuvalu-gets-continued-support-for-cyclone-pam-recovery>

138 Interview with Luka, a 49-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024.

139 Interview with *Eseta*, a 62-year-old Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

140 Interview with Sulata, 31-year-old I-Kiribati woman, Aotearoa New Zealand, 13 March 2024

141 Interview with Manaia, 18-year-old I-Kiribati man, Aotearoa New Zealand, 8 March 2024.

142 Interview with Eleni, 22-year-old I-Kiribati woman, Aotearoa New Zealand, 8 March 2024.

143 Interview with group of people from Kiribati, Aotearoa New Zealand, 8 March 2024.

In a discussion with a group of four I-Kiribati men who were doing seasonal work in Aotearoa New Zealand, they mentioned there is a need to build more climate-resilient housing, but this is hard when the minimum wage in Kiribati is only US\$0.78 per hour. They opted for seasonal work in Aotearoa New Zealand (RSE visa) in the hope of being able to send funds back home to support their family.¹⁴⁴

The right to adequate standard of living, including the right to housing, established under Article 25 of the Universal Declaration of Human Rights and Article 11(1) of the ICESCR, includes the right to safe, secure and affordable housing.¹⁴⁵ It should be able to keep out the elements, and provide adequate protection against the heat, damp, wind and rain and other threats to health and structural hazards.¹⁴⁶

2.3.4 THE RIGHT TO HEALTH

“Our health is being affected [by climate change], and our healthcare system is not up to standards. Many people are leaving to New Zealand and other countries for better medical treatment. There is no good medication. Everyone knows what’s happening and if you want to live longer, you’d better go away.”

Setefanu (not his real name), 42-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024



Climate change is known for provoking and exacerbating negative outcomes in people’s health.¹⁴⁷ In its 2020 Health and Climate Change Profile for Tuvalu,¹⁴⁸ the WHO included evidence linking climate hazards and health impacts, including the impacts of extreme weather events and heat-related illnesses. It also noted that the climate crisis links to food security and water security, which in turn impact the prevalence of vector borne diseases, respiratory disease, skin conditions, mental health and non-communicable diseases.

People with chronic illness or disease – who already have limited available health care¹⁴⁹ – are also more exposed to the negative effects of extreme heat.¹⁵⁰ Underlying health conditions may be exacerbated by infectious disease, and extreme heat may impact more severely on those with existing health conditions.

144 Interview with *Tane* (not his real name) an I-Kiribati seasonal worker, Aotearoa New Zealand, 3 March 2024.

145 See also, CESCR, General Comment 4: The Right to Adequate Housing, 1991, CEDAW (Articles 14(2) and 15(2)), CRC (Articles 16(1) and 27(3)) and CRPD (Articles 9 and 28).

146 CESCR, General Comment 4: The Right to Adequate Housing (Article 11 (1)), 13 December 1991, UN Doc. E/1992/23, p. 8(d).

147 Including provoking and exacerbating medical conditions such as, among others, cancers, some communicable diseases, heart conditions, diabetes, chronic respiratory diseases, and so forth; for example, Romanello, Marina and others, “The 2023 report of the Lancet countdown on health and climate change: the imperative for a health-centred response in a world facing irreversible harms”, *The Lancet*, Volume 402, Issue 10419, 2346 – 2394, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(23\)01859-7/abstract](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(23)01859-7/abstract); WHO, “Climate change and noncommunicable diseases: connections”, 2 November 2023, <https://www.who.int/news/item/02-11-2023-climate-change-and-noncommunicable-diseases-connections>

148 WHO and others, “Health and Climate Change Country Profile: Tuvalu” (previously cited)

149 World Bank Group, *Climate Risk Country Profile: Kiribati* (previously cited); World Bank Group, *Climate Risk Country Profile: Tuvalu*, 2021, https://climateknowledgeportal.worldbank.org/sites/default/files/2021-06/15824-WB_Tuvalu%20Country%20Profile-WEB.pdf

150 Amnesty International has documented how extreme heat as a result of the climate crisis in Austria and Pakistan threatens the right to health - see Amnesty International, Amnesty International, “Climate change and health” (previously cited); Amnesty International, *Pakistan: A Burning Emergency: Extreme Heat and the Right to Health in Pakistan* (Index: ASA 33/6823/2023) 4 June 2023, <https://www.amnesty.org/en/documents/asa33/6823/2023/en/>. Human Rights Watch has also documented the impact of European heatwaves on human rights (see Human Rights Watch, “Europe heatwaves disastrous for older people, people with disabilities: Climate crisis needs effective, inclusive heat planning and responses”, 12 August 2022, <https://www.hrw.org/news/2022/08/12/europe-heatwaves-disastrous-older-people-people-disabilities>).

The WHO and the United Nations Framework Convention on Climate Change (UNFCCC), reporting on Tuvalu, emphasized that:

“Climate change is expected to increase mean annual temperature and the intensity and frequency of heat waves resulting in a greater number of people at risk of heat-related medical conditions. Heat waves, i.e. prolonged periods of excessive heat, can pose a particular threat to human, animal and even plant health, resulting in loss of life, livelihoods, socio-economic output, reduced labour productivity, rising demand for cost of cooling options, as well as contribute to the deterioration of environmental determinants of health (e.g. air quality, soil, water supply).”¹⁵¹

The World Bank described similar effects for Kiribati.¹⁵²

Moderate food insecurity means that people are unable to access a healthy diet, either because of income or other resource constraints, and describes the context across Pacific Islands countries. The lack of adequate healthy foods also compounds health outcomes and reduces life expectancy.¹⁵³ The relatively recent dietary shift towards processed and imported foods because of food insecurity, has been linked to the high prevalence of diabetes and other non-communicable diseases (NCDs), with this now being the leading cause of all deaths in the Pacific.¹⁵⁴

The World Bank¹⁵⁵ and the UN Special Rapporteur on the human right to safe drinking water¹⁵⁶ have highlighted how the geographical challenges in accessing clean water are exacerbated by the adverse impacts of the climate crisis, leading to health issues, including preventable childhood illness and deaths, and hypertension in adults. Several adults noted that they used to take medication for hypertension in Kiribati, but this was no longer needed in Aotearoa New Zealand, supporting medical data¹⁵⁷ suggesting a causal link with climate effects on food security and health.

“I had hypertension at that time because of the food I was having in Kiribati. Here the diet is much more balanced, and I don’t need to take the tablets anymore because my condition improved.”

Lisa, a 56-year-old, I-Kiribati woman, Aotearoa New Zealand, 13 March 2024

Beyond the Pacific, Amnesty International has also documented the connection between the climate crisis and the right to health globally.¹⁵⁸

151 WHO and others, “Health and Climate Change Country Profile: Tuvalu” (previously cited)

152 World Bank Group, *Climate Risk Country Profile: Kiribati* (previously cited); WHO and others, *Climate Change and Health Country Profile: Kiribati* (previously cited).

153 Most Pacific adults (88%) do not consume enough fruit and vegetables, 82% are overweight or live with obesity, 33% live with hypertension and 40% live with hypercholesterolaemia. Salt consumption is more than double the WHO recommended daily intake. Reeve and others, “The tide of dietary risks for noncommunicable diseases in Pacific Islands: an analysis of population NCD surveys”, 20 August 2022, BMC Public Health, Volume 22, Issue 1521, <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-022-13808-3>

154 Charlton and others, *Fish, food security and health in Pacific Island countries and territories: a systematic literature review*, 24 March 2016, BMC Public Health, Volume 16, Issue 285, <https://bmcpublihealth.biomedcentral.com/articles/10.1186/s12889-016-2953-9>; see also submissions by Tuvalu and Kiribati to ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited).

155 World Bank Group, *Climate Risk Country Profile: Kiribati* (previously cited).

156 UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation, *Mission to Kiribati* (previously cited).

157 “Climate change is also making it increasingly difficult to grow fruit and vegetables in Kiribati, leaving people more and more reliant on imported processed foods which are mostly high in fat, sugar and salt. This is contributing to noncommunicable diseases like diabetes, high blood pressure and heart and lung disease. At the same time, rising seas are threatening health facilities at the very moment when health care is needed most.” WHO, Countering the climate crisis in Kiribati, 8 March 2024, <https://www.who.int/westernpacific/newsroom/feature-stories/item/countering-the-climate-crisis-in-kiribati>

158 Amnesty International, “Climate change and health” (previously cited).

2.3.5 DISPROPORTIONATE IMPACT ON PEOPLE AT RISK: PERSONS WITH DISABILITIES OR MEDICAL CONDITIONS, AND OLDER PEOPLE

“Climate change and people with disabilities... It’s very difficult for us. I was staying in a place very near to the sea, between the ocean and the lagoon. When the high tide came, the whole road and the house flooded. The rain came into the house. In these situations, it is difficult for us as people with disabilities to move around, but [staying in] the house is not safe either. During bad weather, we just stay inside... that’s why I want to move away from the sea.”

Alieta (not her real name), a 55-year-old Tuvaluan woman with a disability, interviewed in Funafuti, March 2024



Fusi Alofa Association, a non governmental organization for Persons with Disabilities in Tuvalu. © Amnesty International

Some people are more exposed to the impacts of climate change than others. This includes (but is not limited to) persons with disabilities, people with medical conditions and older people, who are more likely to have health issues as they age. For the purposes of this report, we have focused on the vulnerability of persons with disabilities or medical conditions and older people, because of the testimony received and migration restrictions they face. However, Amnesty International acknowledges that these are not the only people at risk from the effects of the climate crisis.

In a 2022 study by the Pacific Disability Forum that covered Kiribati, Tuvalu and the Solomon Islands,¹⁵⁹ persons with disabilities were noted to suffer additional risks due to climate change. They noted that when households face food shortages, persons with disabilities were likely to eat less or no food; face additional challenges in accessing water during shortages; and were more prone to health problems during times of climate change-related extreme weather events. The study also described how people with mobility issues are at greater risk during cyclones and flooding.¹⁶⁰

Tuvalu and Kiribati ratified the CRPD in 2013. Despite this being the third most ratified human rights treaty in Pacific Island nations (after the CEDAW and the CRC), people with disabilities are under-represented in the civic space and in leadership positions – both globally and within the Pacific – including in the areas of climate justice and disaster risk responses. In September 2025, the UN Committee on the Rights of Persons with Disabilities noted with concern that the Kiribati climate change and disaster responses have paid insufficient attention to people with disabilities. It observed gaps in early warning systems, evacuation services, shelters and equal access to humanitarian aid and urged greater inclusion of people with disabilities across all climate and disaster policies.¹⁶¹ In the March 2025 review of Tuvalu, the same UN Committee noted that while Tuvalu’s Climate policies reference people

¹⁵⁹ Pacific Disability Forum, *Disability and Climate Change in the Pacific: Findings from Kiribati, Solomon Islands, and Tuvalu*, August 2022, <https://pacificdisability.org/wp-content/uploads/2022/08/PDF-Final-Report-on-Climate-Change-and-Persons-with-Disabilities.pdf>

¹⁶⁰ Pacific Disability Forum, *Disability and Climate Change in the Pacific: Findings from Kiribati, Solomon Islands, and Tuvalu*, August 2022, <https://pacificdisability.org/wp-content/uploads/2022/08/PDF-Final-Report-on-Climate-Change-and-Persons-with-Disabilities.pdf>

¹⁶¹ OHCHR, “UN disability rights committee publishes findings on DPRK, Finland, Kiribati, Maldives, and the State of Palestine”, 3 September 2025, <https://www.ohchr.org/en/press-releases/2025/09/un-disability-rights-committee-publishes-findings-dprk-finland-kiribati>

with disabilities, more needs to be done to ensure inclusivity, accessibility, active participation and equality.¹⁶² Additionally, these reports noted a lack of comprehensive and up-to-date statistical data on people with disabilities. In a publication by the Lancet, an interdisciplinary group of experts in disability, climate and public health noted:

“People with disabilities are at disparately high risk from worsening climate hazards as the biophysical effects of global warming, ableism, systematic oppression, and histories of colonialism intersect, increasing disability human rights harms in many spaces, such as within minoritised communities (e.g. Indigenous people with disabilities in settler-colonial countries) and especially in low-income countries and small island states.”¹⁶³

The publication further noted that institutional discrimination against people with disabilities means they are often excluded from climate-related decision making. Internationally, the UN Framework Convention on Climate Change (UNFCCC) lacks a disability constituency, resulting in minimal reference to people with disabilities in IPCC reports on the effects of climate change. This lack of consultation and participation of people with disabilities, according to medical experts, leads to other indirect human rights consequences such as inaccessible evacuation shelters.

2.3.6 MITIGATION AND ADAPTATION PROJECTS

Both Tuvalu and Kiribati have taken significant steps towards climate mitigation and adaptation even though the responsibility to tackle the climate crisis is not theirs alone.

Tuvalu is a key regional and international player in pushing the international community to recognize the impacts of the climate crisis, particularly as part of a group of Small Island Developing States (SIDS). Tuvalu has made significant gains in recent years to reduce its own emissions, with solar energy a major part of its energy transition plans.¹⁶⁴ Diesel generators continue to supplement its solar energy supply, and the transport sector continues to rely on imported fossil fuels. However, following the completion of current energy projects, Tuvalu is expected to reach a 90% renewable energy target. In 2022, Tuvalu joined Vanuatu and became the second nation to call for a fossil fuel non-proliferation treaty.¹⁶⁵ Tuvalu has also recognized climate displacement as a key vulnerability due to the impacts of the climate crisis in its policies and plans.¹⁶⁶

Kiribati adopted a multi-year Climate Change Policy in 2019 that covers its priorities and responses both to climate change and disaster risk reduction, and considers the Sendai Framework for Disaster Risk Reduction, and the Sustainable Development Goals up until 2028. In its revised commitments to the UNFCCC, Kiribati has pledged to improve its transition to renewable energy and is currently relying on around 25% of solar power and 75% of fossil fuels.¹⁶⁷ Its initiatives include investing in strategies to tackle storm surges and coastal erosion, improve sustainable farming and agricultural techniques, and to support clean drinking water in times of drought. Kiribati has targets to reduce emissions and support a transition to renewable energy sources but is yet to commit to net zero by a specific date. It is, however,

162 CRPD, *Concluding observations on the initial report of Tuvalu*, 16 April 2025, UN ref: CPRD/C/TUV/CO/1

163 Stein and others, “Advancing disability-inclusive climate research and action, climate justice and climate-resilient development: Personal View”, *The Lancet Planet Health* 2024; 8:e242-55, [https://www.thelancet.com/pdfs/journals/lanplh/PIIS2542-5196\(24\)00024-X.pdf](https://www.thelancet.com/pdfs/journals/lanplh/PIIS2542-5196(24)00024-X.pdf)

164 Government of Tuvalu, “Updated Nationally Determined Contributions (NDC), November 2022.

165 Fossil Fuel Treaty Org, “Tuvalu becomes second nation state to call for a fossil fuel non-proliferation treaty”, 8 November 2022, <https://fossilfuel treaty.org/tuvalu#:~:text=Today%2C%20Tuvalu%20has%20united%20with,order%20to%20meet%20the%20Paris>

166 Tuvalu Government, Climate Change Department, “Tuvalu National Adaptation Plan Framework: Desk Review Report”, October 2020, https://www.tuvaluclimatechange.gov.tv/sites/default/files/2023-01/FINAL_TuvaluNAP.pdf

167 Republic of Kiribati, “Nationally Determined Contribution (Revised), November 2022, <https://unfccc.int/sites/default/files/NDC/2023-03/221213%20Kiribati%20NDC%20Web%20Quality.pdf>

willing to increase its transition plans with technical and financial support.¹⁶⁸ Kiribati also passed a Disaster Risk Management and Climate Change Act that came into force in 2020, which sets out the roles and responsibilities of various government agencies to meet its climate goals.

Tuvalu and Kiribati will likely require climate finance and technology transfers from high income historical emitters to meet their mitigation targets and actualize their adaptation plans.

RECLAIMED LAND - THE TUVALU COASTAL ADAPTATION PROJECTS (TCAP)



A land reclamation project in Funafuti, predicted to last for approximately 25 years, where sand is dredged from the lagoon and placed in large bags that settle for up to a year before seedlings are planted, then eventually buildings will be constructed and people can move onto the new land.
© Amnesty International

In an effort to adapt to the erosion being caused by rising sea levels, increased flooding and high tides, the Tuvalu government has commenced several projects that include building new sea walls, as well as building up land. Through dredging and sandbags, an additional 7 hectares of land have been built up in Funafuti.¹⁶⁹ The sandbags only have a life-cycle of around 25 years, making it far from a permanent solution on its own.¹⁷⁰ While these measures are critical to buy time and protect people from encroaching high tides, several people noted concerns about the longevity, cost and sustainability of such projects. Additional grant-based climate finance is needed to assist with these types of adaptation projects, as well as exploring other technology and nature-based solutions (such as planting mangroves and artificial reefs).

On these projects, Dr Maina Talia, Tuvalu's Minister for Climate Change, Home Affairs and Waste Management told Amnesty International, "These are... interim solutions, not sustainable solutions to climate change." He added, "We need international investment... all the big emitters and global north need to support us."¹⁷¹ In addition, while it may offer temporary protection from the effects of rising sea levels and encroaching king tides, it will not stop the onslaught of other climate impacts such as increased extreme heat days and droughts.

Kiribati has also invested in land reclamation (also referred to as island-raising) projects and the building of sea walls.¹⁷² Some studies suggest that these may impact negatively on coastal and marine ecosystems such as reefs and mangroves if not done well and adequately maintained over time.¹⁷³

168 The Government of Kiribati, "Kiribati Climate Change Policy", 2018, <https://www.president.gov.ki/presidentgovki/wp-content/uploads/2019/04/Kiribati-Climate-Change-Policy.pdf>

169 ABC News, "These Pacific Islands are building walls to stop rising seas. Will it work?", 1 June 2025, <https://www.abc.net.au/news/2025-06-01/seawalls-in-the-pacific-climate-change-adaptation/105342110>

170 Benar News, "Tuvalu seeks more than \$1B for land reclamation survival plan", 12 December 2023, <https://www.benarnews.org/english/news/pacific/tuvalu-seeks-1-billion-for-land-reclamation-12122023032813.html>

171 Interview with Dr Maina Talia, Tuvalu, 19 March 2024.

172 IPCC, 2023: Climate Change 2023: Synthesis Report (previously cited), Chapter 15.

173 IPCC, 2023: Climate Change 2023: Synthesis Report (previously cited), at various parts in Chapter 15 it urges caution on the long-term feasibility and sustainability of these measures.

2.3.7 LOSS AND DAMAGE

“Loss and damage” refers to the inevitable and irreversible residual effects of climate change that we see now, and will continue to see growing at an exponential level if climate mitigation and adaptation efforts do not match the urgency of the current crisis.¹⁷⁴ They can either be categorized as economic in nature or “tangible” (for example damage to infrastructure or loss of income), or non-economic or “intangible” (for example loss of life, health, cultural knowledge, identity, biodiversity, displacement, inability to continue living on ancestral land and to maintain cultural traditions associated with this). The latter are harder to define and quantify.

The economic consequences of the climate crisis are all already having a significant impact on Pacific nations. Disaster risk assessments for Tuvalu by the Pacific Community (SPC),¹⁷⁵ the World Bank and Asian Development Bank, forecast disaster responses in Tuvalu will cost US\$0.2 million per year.¹⁷⁶ In the next few decades, Tuvalu has a 50% chance of experiencing a loss exceeding US\$4 million and casualties greater than 15 people.¹⁷⁷ Tarawa, Kiribati, is projected to experience annual damages of around US\$8-16 million per year by 2050 due to the adverse impacts of climate change, with additional losses hard to quantify.¹⁷⁸ These forecasts do not consider the non-economic losses that include the potential loss of language and culture.

Under international human rights law, communities and individuals that have experienced human rights violations are entitled to effective remedies.¹⁷⁹ The UN Basic Principles and Guidelines on the Right to Remedy and Reparation define substantive redress as consisting of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.¹⁸⁰

Restitution can be defined as restoring the victim to the original situation before the violation of international human rights law occurred. In the context of climate-related loss and damage, this could mean either restoring the actual situation where possible (for example, rebuilding destroyed infrastructure in case of a disaster) or assisting victims in achieving a situation that is similar to the previous one (for example, planned relocation in the context of slow-onset events that render an area uninhabitable). Compensation, or monetary reparation, is often used when restitution is found to be impossible.

174 UN Environment Programme, “About Loss and Damage”, <https://www.unep.org/topics/climate-action/loss-and-damage/about-loss-and-damage>

175 SPC is the regional principal scientific and technical organization supporting the Pacific region.

176 Global Facility for Disaster Reduction and Recovery (GFDRR), “Country Risk Profile: Tuvalu”, 1 September 2011, <https://www.gfdr.org/en/publication/country-risk-profile-tuvalu>

177 Pacific Catastrophe Risk Assessment and Financing Initiative, “Country Risk Profile: Tuvalu”, September 2011, <https://www.gfdr.org/sites/default/files/publication/PCRAFI%20AIR%20Brochure-%20Tuvalu.pdf>; Global Facility for Disaster Reduction and Recovery (GFDRR), “Country Risk Profile: Tuvalu”, 1 September 2011, <https://www.gfdr.org/en/publication/country-risk-profile-tuvalu>

178 World Bank Group, *Climate Risk Country Profile: Kiribati* (previously cited)

179 Amnesty International and the Center for International Environmental Law, “Climate-related human rights harm and the right to effective remedy”, (Index: IOR 40/7717/2024), 13 February 2024, <https://www.amnesty.org/en/documents/ior40/7717/2024/en/>

180 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 2005, UN Doc. A/Res/60/147.

CLIMATE FINANCE

Adequate climate finance is crucial to help lower-income countries mitigate and adapt to the effects of climate change to protect their populations from its resulting human rights harms. Providing adequate climate finance and other means of implementation¹⁸¹ to lower income states is not only an obligation for some states under both the UNFCCC and the Paris Agreement,¹⁸² but also for all states in a position to do so under the principle of international cooperation and assistance stipulated by international human rights law.¹⁸³ High income and high emitting countries have repeatedly failed to meet their existing obligations to provide climate finance.¹⁸⁴

Under Article 9 of the Paris Agreement, climate finance refers to the provision of financial resources by high-income countries to support lower-income (termed “developing” under the Paris Agreement) states’ obligation to mitigate and adapt to climate change. However, Amnesty International, much of the climate justice movement and many lower-income countries are advocating for the definition of climate finance to include loss and damage and just transitions in the energy and other sectors that entail carbon emissions. Without addressing these, the climate crisis will continue to deepen inequalities among and within countries.

ADAPTATION FINANCE GAP

Adapting to climate change comes at a high price. Climate resilience in lower income countries relies on strengthening basic essential services and public goods such as water, healthcare, social protection, basic infrastructure and disaster preparedness. Such strengthening contributes to the progressive realization of economic, social and cultural rights, and as such must be affordable, of adequate quality, and accessible to all without discrimination. Yet such services generally do not attract private finance as they do not generate profit. This highlights the urgent need for public grants based or highly concessional finance for adaptation measures. Lower income countries should not be forced into greater debt distress to protect their populations from the harmful climate impacts for which they are not responsible.



HIGH INCOME AND HIGH EMITTING COUNTRIES

HAVE REPEATEDLY FAILED TO MEET THEIR EXISTING OBLIGATIONS TO PROVIDE CLIMATE FINANCE

181 Means of implementation under the Paris Agreement include finance, technology transfer and capacity building (Articles 9, 10 and 11).

182 UNFCCC (Article 4.3 and 4.4) and the Paris Agreement (Article 9.1). All states that are in a position to do so are encouraged to provide finance under Article 9.2 of the Paris Agreement.

183 Article 2(1) of the ICESCR states: “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”.

184 Amnesty International, *Plenty to Go Around: Mobilizing Finance for Climate Justice* (Index: POL 30/8850/2025), 16 January 2025, <https://www.amnesty.org/en/documents/pol30/8850/2025/en/> (Amnesty International, *Plenty to Go Around*)

LOSS AND DAMAGE FUNDING

The total global economic damages between 2025 and 2050 due to climate change have been estimated at US\$99 trillion, calculated with a growth model based on a survey of 738 climate economists.¹⁸⁵ Therefore, funding for loss and damage is a key aspect of finance in relation to climate change. Based on the duty of international cooperation and on the duty to provide remedy for human rights violations caused by the failure to prevent foreseeable human rights harm, countries that are most responsible for climate change have the obligation to contribute finance to provide remedy for loss and damage.¹⁸⁶ These countries must increase contributions to the Fund for Responding to Loss and Damage (FRLD) established in 2022, reflecting their greater historical responsibility for emissions and for loss and damage. Other high-emitting countries able to contribute, particularly high emitting G20 and high-income fossil fuel producing states, should also do so in line with their obligations to provide international cooperation and assistance and in line with the polluter pays principle.

At COP29, the FRLD became operational, however there is an urgent need to finalize its resource mobilization strategy¹⁸⁷. Total pledges as of early April had reached only US\$768.4 million. This is a massive shortfall in what is needed,⁴⁶ as lower income countries have indicated that the FRLD should disburse around US\$1 billion per year while their estimated needs up to 2030 are at least US\$400 billion. This is set to quadruple by 2050. Contributions must also be new, gender responsive, based on the polluter pays principle, and additional to other development funding, in order not to compromise resources needed by lower income countries for the realization of human rights and be disbursed in the form of grants as a form of remedy. Countries, communities and individuals should not have to take on debt in order to remedy climate-related human rights harms.



Wall art on the side of a building in Funafuti, Tuvalu. © Amnesty International

185 Amnesty International, *Plenty to Go Around* (previously cited); Peter Howard and Derek Sylvan, *Gauging Economic Consensus on Climate Change*, 30 March 2021, Institute for Policy Integrity, New York University School of Law, <https://policyintegrity.org/publications/detail/gauging-economic-consensus-on-climate-change>

186 ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), paras. 142, 214-218.

187 Fund for Responding to Loss and Damage, Decisions of the Board – second meeting of the Board, 9–12 July 2024, Annex VII: Workplan of the Board for 2024–2025, Table 2: Resources, UN Doc. FLD/B.2/17

3. WHO DECIDES TO MOVE? UNPACKING THE DEBATE ON STAYING OR LEAVING

“New Zealand offers a better life for children. Looking ahead, children raised here are better off than in the islands. Knowing about sea level rise and climate change makes living in the islands a scary prospect. During king tides, you can see water come up and fill up the land. The last one was very scary”.

Viliamu (not his real name), a 47-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024

The threat climate change poses to entire islands and populations ignites a sensitive and urgent debate among people, communities, and governments confronted with the dilemma of how to ensure people’s right to continue living with dignity in their home countries, as well as their right to seek shelter by safely relocating elsewhere.

It is worth noting that governments in the Pacific Islands have started to enact and implement policies and plans for internal relocations of their communities,¹⁸⁸ and some relocations have already taken place.¹⁸⁹ Fiji, for example, has adopted national policies and identified more than 40 coastal villages for climate-related relocation schemes.¹⁹⁰ In addition, some countries are already turning their focus to migration as a form of adaptation to the climate crisis.¹⁹¹

Recent developments, such as the Pacific Regional Framework on Climate Mobility (PRFCM) and the Australia-Tuvalu bilateral agreement under the Falepili Union (see below), show a willingness by governments in the region to explore cross-border, rights-based pathways, as part of the response to existential threats posed by climate change.¹⁹² However, the idea of cross-border migration in the context of climate change is not without opposition or controversy, with some countries or individuals more supportive of it than others (see below).¹⁹³

188 Fiji, for example, has developed Planned Relocation Guidelines: A framework to undertake climate change-related relocation that includes reference to a human-centred, livelihood and human rights-based approach; around 42 villages have been flagged for relocation. The Guardian, “How to move a country: Fiji’s plan to escape rising sea levels”, 8 November 2022, <https://theguardianweekly.pressreader.com/article/282192244974159>

189 J. McAdam and E. Ferris, “Planned relocations in the context of climate change: Unpacking the legal and conceptual issues”, 2015 Cambridge Journal of Comparative Law, Vol. 4, Issue 1; Human Rights Watch, “There’s Just No More Land” Community-led Planned Relocation as Last-resort Adaptation to Sea Level Rise in Solomon Islands, 17 March 2025, www.hrw.org/report/2025/03/17/theres-just-no-more-land/community-led-planned-relocation-last-resort-adaptation.

190 Fiji Government, *Standard Operating Procedures for Planned Relocation in the Republic of Fiji*, March 2023, <https://fijiclimatechangeportal.gov.fj/wp-content/uploads/2023/04/Standard-Operating-Procedures-for-Planned-Relocation-in-the-Republic-of-Fiji-1.pdf>; Fiji Village, “45 villages to be relocated due to climate change”, 31 July 2024, <https://www.fijivillage.com/news/45-villagers-to-be-relocated-due-to-climate-change-54x8rf/>

191 FBC News, “Fiji urges global action on climate mobility”, 18 June 2025, <https://www.fbcnews.com.fj/news/fiji-urges-global-action-on-climate-mobility/>; and see Vanuatu’s submission to ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited) at ICJ, *Written Statement Submitted by the Republic of Vanuatu*, 21 March 2024, <https://www.icj-cij.org/sites/default/files/case-related/187/187-20240321-wri-06-00-en.pdf>

192 PIFS, *PRFCM* (previously cited), para. 28.

193 Devpolicy Blog, “Tuvalu’s parliament debates the Falepili Union”, 29 November 2023, <https://islandsbusiness.com/features/tuvalu-union/>; Nitya Labh, “Reconsidering sovereignty amid the climate crisis: Island and peripheral countries illustrate how the shape of the world is changing – and how the global order must change to keep up”, 31 March 2025, Carnegie Endowment for International Peace, <https://carnegieendowment.org/research/2025/03/reconsidering-sovereignty-amid-the-climate-crisis?lang=en>

A policy disconnect between what opportunities people seek and what governments support is also apparent across the region.¹⁹⁴ There remains enormous interest by affected communities in migration opportunities,¹⁹⁵ and as life conditions deteriorate in the islands, many have already sought opportunities to move abroad, including to Aotearoa New Zealand. In 2025, for the first time Tuvaluans could apply for a visa allowing their relocation to Australia in the context of the climate crisis. By July 2025, reports emerged that over 80% of the population had applied.¹⁹⁶

Without attempting to exhaustively analyse every facet of the unimaginably painful dilemmas of people fighting to stay or hoping to leave, this chapter unpacks some of the issues raised in the debate on the rights to stay or to leave. It offers some insights on perspectives of governments and those that affected individuals shared with Amnesty International, helping the organization shape its approach to recognizing and empowering people's agency within this debate.

3.1 THE POLITICAL DEBATE AROUND MIGRATION AS ADAPTATION IN TUVALU AND KIRIBATI

Tuvalu has been generally supportive of its people's choices when it comes to climate-related displacement. This includes entering into the Tuvalu-Australia Falepili Union (hereafter, the Falepili Union), a bilateral treaty with Australia providing a dedicated migration avenue for Tuvaluans wishing to relocate there.

Dr Maina Talia, Tuvalu's Minister for Climate Change, Home Affairs and Waste Management, told Amnesty International:

"The government's role is to facilitate the process for people who choose to migrate if it is the best option for them. It is not the government's role to choose for people to migrate or not... we don't encourage people to leave, but if they plan to, there should be safe pathways for them. We want to maintain the population, but we should give options to people. Given the worst-case scenario (with climate change), there should be a plan B, C, D."¹⁹⁷

Kiribati has not reached any bilateral agreement similar to the Falepili Union that would give I-Kiribati people the possibility of seeking migration opportunities to another country in the context of the climate crisis. This leaves people in Kiribati with more limited choices if seeking a migration opportunity to escape the effects of climate change. However, it is worth noting the critical role that Kiribati's former president, Anote Tong, played in initiating this debate globally. Tong warned of the "brutal reality" of

194 See also, Matthew Scherer and others, *Right to Life With Dignity for Climate-displaced Persons*, June 2024, ICAAD, <https://icaad.ngo/wp-content/uploads/2024/07/ICAAD-RTLWD-Policy-Brief.pdf> (Matthew Scherer and others, *Right to Life With Dignity for Climate-displaced Persons*), p. 19: "At the policy level, collaborators noted in four different jurisdictions, a disconnect between government policy, rhetoric, and what constituents actually want. For example, constituents in a country might be interested in government pursuing diplomatic relations to create pathways for external migration, while the government is concerned about brain drain and is fixated only on internal relocation. In any jurisdiction, there is a diversity of perspectives, but several collaborators acknowledged general dissonance between several Pacific governments and frontline communities."

195 Devpolicy Blog, "Tuvalu's amazing migration deal", 5 July 2024, <https://devpolicy.org/tuvalu-amazing-deal-20240705/>; and Times Now News, "Why 80% of Tuvalu wants to move to Australia? The Falepili Union Climate Visa Explained", 27 July 2025, <https://www.timesnownews.com/world/why-80-of-tuvalu-wants-to-move-to-australia-the-falepili-union-climate-visa-explained-article-152353581> (Times Now News, "Why 80% of Tuvalu wants to move")

196 Times Now News, "Why 80% of Tuvalu wants to move" (previously cited).

197 He added that existing migration opportunities, such as New Zealand's labour schemes, may not be an adequate response to climate mobility, and that the scope and application of existing visas should be more flexible "so it could be more helpful to people displaced because of climate change". Interview with Dr Maina Talia, Tuvalu's Minister for Climate Change, Home Affairs and Waste Management, Tuvalu, 19 March 2024.

climate displacement and emphasized the need for “migration with dignity” as a strategy for adaptation. He first referred to “migration with dignity” as a means to explore orderly and voluntary migration pathways in the face of increased effects of climate change in Kiribati. Since then, the phrase has been referenced by courts and tribunals, including the UN Human Rights Committee on Civil and Political Rights (CCPR)¹⁹⁸ to bring in a human rights lens to climate-induced migration cases.¹⁹⁹ Migration with dignity, includes at a minimum, looking at how the climate crisis affects the right to an adequate standard of living (housing, water, food) and access to essential services (such as health care, work and education),²⁰⁰ and ensuring that when people migrate, they can do so safely and legally, and that their human rights are protected.

The current President of Kiribati, Taneti Maamau, has stated:

“At the forefront of climate change, Kiribati is experiencing intensifying severe drought and coastal inundation affecting homes, public infrastructure, food and water security. The projected cost for adaptation has significantly increased and therefore developed countries are urged to put more funds beyond the global pledge agreed to in Paris. This would also finance the loss and damage and facilitate investment in early warning systems and forecasts. With that said, this would help our people adapt to the changing environmental conditions and build resilience in our communities”.²⁰¹

The Australia-Tuvalu Falepili Union – agreed through a bilateral treaty in late 2023, is the only example of a dedicated migration pathway in response to the climate crisis affecting a Pacific Island. “[R]ecognising the special and unique circumstances faced by Tuvalu and that climate change is Tuvalu’s greatest national security concern”, the Falepili Union established, among other things, a special visa arrangement allowing 280 Tuvaluan citizens every year to move to Australia to live, work and study there, temporarily or indefinitely. An evaluation of this visa scheme sits outside of the scope of this report. However, as the first of its kind visa scheme in the Pacific region dedicated to people displaced in the context of the climate crisis, some of its recently announced features deserve mentioning as distinguishing this scheme from the more commonly used labour-based visas offered to Pacific People seeking to migrate. The arrangement – which proclaims itself as “underpinned by a shared understanding and commitment to ensuring human mobility with dignity” (Art.3) – reportedly will not, for instance, impose a maximum age requirement on applicants; “would be open to Tuvaluans with disabilities, special needs and chronic health conditions”; and “would provide for indefinite permanent residency, with freedom for unlimited travel to and from Australia”.²⁰²

198 UN Human Rights Committee, Views adopted by the Committee under article 5(4) of the Optional Protocol, concerning communication 2728/2016 (brought by an I-Kiribati family against New Zealand as the State Party), 15 September 2015, UN Doc. CCPR/C/127/D/2728/2016

199 McClain and others, “Migration with dignity: A legal and policy framework”, 2022, *Journal of Disaster Research*, Vol. 17 No.3, https://www.jstage.jst.go.jp/article/jdr/17/3/17_292/_pdf (McClain and others, “Migration with dignity”).

200 Matthew Scherer and others, *Right to Life With Dignity for Climate-displaced Persons* (previously cited); McClain and others, “Migration with dignity” (previously cited).

201 UNGA78, Address by His Excellency Taneti Maamau President of the Republic of Kiribati, 22 September 2023.

202 The Governments of Australia and Tuvalu, *Explanatory memorandum - Falepili Union between Tuvalu and Australia*, 8 May 2024, www.dfat.gov.au/countries/tuvalu/explanatory-memorandum-falepili-union-between-tuvalu-and-australia; see also DevPolicy Blog, “Tuvalu’s amazing migration deal”, 5 July 2024, <https://devpolicy.org/tuvalu-amazing-deal-20240705/>

3.2 PEOPLE'S COMPLEX DECISION TO STAY OR TO LEAVE

Amnesty International wanted to shed light on affected individuals' own perspectives towards international migration opportunities in the context of climate change and disasters. Through extensive interviews with Pacific People and consultations with Pacific communities in either Aotearoa New Zealand or Tuvalu, the organization looked to deepen its own understanding of these perspectives. As concerns over loss of cultural and linguistic identities emerged, what resonated most was the fundamental human prerogative to have choices in the face of a crisis that is thrust upon them – including the right to seek safety across borders in a dignified manner. As human rights, particularly the right to life with dignity and the right to a clean, healthy and sustainable environment, continue to be eroded by the climate crisis, these voices cannot be silenced or ignored any longer.

Overwhelmingly in both Tuvalu and Aotearoa New Zealand, those interviewed supported having the choice to migrate due to the adverse effects of climate change and other disasters. However, most people did not consider staying in place or migrating as mutually exclusive decisions. Further, those who expressed a desire to relocate wanted to maintain connections and be able to return to their homes in Pacific Island Countries. Some people emphatically wanted to stay. This did not necessarily mean the threat of climate change was less severe, but rather that these decisions are complex and driven by multiple factors. In all cases, the decision to stay or migrate was not taken without fear of sacrificing connection to land, family, communities, language and culture.

“There’s pros and cons to migrating. We really want people coming to New Zealand to have better opportunities, better education. But if all people migrate, what would we have to call home?”

Tina (not her real name), 21-year-old I-Kiribati woman, Aotearoa New Zealand, 8 March 2024

Luseane (not her real name)²⁰³ described why having a choice was important for her personal life, while reinforcing the need to ensure people have the possibility to adapt in place:

“As youth in Tuvalu, we have a space in climate change talks. Youth get to go to COP, and fight for our right to stay, have climate justice, and support adaption. As I’ve gotten older, though, I want more of a choice. I think it is a good thing to also have migration opportunities.”

Luseane, 28-year-old Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

Many interviewees reported that climate change was a compounding factor driving their migration decisions.

“The problems are getting worse for everyone. Every Tuvaluan will talk about the harsh realities of climate change. People might say they are going for greener pastures and for better opportunities, they might not mention directly climate change, but the reasons they mention are actually linked to climate change.”²⁰⁴

203 Interview with *Lusene*, a 28-year-old Tuvaluan woman, Aotearoa New Zealand, 14 March 2024.

204 Interview with *Susana* (not her real name), 54-year-old Tuvaluan woman, Aotearoa New Zealand, 8 March 2024.

Many, like *Teo* (not his real name) described how the current visible impacts combined with impending threats of a worsening climate crisis in the future influence decisions to migrate:

“When there's droughts you can see the trees just falling. We are observing droughts, cyclones, sea level rise. You don't know what the future will look like, and these are only the effects we know about... What about the effects that we don't know yet about? Seeing all this and knowing all the kinds of things being said on climate change, you are like, ‘Oh my God I'd better leave’. So, I decided to leave. We wouldn't want to leave, we used to feel free there, you could go and catch your own fish. It's a nice place to live, but because of issues like these it's unliveable now. The prices of food are just unbelievable. Tuvalu is more under stress now than ever before.”

Teo, 55-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024

Sarah (not her real name) explained that when she migrated years ago it was not because of climate change, but more recently she worries about this whenever she goes back to Kiribati:

“My fear of climate [change] started since I started going back to Kiribati. I was worrying at night thinking the waves will come in while I was sleeping. I thought maybe I would die in my sleep or land in the Marshall Islands. I now always have that fear when I go back there.”

Sarah, an I-Kiribati woman, Aotearoa New Zealand, 8 March 2024

Another I-Kiribati woman said, “I came to New Zealand because life is better and because of climate [change].” She explained she was told years ago that Kiribati would be under water in “30, 50 to 100 years, so I am scared... I thought better to go to New Zealand to not ‘sink’. I wanted to migrate with dignity.”²⁰⁵

Ultimately, Pacific People in both Aotearoa New Zealand and Tuvalu strongly emphasized that they should have the agency to make decisions about their own lives – supporting both their right to stay or their prerogative to consider migration opportunities, including under the *Falepili Union*.

“What is positive [of the Falepili Union] is that people have the choice of whether they want to stay back or whether to leave. This is an opportunity for them to fulfil their wishes and not to be as impacted by climate change.

People should be able to come and see what life is like here [in Aotearoa New Zealand] and then make a choice. If they're not ready to move, then they should be able to go back. But what if a tsunami hits? They should have that choice. It's an issue of life and death, like it is for refugees.”

Susana (not her real name), 54-year-old Tuvaluan woman with irregular migration status, Aotearoa New Zealand, 14 March 2024

205 Interview with a group of I-Kiribati people, Aotearoa New Zealand, 8 March 2024.

IMPLICATIONS OF TERRITORIAL LOSS ON STATEHOOD

The implications of territorial loss as a result of climate-induced sea level rise strike at the heart of national sovereignty, statehood and citizenship for low-lying Pacific Island Countries. If a nation's land disappears beneath the sea, can it still maintain its status as a sovereign state under international law? And even if it can, what happens to its displaced population and what rights do they retain? The ICJ, in its July 2025 Advisory Opinion on climate change, delivered a landmark ruling addressing at least some of these questions and finding that “once a State is established, the disappearance of one of its constituent elements would not necessarily entail the loss of its statehood”.²⁰⁶ This is a hugely significant judicial opinion recognizing the legal personality of states even if their land is submerged by water.

Low-lying Pacific Island Countries such as Kiribati and Tuvalu have proactively addressed the potential loss of land by adopting and exploring a range of mitigating efforts. See the box above “Reclaimed Land – the Tuvalu Coastal Adaptation Project” for details on how some Pacific Island nations such as Tuvalu are focused on land reclamation projects to create new, higher land that would remain above sea levels beyond 2100.²⁰⁷

Pacific nations are also taking innovative diplomatic and legal steps to secure their future. Tuvalu, for example, has pushed for the concept of “digital nationhood”²⁰⁸, the constitutional declaration that its statehood will remain in perpetuity, regardless of the physical loss of its territory. It also secured a migration pathway: a treaty with Australia (signed in November 2023) offers Tuvaluans permanent residency and visas—280 annually—along with adaptation aid and security assurances. See the box above “The Australia-Tuvalu bilateral agreement under the Falepili Union”.

In other cases, countries have explored or started to implement plans for relocation of impacted communities. For example, Fiji's Climate Change Act of 2021 provides a legal framework for such planned relocation as a result of climate change. Jointly with other laws and policies, the country has established processes for community consultations, land negotiations and hazard assessments in the context of climate related relocations. Finally, several Pacific states have passed laws or declarations reinforcing fixed maritime entitlements regardless of physical changes.²⁰⁹

Regardless of the approach taken by Pacific Island states to mitigate or adapt to the loss of land, they have, as a whole, been a powerful voice on the global stage, advocating for stronger climate action and loss and damage funding from high-emitting countries, recognizing that a global reduction in emissions is the only long-term solution to the crisis.

206 ICJ Advisory Opinion (previously cited) p 18.

207 Australian Strategic Policy Institute Strategist, “Pacific land reclamation deserves support”, 30 July 2024, <https://www.aspistrategist.org.au/pacific-land-reclamation-deserves-support/> and UNDP, “Landmark moment Tuvalu lifted above sea level”, 30 November 2023, <https://www.undp.org/pacific/stories/landmark-moment-tuvalu-lifted-above-sea-level>.

208 Devpolicy Blog, “Australia-Tuvalu mobility pathway: does it address the climate crisis”, 1 July 2025, <https://devpolicy.org/australia-tuvalu-mobility-pathway-20250701/?output=pdf>.

209 For example, the 2023 Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-Related Sea-Level Rise, 20 November 2023, adopted at the Pacific Islands Forum Leaders Meeting and the Constitution of Tuvalu Act 2023 (Tuvalu) <https://www.sprep.org/moana-blue-pacific> and https://unfccc.int/sites/default/files/resource/PSIDS%20HLDIALOGUE_Outcomes%20Document%20%26%20Calls%20to%20Action-FINAL.pdf

3.3 AGENCY AND CHOICE: A HUMAN RIGHTS BASED APPROACH TO CLIMATE DISPLACEMENT

The varied perspectives collected by Amnesty International highlight that both staying or leaving are decisions that are multi-causal and have important consequences not only for the individual and their families, but also for their wider communities. In this framework, a human rights approach requires ongoing consultation and active participation of impacted communities in the design of climate solutions. It also needs the respect, protection and promotion of everyone's rights, whether they stay or migrate. The UN Special Rapporteur in the field of cultural rights recommended following a 2019 visit to Tuvalu:

“Support should be available for both those who choose to stay and those who wish to depart, in facing the particular challenges ahead of them, so as to help them to continue to enjoy their cultural rights and other human rights and preserve identities.”²¹⁰

The International Court of Justice considered that “conditions resulting from climate change which are likely to endanger the lives of individuals may lead them to seek safety in another country”.²¹¹ As migration becomes one of many ways in which people seek safety and to adapt to the worsening effects of the climate crisis, those who seek to leave should have access to options that include migration pathways that are safe and free from exploitation and discrimination.

Migration pathways should proactively include individuals and groups whose current “immobility” is not a choice, but a reflection of marginalization.²¹² For example, in 2022, the Pacific Disability Forum denounced that persons with disabilities are not able to migrate overseas due to a lack of inclusive migration laws.²¹³ Reporting to the UN Human Rights Council on the rights of persons with disabilities in the context of climate change, the United Nations Human Rights Office also pointed out that the possibilities for international relocation of persons with disabilities are limited. It noted that “[d]iscriminatory immigration policies constitute another challenge that persons with disabilities face with respect to migrating to other countries”.²¹⁴

Providing safe options and choices to individuals and groups most severely affected by climate change through adequate migration pathways, including humanitarian visas and/or protection categories, is part of states' obligations to ensure protection for people whose human rights are being threatened by the adverse impacts of climate change and disasters. Options for safe migration should be an integral part of states' immigration policies and climate action.²¹⁵

210 UN Special Rapporteur in the Field of Cultural Rights, Report: *Visit to Tuvalu*, 24 December 2020, UN Doc. A/HRC/46/34/Add.1, paras. 66 and 67.

211 ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), para. 378.

212 The Kaldor Principles on Climate Mobility say: “Understandings of what it means to be ‘habitable’ or ‘uninhabitable’ may vary between communities and locations, and despite considerable risks posed by climate change, ‘voluntary mobility’ may be a deliberate political choice. For others, immobility is not a choice. Involuntary immobility may result from limited resources, capabilities or opportunities. Indeed, in some contexts, immobility itself may be an indicator of vulnerability and risk.” J. McAdam, J and T. Wood, *Kaldor Centre Principles on Climate Mobility*, 2023, Kaldor Centre for International Refugee Law, UNSW Sydney, www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-11-others/2023-11-Principles-on-Climate-Mobility_v-4_DIGITAL_Singles.pdf, (J. McAdam, J and T. Wood, *Kaldor Centre Principles on Climate Mobility*), p. 6.

213 Pacific Disability Forum, *Disability and Climate Change in the Pacific: Findings from Kiribati, Solomon Islands and Tuvalu*, August 2022, <https://pacificdisability.org/wp-content/uploads/2022/08/PDF-Final-Report-on-Climate-Change-and-Persons-with-Disabilities.pdf>

214 The report recommended that “[t]o address and prevent discrimination and abuse against persons with disabilities in the context of natural disasters, States and other stakeholders should promote the disability-inclusive design and implementation of humanitarian, migration and disaster risk reduction plans and policies”; UN Human Rights Council, Forty-fourth session - 15 June - 3 July 2020; OHCHR, *Analytical Study on the Rights of Persons With Disabilities in the Context of Climate Change* (previously cited), paras. 23 and 66.

215 IACtHR, *Opinión Consultiva OC-32/25*, 29 May 2025, para. 433.

A human rights-based response requires that complementary pathways should be developed in close consultation with Pacific communities, to provide rights-based migration opportunities to the individuals most affected by the impacts of climate change and disasters in the Pacific. These pathways should be based on applicants' risk of human rights harm and prioritize those that are otherwise unable to meet other immigration channels, such as work visas.

In no case, however, should the provision of migration pathways come at the expense of states' commitments and legal obligations to deliver urgent and ambitious climate action, including ensuring mitigation, adaptation, risk reduction, as well as a just transition away from fossil fuels in all sectors, so as to protect the rights of people who stay. For as long as the international community fails to protect the rights of people who remain in place to live with dignity in the face of climate change-related human rights threats, leaving cannot be considered a choice driven by agency, but a matter of survival.

“We don’t want to lose our country... but climate change is taking away our choice to stay.”

Viliamu, 47-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024

THE INTERNATIONAL FRAMEWORK AROUND MIGRATION PATHWAYS IN THE CONTEXT OF THE CLIMATE CRISIS

At the global level, calls to develop migration pathways and international protection for people displaced by climate change impacts and disasters have intensified in the last decade, including by state-led initiatives such as the Nansen Initiative Protection Agenda,²¹⁶ the Platform on Disaster Displacement and the Global Compact on Safe, Orderly and Regular Migration.²¹⁷ Similar calls were voiced by the United Nations High Commissioner for Refugees (UNHCR),²¹⁸ the Special Rapporteur on the promotion and protection of human rights in the context of climate change,²¹⁹ academia²²⁰ and civil society.

The Global Compact for Migration (2018) provided “that adaptation in the country of origin is a priority”, while recognizing the need to “[d]evelop coherent approaches to the challenges of migration movements in the context of sudden-onset and slow-onset natural [*sic*] disasters”. Under Objective 5 – titled “enhance availability and flexibility of pathways for regular migration”²²¹ – the Compact includes, among others, states’ commitment to “[c]ooperate 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, such as

216 Nansen Initiative, *Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change*, December 2015, <https://disasterdisplacement.org/wp-content/uploads/2015/02/PROTECTION-AGENDA-VOLUME-1.pdf> (Nansen Initiative).

217 UNGA, Global Compact for Safe, Orderly and Regular Migration, 11 January 2019, UN Doc. A/RES/73/195 (UNGA, Global Compact for Safe, Orderly and Regular Migration)

218 See, among others: UNHCR, “UNHCR appeals to strengthen the protection of people displaced by climate change at a historical IACHR hearing”, 5 March 2024, <https://www.unhcr.org/us/news/press-releases/unhcr-appeals-strengthen-protection-people-displaced-climate-change-historical>

219 UN Special Rapporteur on the Promotion and Protection of Human Rights in the Context of Climate Change, *Exploring Approaches to Enhance Climate Change Legislation* (previously cited).

220 J. McAdam, J and T. Wood, *Kaldor Centre Principles on Climate Mobility* (previously cited).

221 UNGA, Global Compact for Safe, Orderly and Regular Migration (previously cited), para. 18(l).

desertification, land degradation, drought and sea level rise, including by devising planned relocation and visa options, in cases where adaptation in or return to their country of origin is not possible”.²²²

In May 2025, the Inter-American Court of Human Rights issued its Advisory Opinion clarifying the specific obligations of states to address the climate crisis through a human rights lens.²²³ The Court underscored the obligation of states to establish effective mechanisms to ensure humanitarian protection to people displaced across borders due to climate change “by establishing appropriate migration categories such as humanitarian visas, temporary residence permits, and/or protection under refugee status or similar status, which can provide them with protection against refoulement”.²²⁴

In July 2025, the International Court of Justice (ICJ) also emphasized that states’ legal obligation “to co-operate in solving international problems of economic, social, cultural or humanitarian character” assumes “particular significance” in the context of sea level rise; and that “co-operation in addressing sea level rise is not a matter of choice for States but a legal obligation.” The Court concluded that in the context of sea level rise states must “work together with a view to achieving equitable solutions, taking into account the rights of affected States and those of their populations”. Although the Court was not prescriptive on states’ specific obligations in this regard, these could potentially include both obligations to assist populations to remain in place, as well as to provide safe and legal pathways for international migration and relocations.²²⁵



This pandanus tree is the latest casualty of erosion from sea level rise and worsening king tides in Tuvalu. © Amnesty International

222 UNGA, Global Compact for Safe, Orderly and Regular Migration (previously cited), para. 21(h). At para. 21(g), it also established a commitment to: “[d]evelop or build on existing national and regional practices for admission and stay of appropriate duration based on compassionate, humanitarian or other considerations for migrants compelled to leave their countries of origin owing to sudden-onset natural disasters and other precarious situations, such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits, while adaptation in or return to their country of origin is not possible.”

223 Amnesty International, “Inter-American Court sets milestone in the global fight for climate justice”, 4 July 2025, <https://www.amnesty.org/en/latest/press-release/2025/07/corte-interamericana-marca-un-hito-en-la-lucha-por-la-justicia-climatica-en-el-mundo/>

224 Inter-American Court of Human Rights, *Opinión Consultiva OC-32/25*, 29 May 2025, par. 433

225 ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), paras. 354-365.

4. MIGRATING TO AOTEAROA NEW ZEALAND: A “RIGHTS-BASED” ALTERNATIVE OR A DISCRIMINATORY LOTTERY?

“When I was [in Kiribati], there was bad weather. The tides were so close to the building, I was so scared, and I screamed ‘I want to go back to New Zealand!’. My cousins told me, ‘You can go to New Zealand, but what are we going to?’ – in that moment, I realized I had an opportunity, but not them. I felt sad about what I had said. I reckon it would be better if they were also given the opportunity to come to New Zealand.”

Marita (not her real name), 24-year-old I-Kiribati-New Zealander woman living in Aotearoa New Zealand, interviewed March 2024

Aotearoa New Zealand has endorsed, among others, the Global Compact for Safe, Orderly and Regular Migration²²⁶ (hereafter, the Global Compact for Migration). At the regional level, in late 2023, Aotearoa New Zealand, alongside other countries in the Pacific Islands Forum (PIF), endorsed the Pacific Regional Framework on Climate Mobility (PRFCM)²²⁷ “recognis[ing] the critical role that *rights-based migration* - whether internal or cross-border – can play in enabling people to move safely and on their own terms in the context of climate change”.²²⁸ With the Framework, PIF countries, including Aotearoa New Zealand, committed to consider different opportunities for international migration for people affected by the climate crisis.

Aotearoa New Zealand has never introduced an immigration pathway specifically dedicated to the admission of people affected by the climate crisis.²²⁹

Consecutive governments in Aotearoa New Zealand have insisted on facilitating migration from the Pacific through labour-based migration schemes, either portraying these schemes as a “flexible” immigration policy responding to climate-induced displacement, or holding that existing schemes could be “adapted” in a way that takes into account climate change-induced displacement needs in

226 UNGA, Global Compact for Safe, Orderly and Regular Migration (previously cited).

227 PIFS, *PRFCM* (previously cited).

228 Emphasis added. PIFS, *PRFCM* (previously cited), para. 28.

229 In 2017, the then government announced that the country was considering introducing an “experimental humanitarian visa” to admit yearly 100 people who were being displaced from Pacific Island Countries due to the adverse effects of climate change; see The Straits Times, “New Zealand creates special refugee visa for Pacific islanders affected by climate change”, 9 December 2017, <https://www.straitstimes.com/asia/australianz/new-zealand-creates-special-refugee-visa-for-pacific-islanders-affected-by-climate>; The Guardian, “New Zealand considers creating climate change refugee visas”, 31 October 2017, www.theguardian.com/world/2017/oct/31/new-zealand-considers-creating-climate-change-refugee-visas; The Washington Post, “A proposal in New Zealand could trigger the era of climate change refugees”, 31 October 2017, <https://www.washingtonpost.com/news/worldviews/wp/2017/10/31/a-proposal-in-new-zealand-could-trigger-the-era-of-climate-change-refugees/>. The plan was dismissed only a few months later, reportedly because “Pacific people” themselves had dismissed the plan to favour options for people to stay in place. Stuff, “Humanitarian visa proposed for climate change refugees ‘dead in the water’”, 29 August 2018, <https://www.stuff.co.nz/environment/106660148/humanitarian-visa-proposed-for-climate-change-refugees-dead-in-the-water>

the future.²³⁰ Up to at least 2018, government documentation and statements outlined the country's stance on domestic policy responses to climate-induced displacement that "New Zealand's existing immigration policy settings are sufficiently flexible that they may be able to form one response to the issue, should it become a reality in future".²³¹ Successively, the 2023 PRFCM included among others, commitments to explore opportunities to provide people displaced in the context of the climate crisis with humanitarian admissions, "resettlement", allowing access to a regular migration status, prioritizing family and community cohesion, and strengthening collaboration in relation to safe migration pathways for "vulnerable" people.²³²

However, despite these commitments, there does not appear to have been a shift yet in the current government's position on introducing new pathways for climate-induced displacement. In August 2024, in response to Amnesty International,²³³ current Minister of Immigration, Hon Erica Stanford, stated:

"At this stage, we have no current plans to introduce specific climate-related immigration policies, but we will continue to discuss our approach as part of the regional dialogue with the Pacific".²³⁴

In this chapter, Amnesty International presents its analysis and findings on existing immigration policy settings dedicated to Pacific People, outlining how existing policies on migration from the Pacific, particularly the Pacific Access Category Resident Visa (PAC) and Samoan Quota Resident Visa (SQ) schemes:

- prioritize Aotearoa New Zealand's economic considerations rather than rights-based or humanitarian considerations, failing to respond to the needs of the people worst affected by the negative effects of climate displacement (see section 4.1).
- are discriminatory, excluding anyone who is perceived by the system as a potential cost or as unable to contribute to Aotearoa New Zealand's labour market, including older people, people with disabilities and people with medical conditions. This leads to multiple human rights violations, including among other violations of the non-discrimination principle, the right to family life, and children's rights (see section 4.2).

230 C. Dyer C and A. Neef, "The evolution of Aotearoa New Zealand's policy discourses on Pacific climate mobilities from 2006–2021", *January 2023*, in *Frontiers Climate* 4, www.frontiersin.org/journals/climate/articles/10.3389/fclim.2022.1000632/full. See also former Prime Minister Jacinda Ardern in a 2017 interview stating that Aotearoa New Zealand was already offering opportunities for Pacific People, such as seasonal employment schemes, and declaring "when it comes to the climate-refugee situation, we've started having the discussion 'well perhaps there are ways to adapt what we already have to take into account that potential future issue'", *New Zealand Herald*, "New Zealand ready to stand up on climate change Jacinda Ardern says", 5 December 2017, www.nzherald.co.nz/new-zealand-ready-to-stand-up-on-climate-change-jacinda-ardern-says/WFXQ7CDYHCKT4DXDBT6FHBMKYM/

231 MFAT - Pacific Regional Division, *Cabinet Paper Progress Update: A New Zealand Response to Pacific Climate Migration*, 20 February 2018, <https://www.mbie.govt.nz/assets/2f57159b6d/pacific-climate-migration-cabinet-paper-progress-update.pdf>. See also, among others, former Minister for Pacific People, Aupito William Sio's Speech to the International Association of Refugee and Migration Judges (IARMJ), Biennial Asia Pacific Chapter Conference, 14 November 2018, www.beehive.govt.nz/speech/speech-international-association-refugee-and-migration-judges-iarmj-biennial-asia-pacific; MFAT, *Climate Change and the Issue of Environmental Migrants: A Proposed Revised Approach* (PAC/EN/2 PAC/PIF/2008), 2008, Wellington: Released under the Official Information Act 1982 by MFAT.

232 PIFS, *PRFCM* (previously cited), paras. 31-32 and 39-40. At the time of its reply to Amnesty International's request, MFAT informed that an Implementation Plan for the PRFCM was being developed by regional bodies, MFAT was therefore unable to share an update concerning its implementation. MFAT, OIA 29583, 21 October 2024, released under the Official Information Act 1982 by MFAT.

233 Amnesty International asked: "Is Aotearoa New Zealand considering supporting any new visa categories for people from the most impacted low lying Pacific atoll nations (such as Marshall Islands, Nauru, Kiribati and Tuvalu for example) impacted by rising sea levels? For example, are there any proposals to consider visas similar to the new visa category the Australian government recently announced under the Falepili Agreement with Tuvalu?"; Amnesty International, Re: information request on Aotearoa New Zealand's climate commitments, TG, (Index: ASA 32/2024/582), 19 July 2024.

234 Hon Erica Stanford, Minister of Immigration, Letter to Amnesty International, 16 August 2024, OIA 24-187, on file with Amnesty International (Hon Erica Stanford, Letter to Amnesty International)

SQ and PAC can offer a lifeline for some people affected by climate change, which should be welcomed and expanded. However, they represent neither a “flexible policy setting” nor “rights-based migration” pathway, as in reality they tend to exclude and discriminate against those who – due to personal circumstances, including age and disability – are known to be among those most exposed to the adverse impacts of climate change.

4.1 VISAS DEDICATED TO PACIFIC PEOPLE

“The situation is so bad that we should be able to come here like if we were asylum seekers. But for some people it's easy to come for some others harder. We don't understand the luck system of the PAC. People should be treated equally.”

Teo, a Tuvaluan man, Aotearoa New Zealand, 15 March 2024

While lacking migration pathways specifically dedicated to people seeking sanctuary from the adverse impacts of climate change, Aotearoa New Zealand does offer regular migration pathways reserved to people from Pacific Island Countries. The PAC programme provide permanent residency in Aotearoa New Zealand to the nationals of Fiji, Kiribati, Tonga and Tuvalu, and the SQ scheme does so for nationals of Samoa. This immigration opportunity is reportedly provided “in recognition of [the country's] close cultural and historic ties with Pacific countries”.²³⁵ The Recognised Seasonal Employers (RSE) Limited Visa scheme allows employers in Aotearoa New Zealand to recruit seasonal workers from selected Pacific Island Countries to fill the country's seasonal labour shortages in its horticulture and viticulture industries (see box).



*Vines in the Marlborough region, Aotearoa New Zealand. Many Pacific people in Aotearoa New Zealand work in the vineyards through the RSE scheme, which provides limited-term visas for seasonal work.
© Amnesty International*

In addition to these dedicated pathways, people from all Pacific Island Countries can use other regular migration pathways, including family reunification visas and business or labour-based migration visas.²³⁶

²³⁵ Hon Erica Stanford, Letter to Amnesty International (previously cited).

²³⁶ According to MBIE data, in 2012-2017, 43% of residence approvals for Pacific nationals occurred through the “family stream” of the (then called) New Zealand Residence Programme, 33% through the PAC and SQ schemes, and 21% through the “Skilled/Business stream”, including holders of a “Skilled Migrant Category Resident Visa” or a “Work to Residence” visa (the latter later replaced by the Accredited Employer Work Visa since 2022). Both of these visa categories are offered to all non-nationals with neither specific climate change considerations nor the national origin of applicants. Access to the first category is fully dependent on the presence in New Zealand of close family members for prospective migrants. Visas that have been offered for business and highly skilled labour seem overwhelmingly attainable – within the Pacific – only by nationals of Fiji (85% of those approved for residence over a five-year period under the then “Skilled/Business stream”) and, to a lesser extent, Tonga (12%). For these reasons, an in-depth analysis of these visas largely sits beyond the scope of this report. MBIE, *Pacific Migrant Trends and Settlement Outcomes Report*, December 2018, www.mbie.govt.nz/assets/902b9b1dcc/inz-pacific-migrant-trends-and-settlement-outcomes-november-2018.pdf (MBIE, *Pacific Migrant Trends*), pp. 16-20.

THE RECOGNISED SEASONAL EMPLOYERS (RSE) SCHEME

Since 2007, Aotearoa New Zealand has also offered Pacific People access to the Recognised Seasonal Employers (RSE) Limited Visa scheme. The RSE scheme allows yearly up to more than 20,000 workers²³⁷ from selected Pacific Island Countries²³⁸ to reach Aotearoa New Zealand and work for up to 7 months (or 9 for nationals of Kiribati and Tuvalu) in any 11-month period, to fill the country's seasonal labour shortages in its horticulture and viticulture industries. Despite a 2024 reform, RSE workers' freedom to move between employers and regions is still restricted, as it still requires obtaining a new visa.²³⁹ The Equal Employment Opportunities (EEO) Commissioner of New Zealand's Human Rights Commission (*Te Kāhui Tika Tangata*) and unions have expressed concerns about other aspects of the reform.²⁴⁰

While workers may be re-employed in subsequent years, RSE visa holders are prevented from transitioning into any other type of visa, whether temporary or permanent,²⁴¹ and cannot bring their family members. In addition, access to the scheme is marked by a significant and increasing gender imbalance, with the scheme remaining largely inaccessible to women, with employers historically favouring recruiting men in horticultural work. In 2023/2024, women made up only 9.5% RSE workers in Aotearoa New Zealand.²⁴²

If the scheme remains a seasonal opportunity that cannot be converted in a longer-term solution, RSE visas may not offer a stable opportunity to anyone seeking to migrate and rebuild a life in New Zealand. In this sense, RSE significantly differs from PAC and SQ, which although not specifically dedicated to climate displacement, may still offer permanent relocation to Aotearoa New Zealand to some. As such, the RSE scheme largely sits outside the scope of this report.

237 The government determines a numerical cap of RSE places that can be taken up in any one year. In 2024-2025, this number was raised to 20,750; Immigration New Zealand (INZ), "Improvements for Recognised Seasonal Employers scheme announced", 14 August 2024, www.immigration.govt.nz/about-us/media-centre/news-notifications/improvements-for-recognised-seasonal-employers-scheme-announced

238 Federated States of Micronesia, Fiji, Kiribati, Nauru, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu; see WH1.10.10 Agreement to Recruit, INZ Operational Manual, www.immigration.govt.nz/opsmanual/#34415.htm (INZ Operational Manual).

239 INZ, "RSE changes from 2 September 2024", www.immigration.govt.nz/work-for-employers/getting-accreditation-or-approval-to-hire/employing-workers-through-the-recognised-seasonal-employer-scheme/rse-changes-from-2-sept-2024/

240 In 2024, the government adopted some steps to offer greater flexibility for workers to move between employers but also reduced protections that may increase exploitation risks for workers; Te Kāhui Tika Tangata Human Rights Commission, "EEO Commissioner: More positive changes to RSE scheme needed", 15 August 2024, <https://tikatangata.org.nz/news/eeo-commissioner-more-positive-changes-to-rse-scheme-needed>; see also The Press, "Changes to RSE scheme receive mixed feedback", 18 August 2024, <https://www.thepress.co.nz/nz-news/350382441/changes-rse-scheme-receive-mixed-feedback>

241 WH1.15.25, INZ Operational Manual (previously cited), establishes that applications from the holder of an RSE limited visa for any other type of temporary entry class visa, or a residence class visa, will be declined.

242 Reportedly, "the dominance of men is in part due to restrictions imposed by Immigration New Zealand (INZ) and the Ministry of Social Development on the recruitment of overseas labour for jobs packing fruit and vegetables. Much of the latter work is done by women, and jobs in packhouses have tended to be reserved for New Zealanders, especially in regions with a higher than average unemployment rate. This restriction on packhouse work, coupled with a common belief among RSE employers that work in the field is better suited to men, has limited opportunities for women". Charlotte Bedford, "Women in New Zealand's RSE scheme: a small but stable workforce", 3 April 2025, Devpolicy Blog, Development Policy Centre, <https://devpolicy.org/women-in-new-zealands-rse-scheme-a-small-but-stable-workforce-20250403/>

However, Amnesty International notes with concern the human rights issues raised by Aotearoa New Zealand's Human Rights Commission in its 2022 Human Rights Review of the RSE scheme. The Commission's review found several human rights issues with the working and living conditions of RSE workers, including exploitation, substandard accommodations, abusive deductions from wages, employers' practices curtailing personal freedom and interfering with people's privacy and family rights; and difficulties in accessing healthcare, justice and union membership. The Commission highlighted that a lack of oversight, regulation, enforcement, and human rights protections within the scheme enabled employers to exploit workers with few consequences if they wish.²⁴³

Amnesty International has highlighted the human rights risks of labour visas tied to the employer in several countries,²⁴⁴ and joins the Commission's call to ensure RSE workers free choice of employment by removing the requirement that their visas are tied to a single employer.

4.1.1 THE PACIFIC ACCESS CATEGORY (PAC) AND THE SAMOAN QUOTA (SQ)

The PAC and the SQ programmes provide an opportunity for stable relocation to Aotearoa New Zealand and may potentially offer a pathway for rebuilding a life in Aotearoa New Zealand, including to people seeking to flee rising sea levels and other adverse impacts of climate change. They allow annually up to 2,300 individuals from five Pacific Island Countries to seek admission and permanent residency in Aotearoa New Zealand through a quota system and selection by ballot, including 75 citizens of Tuvalu and 75 citizens of Kiribati.²⁴⁵

The SQ is a product of Aotearoa New Zealand's colonial past,²⁴⁶ as the scheme was introduced in 1970 based on the 1962 Treaty of Friendship between Aotearoa New Zealand and Samoa²⁴⁷ which the two countries signed right after Samoa's independence from Aotearoa New Zealand's "trusteeship". The PAC scheme was introduced in 2002, based on the SQ model and in recognition of the "special relationship" between Aotearoa New Zealand and its "Pacific neighbours". Its aim was to "assist" Pacific Island Countries and replace former work migration schemes with Kiribati and Tuvalu.²⁴⁸

243 Te Kāhui Tika Tangata Human Rights Commission, *The RSE Scheme in Aotearoa New Zealand: A Human Rights Review*, 11 December 2022, <https://tikatangata.org.nz/our-work/the-rse-scheme-in-aotearoa-new-zealand-a-human-rights-review>

244 Amnesty International, "Canada has destroyed me": Labour Exploitation of Migrant Workers in Canada (Index: AMR 20/8807/2025), 30 January 2025, www.amnesty.org/en/documents/amr20/8807/2025/en/

245 In 2024, INZ announced annual quotas allowing up to 1,650 Samoan citizens, including partners and dependent children, to seek residence in New Zealand through the SQ resident visa, while in the same year the PAC scheme allowed the same for up to 250 citizens of Tonga, 250 citizens of Fiji, 75 citizens of Tuvalu and 75 citizens of Kiribati, including partners and dependent children. INZ, *2024 Pacific Access Category and Samoan Quota ballots*. <https://www.immigration.govt.nz/about-us/news-centre/2024-pacific-access-category-and-samoan-quota-ballot-results/>

246 Samoa was a territory of Aotearoa New Zealand from 1920 until 1962. Samoans were not consulted (like other nations at the time) on the decision by the League of Nations to allocate it to colonial administration. On 4 June 2002, Aotearoa New Zealand's Prime Minister Helen Clark apologized to Samoa for the injustices arising from colonial administration. (see: New Zealand History, "New Zealand in Samoa- Page 3 Colonial Administration", <https://nzhistory.govt.nz/politics/samoa/colonial-administration>, accessed on 15 September 2025; NZ Herald, "Full text: Helen Clark's apology to Samoa", 4 June 2002, <https://www.nzherald.co.nz/nz/full-text-helen-clarks-apology-to-samoa/65TV2LDV6S7HHIYRDCFC5YOZI>). Legislation passed in 1982 stripped citizenship from Samoans who were Aotearoa New Zealand citizens by law according to the Privy Council, with citizenship rights for some being reinstated in 2024 (Radio New Zealand, "Third reading of Samoa Citizenship Bill in New Zealand Parliament today", 20 November 2024 <https://www.rnz.co.nz/news/pacific/534253/third-reading-of-samoa-citizenship-bill-in-new-zealand-parliament-today>).

247 MBIE, *Pacific Migrant Trends* (previously cited).

248 New Zealand Government, "Government announces Pacific access scheme", 20 December 2001, <https://www.beehive.govt.nz/release/government-announces-pacific-access-scheme-0>



Both schemes operate through an electronic ballot system which randomly draws applicants up to the number of individuals specified in the national quotas from the pool of those who validly register their interest for either SQ or PAC within a set period. Ballot registrations can be done online via Immigration New Zealand’s (INZ’s) website. Subsequently, INZ invites the “ballot winners” to lodge formal applications for residence.

Following the invitation to lodge a full application, applicants must submit evidence within eight months (extendable in special circumstances determined by an INZ officer) that they meet the eligibility criteria. Besides being a national of Samoa or a PAC country²⁴⁹ and having validly registered their expression of interest, to qualify for a resident visa under PAC or SQ, the principal applicant must:

- have been aged between 18 and 45 at the registration closing date
- have an “acceptable offer of employment” or have a partner, included in the application, who has an acceptable offer of employment in Aotearoa New Zealand
- if they have dependent children, meet minimum income requirements²⁵⁰
- meet English language knowledge requirements
- meet health and character requirements

In practice, the schemes only allow principal applicants aged 18-45 to apply. They must be in good health (see section 4.2.1), able to communicate in English and meet “character” requirements. While the required documentation can be submitted online, individuals living in smaller countries or remote islands often need to travel to obtain the required documentation, including medical examinations that are not accessible in countries with limited health infrastructures. Within the eight-month window before their ballot draw expires, applicants must also secure an offer of employment in Aotearoa New Zealand that meets specific criteria, including being full time, ongoing for no less than 12 months, and meet minimum income requirements. This often requires applicants to travel to New Zealand as visitors to seek job opportunities and potentially undergo recruitment processes in person.

249 In addition to nationality requirements, additional requirements apply in relation to where the applicant was born. In particular, the applicant must have been born in the country of nationality or, if born overseas, from parents of, and born in, that country. See INZ Operational Manual (previously cited), S1.40.5 for PAC and S1.10.5 for SQ.

250 As of 2024, INZ Operational Manual (previously cited) (S1.10.35 and S1.40.35) required applicants with dependent children to demonstrate a gross minimum income of NZ\$53,515.28 deriving from the “acceptable offer of employment”. For context, the average annual wage in Aotearoa New Zealand in 2024 was NZ\$92,779, based on data from the OECD, Average Annual Wages Dataset, OECD Data Explorer, <https://data-explorer.oecd.org/en/data/indicators/average-annual-wages.html> (accessed on 14 September 2025).

THE DAWN RAIDS AND CALLS FOR REMEDIES (REGULARIZATION PROGRAMME)

Between 1974 and 1979, aggressive police raids were carried out that targeted overstayers from Pacific Islands Countries, despite the fact that a significant number of overstayers were from Europe and North American. The raids were characterized by police entering homes at dawn to check the immigration status of residents, often without warrants. The Dawn Raids, as they became known, caused significant trauma and distrust among Pacific People. In August 2021, the Aotearoa New Zealand government issued a formal apology for the Dawn Raids, acknowledging the harm and injustice caused to Pacific communities.²⁵¹

Aotearoa New Zealand governments have previously offered general regularization for irregular migrants in the 1970s, 1980s, in 1991 and 2000.²⁵² In recent years, proposals for a new regularization programme have been recurrent. Several petitions supporting regularizations have been initiated, including a 2020 petition promoted by Pacific communities, signed by at least 10,000 people,²⁵³ and presented to Aotearoa New Zealand's Parliament in 2020. The petition called for an "amnesty" (a regularization programme) for the population with irregular migration status under compassionate and humanitarian grounds. Regularization calls were further revived, particularly for Tongans (the largest group of irregular migrants), in the aftermath of the eruption of the Hunga-Tonga-Hunga Ha'apai volcano and the subsequent tsunami which caused extensive damage and disruption in Tongatapu, Tonga's main island.²⁵⁴

"We grew up in Tonga fishing and eating jellyfish. It's like a maka, it comes in the lagoon and it dries quickly. If you don't have any money for food, you would eat jellyfish, but to survive the jellyfish relies on the lagoon to be clean. Poor people rely on selling jellyfish, but climate change made the lagoon dirty and there's no jellyfish anymore. There are no money-making opportunities. The economic opportunities were just lost. There is hardly any fish left in the lagoon. There is a worse financial situation because of climate change. Tonga is planning to achieve net-zero emissions by 2050, but they need a lot of land. A lot of people are going to be displaced. Overstayers are people who have left this situation behind. Why can't we do an amnesty for Pacific overstayers then? When we presented the petition we mentioned climate change to MPs, we did everything. You have a war in Europe, and you bring refugees over, but they only bring Tongans here for cheap labour; they just use us."

Tevita (not his real name), Tongan man, Aotearoa New Zealand, 7 March 2024

251 Beehive, "Government offers formal apology for Dawn Raids", 1 August 2021, <https://www.beehive.govt.nz/release/government-offers-formal-apology-dawn-raids> (accessed on 16 September 2025)

252 New Zealand Parliament – Petitions Committee, "Final report: Petition of Makahokovalu Pailate for Pacific Leadership Forum – Provide pathways for overstayers to gain permanent residency in NZ on compassion", 2022, <https://petitions.parliament.nz/b20c231a-f241-4f68-b40b-78c1a58fcd58>, (New Zealand Parliament – Petitions Committee), p. 7.

253 By February 2023, the petition had collected at least 11,119 signatures; RNZ, "New Zealand PM to look into Pacific overstayer petition", 3 February 2023, <https://www.rnz.co.nz/international/pacific-news/483556/new-zealand-pm-to-look-into-pacific-overstayer-petition>

254 The catastrophic event caused 3 deaths, displaced thousands of people, and cost an estimated damage of US\$69 million (18.5% of the country's GDP). The Mandarin, "World Bank tallies cost of volcano eruption in Tonga", 15 February 2022, www.themandarin.com.au/181383-world-bank-tallies-cost-of-volcano-eruption-in-tonga; ABC News, "Six months after volcanic eruption and tsunami, Tongans who lost everything have plans for their future", 14 July 2022, www.abc.net.au/news/2022-07-15/tonga-volcano-tsunami-six-months-recovery-resettlement-mango/101216258

The Parliamentary Petition Committee replied “that an amnesty will not address the systemic factors that lead to overstaying and may not lead to an overall reduction in the number of overstayers. We believe the Government’s efforts should be focused on mitigating those systemic causes”.²⁵⁵ Despite an opening in 2023, the government did not offer any regularizations.²⁵⁶

4.1.2 THE PAC AND SQ PROGRAMMES DO NOT ADDRESS THE NEEDS OF THOSE MOST AFFECTED BY CLIMATE CHANGE AND DISASTERS

Interviewees who successfully moved to Aotearoa New Zealand through PAC²⁵⁷ told Amnesty International that the scheme has undeniably offered a lifeline to many who sought a way to escape deteriorating living conditions and disasters in the islands. *Viliamu* (not his real name), aged 47 and from Tuvalu, became a naturalized New Zealand citizen after arriving in the country through PAC. He told Amnesty International that his decision to move to Aotearoa New Zealand was triggered by the tsunami that hit Samoa in 2009:²⁵⁸

“People saw what had happened in Samoa and were terrified. Everybody rushed to the schools to go and catch their kids before a tsunami would hit. It was a realization that if a tsunami like that happens in Tuvalu, we would have no escape.”

Viliamu, 47-year-old Tuvaluan man, Aotearoa New Zealand, interviewed 15 March 2024

He had been worried for his children’s future, as he shared that sea level rise was a “scary prospect” for children in the islands.²⁵⁹

Many other PAC visa holders that Amnesty International interviewed mentioned climate change or environmental disasters as one of their main reasons for applying to the scheme:

“Having a family in the islands, you feel like they might be wiped out at any second, that’s the reality of living in the islands. So, I made arrangements for my first-born daughter to apply for PAC.”

Eseta, 62-year-old Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

255 New Zealand Parliament – Petitions Committee (previously cited).

256 In September 2023 – only weeks before a general election – then Prime Minister Chris Hipkins announced his political party’s intention to offer a regularization programme for irregular migrants who had been in Aotearoa New Zealand for over 10 years, reportedly as a measure to make good on the Dawn Raids apology. However, following the October 2023 general elections and a change in government, no progress on regularizations has been made, New Zealand Herald, “Election 2023: Labour promises amnesty to 10+ year overstayers and new ‘Super Visa’ for migrant families”, 23 September 2023, <https://www.nzherald.co.nz/politics/election-2023-watch-live-as-government-unveils-major-immigration-policy/GDXYL7QUKZF4FLIOQRTHB5K4GE/>

257 Amnesty International could collect many first-hand testimonies of migrating through PAC, but no direct testimonies on the SQ scheme. However, due to the near identical regulation of these schemes’ requirements, findings on PAC could be applicable to SQ.

258 On 29 September 2009, two large earthquakes triggered a tsunami resulting in 192 deaths in Samoa, American Samoa (US Territory) and Tonga. Waves as high as 22 metres hit parts of Samoa and American Samoa. National Centers for Environmental Information, “On this day: 2009 Samoa islands tsunami”, 29 September 2019, www.ncei.noaa.gov/news/2009-Samoa-Tsunami (National Centers for Environmental Information, “On this day”) Several interviewees noted the lack of higher ground or suitable evacuation points for tsunamis in Tuvalu and Kiribati.

259 Interview with *Viliamu*, 47-year-old Tuvaluan man, interviewed in Auckland, on 15 March 2024.

“I arrived with PAC in 2015. It was the first time I applied. Climate change was the reason. I was so scared to live in Tuvalu, and it is hard to get a job back home, so also economic reasons. There were all the time tsunami warnings, cyclones, high tides, big waves coming up to the land... It happens every year. Even if I live at the centre of the island, I could hear the rolling waves and the house got flooded sometimes.”

Teuila (not her real name), 54-year-old Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

Having provided safe migration pathways to many, PAC and SQ schemes are an important feature of Aotearoa New Zealand’s migration policy settings. However, neither the PAC nor SQ visa schemes were introduced with climate displacement in mind, and they cannot be considered as a pathway for “rights-based migration” in the sense of the PRFCM.²⁶⁰

First, a lottery system where people’s migratory perspectives are dependent on pure luck to be able to initiate the process can hardly be considered an adequate, flexible or dignified response to the migration needs of people impacted by the climate crisis.

Second, those who are drawn are then subjected to stringent labour-based eligibility requirements that take no consideration of applicants’ personal circumstances, such as the extent to which they are affected by the climate crisis. These strict eligibility requirements lead to the exclusion of a number of applicants each year.

“I’ve been trying to apply for the PAC and move away. I grew up in Tuvalu all my life and climate change has always been there. I have seen a lot of changes; more and more places are affected nowadays... I live right next to the sea in Tuvalu... The sea gets much closer now – during the last king tide, in January [2024], it came to the door of my house – obviously I want to move away when I see this... I applied for PAC for two years [with no luck] ... We want to live free of fear, not living everyday not knowing what tomorrow will bring because anything could happen at any time.”

Susana, 54-year-old Tuvaluan woman with irregular migration status in Aotearoa New Zealand, 14 March 2024

People who spoke to Amnesty International generally refused the idea of considering PAC as an accessible regular migration pathway for people needing to migrate abroad in the context of the climate crisis, due to the schemes’ lottery system and stringent requirements.

As explained below, older people and people with disabilities or those with medical conditions are excluded from migrating to Aotearoa New Zealand,²⁶¹ firmly disproving claims made by the government that the PAC or SQ schemes may be flexible enough to represent a response to climate displacement. On the one hand, health requirements exclude the very same people whose medical conditions may be caused or exacerbated by climate change. On the other, they also exclude groups of people who are among those most at risk of human rights impacts in the context of climate change, including older people and people with disabilities (see section 4.2.1).

260 The “glossary” of the PRFCM defines “rights-based” as indicating something that “should be built on rights inherent to all human beings without discrimination, based on the principles of dignity, equality and mutual respect.”

261 When speaking of “people with medical conditions” in the context of INZ’s health requirements, this report refers to people with any medical conditions listed in, or qualifying under, INZ Operational Manual (previously cited), A4.10. See section 4.2.1 of this report.

Age requirements prevent anyone aged over 45 from accessing the schemes, despite older people being among those most at risk climate change-related harms.²⁶² Many Pacific People encouraged Amnesty International to advocate for more flexibility in the age requirements of visa schemes.²⁶³

“People should be able to make a choice, rather than [being given] limited windows that may discriminate against them. PAC discriminates on age, if you are old like me you can’t apply. But climate change for us is life and death.”

Susana, 54-year-old Tuvaluan woman with irregular migration status in Aotearoa New Zealand, 14 March 2024

Securing a job offer with certain standards and minimum income requirements is an often-insurmountable requirement for people who are outside of Aotearoa New Zealand, have no contacts with employers in Aotearoa New Zealand, and may have limited financial resources to travel to the country to seek employment there.

“Who on earth grants a job offer to someone who is not even in the country and before seeing you? You need to meet and have an interview before granting a job offer. It is an enormous barrier to our people to come [to New Zealand]. People will find jobs when they come here in any case, they are looking for jobs, otherwise how would they live in such an expensive country? Our people don’t like drifting around, they want to work and look out for our families. They will find work, but already needing a job offer before even coming here blocks them from ever coming.”

Litiana (not her real name), Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

“Work schemes give us the opportunities to come and work here. It is a form of support from New Zealand, but to enable us to work they should relax some of the conditions; give us some assistance. For example, having a job offer should not be a criterion.”

Luka, 49-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024

OLDER PEOPLE PEOPLE WITH DISABILITIES

OR

THOSE WITH MEDICAL CONDITIONS



ARE EXCLUDED FROM MIGRATING TO AOTEAROA NEW ZEALAND

262 OHCHR, *Analytical Study on the Rights of Older Persons in the Context of Climate Change* (previously cited), paras. 14-20.

263 Susana, 54-year-old Tuvaluan woman with irregular status in Aotearoa New Zealand, interviewed March 2024. Lisa, 56-year-old I-Kiribati woman with irregular migration status in Aotearoa New Zealand, interviewed March 2024. Luka, 49-year-old Tuvaluan man living in Aotearoa New Zealand, interviewed March 2024.

According to testimonial evidence collected by Amnesty International, the job offer requirement can lead to abuse and exploitation. A Tuvaluan woman admitted to Amnesty International that she had paid NZ\$200 to obtain a job offer for her daughter:

“Many people have to pay [prospective employers] to get a job offer that allows them to stay. Mostly, they receive jobs in fruit picking... You pay for people to arrange for a job offer in fruit picking, you pay the employer to give you the paperwork to show you have a job offer. It also needs to be a full-time job.”

Eseta, 62-year-old Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

Another Tuvaluan Fijian woman also reported:

“There’s cases of people asking for money upfront for arranging the job offer, and then you don’t even know if you will actually get the job.”

Rosa (not her real name), 37-year-old Tuvaluan-Fijian woman, Aotearoa New Zealand, 14 March 2024

The combination of a lottery system, strict requirements and a set time frame, lead applicants into situations of extreme pressure. At times, if already in Aotearoa New Zealand, they may end up with an irregular migration status for failing to meet the various requirements in the set time frame. *Maleta* (not her real name), from Tuvalu, explained to Amnesty International that she decided to apply for PAC with her family after seeing the shocking pictures of destruction from the 2009 tsunami that hit Samoa²⁶⁴ which terrified her every time there was a tsunami alert in Tuvalu.²⁶⁵ Despite her family being lucky enough to be initially drawn in the PAC ballot, she ended up living in Aotearoa New Zealand with an irregular migration status as her initial job offer was no longer valid by the time they managed to obtain the required documentation, and afterwards did not manage to get another “acceptable” job offer:

“We were selected for the PAC, but we could not secure the job offer and there were delays with my husband’s medical records, and that’s how we became overstayers. They turned down the application even though I had a job offer, but then the business closed and was no longer operational in New Zealand [by the time my husband could secure his medical records because] as a seafarer, he was away for long times overseas, so he could not file his medical reports [in time]. Eventually, we just came with self-sponsored visitor visa looking for a job offer... For people who are lucky to come through PAC, the reality is much harder because we don’t know people here and it is hard to find a job when you don’t know anyone.”

Maleta, 46-year-old Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

264 National Centers for Environmental Information, “On this day” (previously cited.)

265 Several interviewees noted the lack of higher ground or suitable evacuation points for tsunamis in Tuvalu and Kiribati.

4.2 DISCRIMINATION IN ACCESS TO VISAS, FAMILY SEPARATIONS, AND VIOLATIONS OF CHILDREN’S RIGHTS

While states maintain their sovereign power to control the entry and stay of foreign nationals on their territory (including through migration policies) they must exercise that power in accordance with international human rights law and standards. These include, among others, the principle of non-discrimination, the right to family life, the prohibition of inhuman treatment, the principle of non-refoulement and the right to asylum, as well as the best interests of the child.²⁶⁶

The stringent immigration requirements under PAC and SQ lead to categorical exclusions of individuals and groups, such as older people or people with disabilities or medical conditions. These can amount to discriminatory exclusions, in violation of the principle of non-discrimination, the right to family unity, and the best interest of the child.

4.2.1 DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES, PEOPLE WITH MEDICAL CONDITIONS AND OLDER PEOPLE IN THE PAC AND SQ SCHEMES

The “acceptable standard of health” (ASH) is an eligibility requirement for both schemes and is among the most problematic.

Under INZ’s Operational Manual A4.10, applications for most resident visas, including under PAC and SQ, must be “declined if any person included in that application is assessed as not having an acceptable standard of health”²⁶⁷ unless a medical waiver is granted.²⁶⁸ The ASH requirement is intended to “protect public health”; and “ensure that people entering New Zealand do not impose excessive costs and demands on Aotearoa New Zealand’s health and special education services”.²⁶⁹

The Operational Manual establishes a list of conditions that are presumed as imposing “significant costs and/or demands on New Zealand’s health and/or special education services”.²⁷⁰ Several physical, mental, intellectual or sensory impairments that are associated with disability are listed, including “severe hearing loss”, “severe vision impairments”, “severe developmental disorders or severe cognitive impairments where significant support is required, including but not exclusive to: physical disability;

266 The UN Human Rights Committee indicated that “The Covenant does not recognize the right of aliens to enter or reside in the territory of a State party. It is in principle a matter for the State to decide who it will admit to its territory. However, in certain circumstances an alien may enjoy the protection of the Covenant even in relation to entry or residence, for example, when considerations of non-discrimination, prohibition of inhuman treatment and respect for family life arise”. CCPR, General Comment 15: The Position of Aliens Under the Covenant, para. 5; see also CRC (Article 10.1).

267 “Applicants for residence class visas are considered to have an acceptable standard of health if they are: (i) unlikely to be a danger to public health; and (ii) unlikely to impose significant costs or demands on New Zealand’s health services or special education services; and (iii) able to undertake the work on the basis of which they are applying for a visa, or which is a requirement for the grant of the visa”. INZ Operational Manual (previously cited), A4.10.b.

268 Applicants may be considered for a medical waiver, unless their condition requires certain treatments, including dialysis or full-time care due to a “physical, intellectual, cognitive and/or sensory incapacity”; if they have ‘severe haemophilia’; or if they have or had different forms of tuberculosis and certain other conditions apply. INZ Operational Manual (previously cited), A4.60.a.(i)-(iv)

269 INZ Operational Manual (previously cited), instruction A4.1. A third objective is “where applicable, [to] ensure that applicants for entry to New Zealand are able to undertake the functions for which they have been granted entry”.

270 Listed conditions span from communicable diseases to cancers; psychiatric conditions; severe, chronic or progressive neurological disorders (including epilepsy, cerebral palsy, dementia, or complex seizure disorder); cardiac diseases; chronic respiratory diseases; musculoskeletal diseases (e.g. osteoarthritis); severe autoimmune diseases; and more.

intellectual disability; autistic spectrum disorders; brain injury”.²⁷¹ The list is not exhaustive,²⁷² as other conditions may also not meet the “acceptable standard of health” requirement, if they would require expensive health care²⁷³ or special educational support.²⁷⁴

The requirements operate as an insurmountable barrier for persons with disabilities. ASH requirements set an incredibly high threshold leading to the discriminatory exclusion of people with disabilities or medical conditions. Such discrimination is especially troubling in the context of the climate crisis, considering climate change’s various negative impacts on the right to health²⁷⁵ and the heightened risks for people with disabilities.²⁷⁶

Older people are also largely prevented from accessing opportunities for migration. In addition to age requirements blocking anyone aged over 45 from applying as PAC or SQ’s principal applicants, ASH requirements may also operate an additional barrier for older people, many of whom may have chronic medical conditions and are often stereotyped as requiring more healthcare. ASH requirements, for instance, also apply to applicants for visas dedicated to parents and grandparents of citizens and residents of Aotearoa New Zealand.²⁷⁷

Amnesty International met several individuals with disabilities who were unable to travel from Tuvalu to Aotearoa New Zealand and had to be separated from their families migrating under the PAC scheme.²⁷⁸ MBIE confirmed that at least 26 “PAC residence applications have been declined under immigration health instructions” between 2010 and 2024, including seven nationals of Tuvalu and seven from Kiribati.²⁷⁹ However, the number of people who were not able to migrate to Aotearoa New Zealand during that period due to a disability is likely to be higher, as these must be added to the cases of people with disabilities who have withdrawn their applications even before receiving a final rejection. Interviews with at least five people with disabilities from Tuvalu revealed a pattern of exclusion, where people whose medical records indicated a disability were effectively compelled to withdraw their PAC application even before receiving a rejection from INZ.

Some of these cases are detailed below. They follow a consistent pattern. After families were successfully drawn in the PAC ballot and invited to apply for resident visas, if INZ found a family member not to meet ASH standards, it either rejected the whole family’s application or put it on hold while awaiting a referral to an INZ medical assessor or receiving additional medical records. Often,

271 INZ Operational Manual (previously cited), A4.10.1

272 A note to instruction A4.10.1 indicates that “The list above at A4.10.1 is not an exhaustive list of conditions which may indicate that an applicant does not have an acceptable standard of health”.

273 An applicant would not be considered as having an “acceptable standard of health” if an INZ medical assessor determines that there is a “relatively high probability that “the applicant’s medical condition or group of conditions will require health services costing in excess of NZ\$81,000” (about 50,000 US\$), or “for which the current demand in New Zealand is not being met”; INZ Operational Manual (previously cited), A4.10.10. In the case of “acute medical conditions”, there should be a relatively high probability that the health services costing in excess of that amount would be required “within a period of five years from the date the assessment against health requirements was made”. In the case of “chronic recurring medical conditions”, the costs should occur “over the predicted course of the condition or group of conditions”. INZ Operational Manual (previously cited), A4.10.2.

274 An applicant would not be considered as having an “acceptable standard of health” if the Ministry of Education determines there is “relatively high probability that the applicant’s physical, intellectual, or sensory condition or their use of language and social communication would entitle them to Ongoing Resourcing Scheme or (ORS) funding”. INZ Operational Manual (previously cited), A4.10.5. ORS is New Zealand’s education support scheme for students with specialist support needs due to learning, hearing, vision, physical or language/social communication difficulties. Ministry of Education - Te Tāhuhu o te Mātauranga, *Overview of Ongoing Resourcing Scheme (ORS)*, 7 January 2022 [last revision], www.education.govt.nz/school/student-support/special-education/ors.

275 Amnesty International, “Climate change and health” (previously cited).

276 OHCHR, *Analytical Study on the Rights of Persons With Disabilities in the Context of Climate Change* (previously cited)

277 See INZ Operational Manual (previously cited), F4.15.1

278 Amnesty International did not find any instances of people being granted medical waivers under the PAC scheme, and MBIE declined Amnesty International’s request to divulge how many people with disabilities or other health conditions had been admitted to Aotearoa New Zealand and/or were granted a medical waiver under the PAC scheme [as at September 2025]. MBIE stated that “[t]his information is not held in a reportable format”. MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 4.

279 MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 5, Appendix A.

applicants were required to undergo diagnostic tests that were not available in countries with limited medical infrastructure, such as Tuvalu — forcing them to travel to and spend time in Fiji or other countries. This comes at immense costs for families living in some of the lowest-income countries in the world, who must pay for expensive airfares, fees for medical tests, plus accommodation and other daily living costs for long periods. Families told Amnesty International researchers that, during this waiting time – which could last several months²⁸⁰ – they were under extreme emotional and financial pressure. They feared rejection of the whole family’s applications, losing the “acceptable offer of employment”, and running out of money.²⁸¹ After waiting for reportedly long periods of time, families were effectively forced to withdraw their family members with disability from the application to ensure the rest of the family could leave. After communicating in writing their intention to withdraw their family member to INZ, applications for the rest of the family were approved in a matter of days.



Auckland, Aotearoa New Zealand, is the city with world’s largest concentration of urban Pacific People outside of their own countries.
© Amnesty International

280 In at least one case, Amnesty International has seen e-mail exchanges between the applicants and INZ’s immigration officers, showing that a period of seven months passed between the moment a referral is made to an INZ medical assessor to the principal applicant’s communication to INZ of the decision to withdraw the family member from the application. Amnesty International has seen communications by INZ to applicants stating that once “abnormal findings” were noted on medical certifications, applicants are queued for referral to a medical assessor. Referrals may take up to 8 weeks before the medical assessor’s response is provided. INZ (2014), ‘Customer interaction’ – on file with Amnesty International; INZ immigration officer (2016), e-mail to applicants, forwarded to Amnesty International on 11 November 2024, on file with Amnesty International. The organization asked MBIE about the average length of processing PAC resident visa applications for people with a declared disability, particularly when a referral is made to an INZ medical assessor. MBIE refused the request, saying: “As there are no specific guidelines regarding the processing time for PAC residence applications, including applications from people with a declared disability, we are refusing question 7 and part of question 6 of [Amnesty International’s] request under section 18(e) of the Act as the document alleged to contain the information requested does not exist or, despite reasonable efforts to locate it, cannot be found”. MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 6 and 7, Appendix A.

281 This is especially true for people from smaller countries or outer islands, who may need to spend long periods away from their residences and jobs to proceed with their PAC applications, at significant costs.



ALIETA: “I WANTED MY DAUGHTER TO BE PROUD OF ME.”

After waiting a long time, *Alieta*, a teacher and mother from Tuvalu with a visual impairment, decided to remove her name from her family’s PAC application to enable her husband and six-year-old daughter to go to Aotearoa New Zealand.



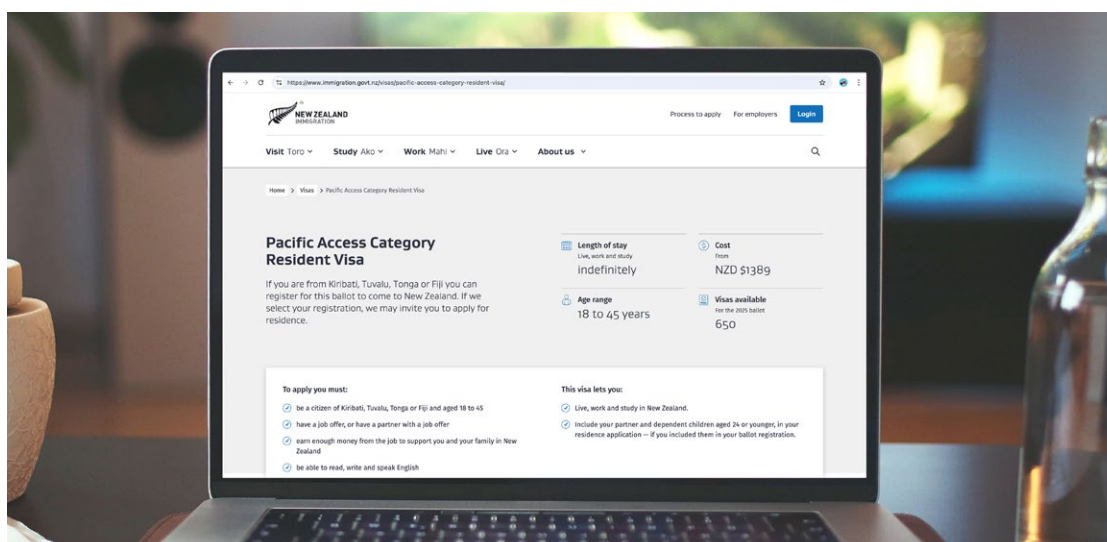
“In 2015 we applied for the PAC visa and in 2016 my husband left with our daughter. We went to Fiji, but I got stuck there waiting. I stayed there to try and re-apply for my own visa. The first time, with the PAC application, I was not accepted because of my disability. I have low visibility; I can only see short distances.

The first form [registration to the ballot] does not mention disabilities. It is only at the second stage that the forms say that people with disability cannot apply. I was sad during the application process. I would not have applied for the family to go in the first place if I had known that they would not accept people with disability. I did not want our family to be separated.

I have a disability, but I wanted my daughter to be proud of me. I was thinking if I went to New Zealand, I would try my best to find a good job there, so that even if I have a disability, she would be proud of me, of what I would be doing for her. I wanted her to say, ‘My mum has a disability, but she can do something for me’. I have a job here [in Tuvalu] and I am trying my best to show to our community and our island that people with disability can do things. I always turn up to show that not only abled people can do things, also people with disabilities can.

I wanted [my husband] to have a good job for schooling our daughter and I think of climate change here. I am scared of climate change.”

Alieta, 55-year-old Tuvaluan woman with visual impairment, Tuvalu, 20 March 2024



Online application for the PAC Visa.



GRACE AND JULIA: “ALL THE FAMILY IS THERE, JUST THE TWO OF US ARE NOT.”



When they were as young as 10, *Grace* and *Julia* (not their real names), twin girls with autism from Tuvalu, were separated from their parents and sisters. After the family got drawn in the PAC ballot, INZ put the processing of their application on hold, as a paediatrician in Fiji determined that the girls had an “intellectual disability”. This could not be better

defined as a formal developmental paediatric assessment was not available in Fiji (only years later, they would receive an assessment indicating they have autism). While waiting for a referral to an INZ medical assessor, the family found themselves under enormous financial pressure. They had to stay in Fiji, away from their home, while waiting for their visas to be processed.

Eventually, the family felt compelled to withdraw *Grace* and *Julia* from the PAC application to enable the rest of the family, including their other two daughters, to leave for Aotearoa New Zealand, in the hope of being able to apply at a later stage for a visa for the twins (see next section). INZ approved the rest of the family in a matter of days following the withdrawal of the twins. At the time of writing, *Grace* and *Julia* were 17 and still remained in Fiji, entrusted to a caregiver.

“We talk everyday over the phone with mommy; we say we want to go to New Zealand and mommy says we can’t go... I want to go to the airplane and go far away, in the sky, with my mommy and my cousins. My cousin is staying with my mom. My grandfather is there. All the family is there, just the two of us are not.”

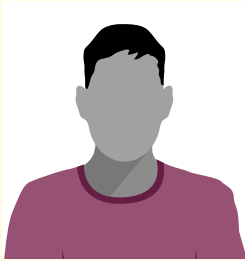
Julia, 17-year-old girl from Tuvalu, Fiji, 1 April 2024

“We kept asking updates [to INZ] while waiting for a long time. They were saying that the medical checks were still in the queue, not even processing them. We had left our jobs in Tuvalu and moved to Fiji to do a blood test [needed for the PAC application], which you cannot do in Tuvalu. We were hoping to just stay in Fiji for a short time until the visas got approved and then move to New Zealand, but we waited for months. We stayed longer in Fiji waiting for the application to be approved, we lived out of our provident funds. We had financial hardship in Fiji and friends recommended us to withdraw the twins from the application. With lots of heartache we wrote a letter to INZ to withdraw them and INZ approved the visa in two days after receiving the letter.”

Cindy (not her real name), 44-year-old Tuvaluan woman – mother of *Grace* and *Julia*, interviewed in Aotearoa New Zealand, April 2024



SAM: A THOUSAND SMILES, A DEEP FEAR OF THE SEA, AND A FAMILY TOO FAR AWAY



Sam (not his real name) is 32 years old. He was 21 when the rest of his family left for Aotearoa New Zealand, while he had to stay in Tuvalu. He was born with physical and intellectual disabilities, but due to Tuvalu's limited health facilities (see section 2.1), he could never receive a proper diagnosis for his condition.

At each encounter, *Sam* welcomed Amnesty International's researchers with countless smiles. Only two things could steal his smile. One was talking about the sea, his greatest fear. The other was the heartbreak of not being able to go with his family to Aotearoa New Zealand.

"I really want to go to New Zealand. I want to go to see my parents. It's been nine years I've been away from my parents and siblings. I miss my parents. I have recently renewed my passport to go to New Zealand. I want to go and visit them. I am tired of staying in Tuvalu. I just want to go see my parents. They left in 2015. When they left, I really cried a lot that I was left behind.

I'm scared [of the sea] because I can't swim. In New Zealand, I can stay away from the sea. My biggest dream is to go to New Zealand and find a job to support myself.

It matters most that I want to be with my parents. It's not fair that I cannot go. Please, New Zealand, I would like to come and see my family and parents. I would like to work in New Zealand and look for a job."

Sam, 32-year-old Tuvaluan man with a disability, interviewed in Funafuti, 20-22 March 2024.

Sam's father, *Tama* (not his real name), told Amnesty International how the family had applied multiple times for PAC. Following their February 2014 application, a medical assessor for INZ found that *Sam* was "unlikely to have an acceptable standard of health" because he has conditions considered to impose significant costs and/or demands on New Zealand's health and/or education services. Initially, an INZ officer had found *Sam* to "have physical disabilities that requires [sic] family support otherwise he is able to carry out hundred chores without assistance."²⁸² Subsequently in July, INZ wrote again to the family following an assessment from a medical assessor specifying that the "client appears unlikely to be employable except in a sheltered environment and would likely qualify for disability service in New Zealand."²⁸³ *Sam* and his aunties told Amnesty International that despite his partially impaired speech and movement, he can communicate effectively and can carry out his everyday activities independently, including riding a motorcycle or carrying out errands at home and around town. In Tuvalu, he is responsible for taking care of the family's pigs.

282 INZ, "Customer interaction", 2014, on file with Amnesty International.

283 INZ, "Customer interaction", 2014, on file with Amnesty International.

The family sought to challenge the decision over several months, seeking a reevaluation by INZ, but *Sam* was repeatedly assessed as not meeting ASH requirements. In October 2014, *Sam*'s parents eventually withdrew him, after their employer in Aotearoa New Zealand suggested they do so, and fearful of losing the “acceptable offer of employment”. Shortly after, INZ issued visas for the rest of the family.

After they left, *Sam* remained in Tuvalu and has been living with his “aunties” for the last 10 years. *Sam* has not seen his family in a decade. His father said he had been waiting for INZ to change visa criteria for people with disabilities, but he is losing hope this will ever happen. He reported calling INZ from time to time, asking about changes in the policy but he always received negative responses.

“It was really hard [to separate from Sam]. We did not want to leave him because of his disability. How can he live like this back in the island? We miss him. When we left, he cried, and my wife cried. Since we left and came to New Zealand my wife always talks to him, telling him we want him to come to New Zealand.”

Tama (father of *Sam*), 57-year-old man from Tuvalu living in Aotearoa New Zealand, interviewed by phone, 22 March 2024.

4.2.2 DISCRIMINATION AGAINST PEOPLE WITH DISABILITIES IN OTHER VISA PROCEDURES AND PROLONGED FAMILY SEPARATION

Family members with disabilities who were unable to travel to Aotearoa New Zealand, together with their families under the PAC or SQ programmes, cannot benefit from medical waivers. INZ’s official policy prevents them from ever reaching them through a “family category visa”, thus ending up in a situation of endless family separation.²⁸⁴ The INZ Operational Manual categorically excludes people who were withdrawn or not included in earlier visa applications with their families from the possibility of ever receiving a medical waiver.²⁸⁵

INZ refused several visas, including for short visits, to *Julia* and *Grace*, twin girls with autism whose family moved to Aotearoa New Zealand under the PAC programme. INZ denied them a visitor visa in 2018, when they were 12, after two years of separation from their parents and siblings. In 2024, after almost eight years of separation, and just before they turned 18, the family tried again to bring them to Aotearoa New Zealand, this time applying for a “family category” visa (“Dependent child”), but INZ rejected their applications again specifically because they were included in the earlier PAC application as dependent children and were withdrawn from that application.

284 See also, UNICEF, University of South Pacific, Western Sydney University, *The Impact of Pacific Labour Mobility Schemes on Children Left Behind in Fiji, Samoa, Solomon Islands and Vanuatu*, September 2024, <https://www.unicef.org/pacificislands/reports/impact-pacific-labour-mobility-schemes-children-left-behind> (UNICEF and others, Impact of Pacific Labour Mobility Schemes). These studies also highlighted the impact that visa labour schemes have on families, leading to separation.

285 The INZ Operation Manual (previously cited) establishes that medical waivers will not be granted to people applying for a visa as a family member of a New Zealand resident (a “family category” visa) if they were eligible to be included in an earlier application for a residence class visa (including PAC or SQ) as part of a family application, and were either not declared or included in that earlier application or were withdrawn from that application. INZ Operational Manual, A4.60(b); INZ Operational Manual, A4.60(c).

Amnesty International also spoke to *Vai* (not her real name), a woman with hearing and speech impairments, who in 2017 had applied for a “partner visa” to reach her former husband, a permanent resident in Aotearoa New Zealand. After “answering a lot of questions from INZ about [her] disability”, *Vai* never received a visa. Her former husband’s aunty who was supporting her with the application stopped communicating with her after some time, and eventually *Vai* ended up divorcing her husband.

“I really don’t know if I can have another chance. I feel my disability puts me in disadvantage in my possibility to migrate. I was only going to join my former husband. I would love to go abroad, but I understand that with my disability, I would be turned down.”

Vai, 32-year-old Tuvaluan woman, Tuvalu, 19 March 2024

Interviews revealed that INZ has also denied people with disabilities the possibility to meet their families in Aotearoa New Zealand, even for short periods, through a visitor visa. *Alieta* – a Tuvaluan mother with visual impairment – has never been able to visit her daughter in Aotearoa New Zealand after all her visitor visa applications got rejected. *Alieta*’s daughter was only six when she left for Aotearoa New Zealand in 2016, forced to leave her mother behind in Tuvalu. She was already 15 when *Alieta* spoke to Amnesty International. The distance also put a strain on *Alieta*’s relationship with her husband and they have now separated.

“When my daughter said goodbye, at boarding time, she was crying and said: ‘Oh mum, I don’t want to go, I want you to come!’ It is very difficult for a mum. I was trying to be strong for my daughter, I wanted my daughter to go so to give her an education. I wanted a good life for her future. [As a teacher], I had followed early childhood education courses, so I knew how hard it would be for my child. I was not showing her how weak I was feeling.

After they left in 2015, I met them only once, in Fiji, in 2017 for a one-month visit. I call my daughter and talk to her, but since then, we never met again. I speak to my daughter, but my husband has blocked me... The first time, with the PAC application, I could not go. I went to the people’s lawyer here in Tuvalu, and he said to reapply again for a visa. I applied for a visitor visa from Fiji in 2017 and was still rejected. I applied 2-3 times, and it was always declined. I paid AU\$200-300 for each application.

In the beginning I was not angry at New Zealand. I kept on asking for a visa... But I am sad for my daughter. I didn’t want to be separated from my daughter. It is hard on children.”

Alieta, 55-year-old Tuvaluan woman with visual impairment, Tuvalu, 20 March 2024

The mental impacts of family separation in the context of immigration procedures and the long waits for family reunification are devastating.

“If you are a parent and you have to leave your kids somewhere, you never feel 100% [alright]. Sam is different from other kids. We worry about health care in Tuvalu. It’s very hard for him. He’s now a grown-up man and feels unable to ask for things to anyone besides his family... If he gets sick, we are really worried. Every time he calls his mum, he asks, ‘When can I come with you?’ She says, ‘Wait, we are trying our best for you.’ It’s really hard for us.”

Tama (father of *Sam*), 57-year-old man from Tuvalu living in Aotearoa New Zealand, interviewed by phone, 22 March 2024.

4.2.3 THE “ACCEPTABLE STANDARD OF HEALTH” (ASH) REQUIREMENT VIOLATES THE RIGHTS OF PEOPLE WITH DISABILITIES AND MEDICAL CONDITIONS

The acceptable standard of health (ASH) requirement led to decisions on admission to the country that are in violation of the principle of non-discrimination and other human rights obligations, including the right to family unity and children’s best interests.

THE ASH REQUIREMENT DISCRIMINATES AGAINST PEOPLE WITH DISABILITIES

As a cornerstone of international human rights law, the principle of non-discrimination is encompassed in a wide range of international treaties, including the International Convention for the Elimination of All Forms of Racial Discrimination (ICERD),²⁸⁶ and forms part of international customary law. The principle of non-discrimination also applies to decisions on entry and residence of foreigners.²⁸⁷ While differential treatment based on citizenship or immigration status may be allowed in certain circumstances, it must be applied pursuant to a legitimate aim, and proportional to the achievement of that aim.²⁸⁸

Aotearoa New Zealand is bound to specific protections from both direct and indirect discrimination against people with disabilities enshrined in the CRPD, including Article 5. This provides that “States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds”.²⁸⁹

The UN Committee on the Rights of Persons with Disabilities (CRPD Committee) has expressed its concerns about “the acceptable standards of health requirements applied under the immigration rules of New Zealand, which allow for discrimination in practice against persons with disabilities in immigration and some asylum procedures”; and the “ineligibility under the acceptable standard of health medical waiver policy of persons with disabilities whose impairment requires full-time care, including care in the community”.²⁹⁰ The Committee called on Aotearoa New Zealand to “Review and amend its immigration and asylum legislation and administrative rules, in close consultation with and with the active involvement of organizations of persons with disabilities and migrants and refugees, to

286 Universal Declaration on Human Rights (UDHR), Article 2(1); ICCPR, Articles 2(3) and 26; ICESCR, Article 2(2); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), Article 7; ICERD, Article 1; European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Article 14; American Convention on Human Rights (ACHR), Articles 1 and 24; African Charter on Human and People’s Rights (ACHPR), Articles 2 and 3; Arab Charter on Human Rights (ArCHR), Articles 3 and 11. See also CCPR, General Comment 15: The Position of Aliens Under the Covenant, 11 April 1986, UN Doc. HRI/GEN/1/Rev.9 (Vol.I) (CCPR, General Comment 15), paras. 2,3, 5, 10; CCPR, General Comment 18, Non-Discrimination, 10 November 1989, UN Doc. HRI/GEN/1/Rev.9 (Vol.I) (CCPR, General Comment 18); Committee on the Elimination of Racial Discrimination (CERD), General Recommendation 30, Discrimination Against Non-citizens, 23 February - 12 March 2004, UN Doc. HRI/GEN/1/Rev.9 (Vol.II) (CERD, General Recommendation 30).

287 CCPR, General Comment 15 (previously cited), para. 5.

288 CERD, General Recommendation 30 (previously cited); CESCR, General Comment 20, Non-discrimination in Economic, Social and Cultural Rights, 2 July 2009, UN Doc. E/C.12/GC/20 (CESCR, General Comment 20); CCPR, General Comment 18 (previously cited), para. 13.

289 “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others” (CRPD, Article 1). “Discrimination on the basis of disability” means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation (CRPD, Article 2).

290 CRPD, Concluding Observations: New Zealand, 26 September 2022, UN Doc. CRPD/C/NZL/CO/2-3 (CRPD, Concluding Observations: New Zealand), para. 37.

AMNESTY INTERNATIONAL

BELIEVES THAT THE DIFFERENTIAL TREATMENT IMPOSED ON PEOPLE WITH DISABILITIES THROUGH THE APPLICATION OF THE ASH REQUIREMENT DOES NOT MEET THE

“LEGITIMATE AIM” AND “PROPORTIONALITY” TESTS



ensure that persons with disabilities do not face discrimination in any of the formalities and procedures relating to immigration and asylum, in particular as a result of the application of the acceptable standard of health requirements”. The CRPD also specifically recommended that Aotearoa New Zealand: “Reverse the ineligibility under the acceptable standard of health medical waiver policy of persons with disabilities whose impairment requires full-time care”.²⁹¹

In response, the New Zealand government “noted” the immigration-related recommendations, but considered that “successive Governments have taken the position that the discrimination inherent in immigration policy is justifiable to manage costs and demands on New Zealand’s health and education settings”.²⁹² Amnesty International firmly rejects the notion that discrimination may be inherent in immigration policy, emphasizing that such claims are fundamentally incompatible with the international legal principle of non-discrimination.

Amnesty International believes that the differential treatment imposed on people with disabilities through the application of the ASH requirement does not meet the “legitimate aim” and “proportionality” tests. On the one hand, financial considerations, such as avoiding “excessive costs or demands on New Zealand’s health services or special education services” are not a legitimate aim and cannot justify differential treatment, particularly in a country, like Aotearoa New Zealand, ranking among the most developed in the world. It is unlikely that the admission of people with disabilities under the PAC and SQ schemes would have seriously detrimental impacts on Aotearoa New Zealand’s health or special education services, especially considering the limited numbers of people admitted yearly under the schemes. Moreover, the ASH requirement overlooks the potential contributions that individuals with disabilities or medical conditions, and their families, may offer to the public health and education systems. In fact, costs and demands on Aotearoa New Zealand’s health and education services do not seem to be a concern in relation to several other categories of resident visa applicants (including, among others, refugees, some family members of Aotearoa New Zealand’s citizens or residents, and certain work-visa applicants) for whom medical waivers apply automatically.²⁹³ On the other hand, ASH requirements appear grossly disproportionate, having the effect of impairing and nullifying the enjoyment of several human rights of people with disabilities.

291 The CRPD also recommended Aotearoa New Zealand “Repeal section 392, paragraphs (2) and (3), of the Immigration Act of 2009, which prohibits the lodging of immigration-related complaints to the Human Rights Commission”. CRPD, Concluding Observations: New Zealand (previously cited), para. 38.

292 Whaikaha – Ministry of Disabled People, Office of the Minister for Disability Issues, Cabinet Social Wellbeing Committee, *United Nations Convention on the Rights of Persons with Disabilities: Government Response and Proposed Mechanisms to Support Implementation*, 2023, <https://www.whaikaha.govt.nz/assets/About-us/Cabinet-papers-and-information-releases/UNCRPD-cabinet-paper/Paper-United-Nations-Convention-on-the-Rights-of-Persons-with-Disabilities-Government-Response-and-Proposed-Mechanisms-to-Support-Implementation.pdf>.

293 INZ Operational Manual (previously cited), A4.60 (c), (d), (e), (f), (g), (h), (i).

THE ASH REQUIREMENT VIOLATES CHILDREN’S RIGHTS AND THE RIGHT TO FAMILY LIFE OF PEOPLE WITH DISABILITIES AND THEIR FAMILY MEMBERS

The right to family life and to enjoy family unity is protected by Articles 17 and 23 of the ICCPR, as well as Article 10 of the ICESCR. Rejecting a visa of a family member wishing to go to a country where other family members live can amount to an interference with the right to family life and family unity, prohibited under Articles 17 and 23 of the ICCPR, irrespective of whether the individual concerned is already living in the country of destination or applying for a visa from abroad.²⁹⁴

The CRC establishes that the principle of the best interests of the child shall be a primary consideration in all actions concerning them (Article 3), including decisions on the issuance of visas allowing their entry to the territory or that of their parents.²⁹⁵ Under Article 10 of the CRC, “applications by a child to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner”. Article 10.2 of the CRC also establishes that “a child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents”. The right to family of children with disabilities is also enshrined in Article 23 of the CRPD which establishes that children with disabilities have equal rights with respect to family life; that states parties shall ensure that a child shall not be separated from their parents unless it is duly determined that the separation is in the child’s best interests; and that in no case should separation be determined by the child or his parents’ disability.²⁹⁶ “In situations of cross-border displacement and migration linked to climate-related and environment-related events”, the CRC Committee recommended that relevant authorities “consider the risk of children’s rights violations caused by the impacts of environmental degradation, including climate change, when deciding upon admission.”²⁹⁷

The ASH requirement violates the rights of children with disabilities and children with family members with disabilities. Aotearoa New Zealand’s health requirements and rules excluding medical waivers for family visas of people who were not able to travel with their family – including children – leave no space for primary consideration of a child’s best interests. Instead, children with disabilities are specifically targeted by the ASH requirements focusing on potential access to education support schemes (ORS). Children’s best interests are simply disregarded.

294 CCPR, *Nimo Mohamed Aden and Liban Muhammed Hassan v. Denmark*, 25 July 2019, CCPR/C126/D/2532/2015, para. 10.8. See also, CCPR, *Tatiana Kisileva v. Sweden*, 23 May 2024, CCPR/C/140/D/3245/2018, para. 7.5, https://ccprcentre.org/files/decisions/G2407431_1.pdf; *Aumeeruddy-Cziffra et al. v. Mauritius*, 9 April 1981, CCPR/C/12/D/35/1978, para. 9.2(b)2(i)2, www.refworld.org/jurisprudence/caselaw/hrc/1981/en/93320.

295 The OHCHR clarified before the UN Human Rights Council that “the best interests of the child must be taken as the primary consideration in all actions affecting children who have been separated from their families and all decisions taken relating to family reunification” including “decisions and procedures concerning a child’s entry, residence or return, their placement or care and the detention or expulsion of a parent”. UN High Commissioner for Human Rights, Report: *Rights of the Child and Family Reunification*, 2 March 2022, UN Doc. A/HRC/49/31, para. 87(f).

296 CRPD, Articles 23(3) and 23(4).

297 CRC, General Comment 26 (previously cited). Following a visit to the Cook Islands, Federated States of Micronesia and Tuvalu in November 2023, the CRC noted that “children are uniquely and disproportionately vulnerable to pollution, diseases and extreme weather conditions, yet children’s rights, unique needs for special protection and their perspectives are not sufficiently taken into consideration in climate policies, action and investment”. CRC, “Follow-up visit to the Pacific and the Pacific launch of the Committee’s general comment no. 26”, 20-22 November 2023, www.ohchr.org/en/events/events/2023/crc-follow-visit-pacific-and-pacific-launch-committees-general-comment-no-26

In other contexts, the mental health impacts of family separation in the context of immigration procedures and the long waits for family reunification have been proven to amount to ill-treatment,²⁹⁸ prohibited under Article 7 of the ICCPR, Article 37 of the CRC; and more broadly by the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). The risk of ill-treatment is likely to be exceptionally high for people and children with disabilities, considering the tremendous importance of, and at times dependency on, positive family environments in the life of people with disabilities.²⁹⁹ Risks are further compounded by the limited facilities supporting people with disabilities outside of family environments in the Pacific, particularly in smaller countries like Tuvalu, where people who need diagnostics and treatment for most conditions have to travel to Fiji, Aotearoa New Zealand or elsewhere.

“The New Zealand government says they don’t want to spend money on people with disabilities moving to New Zealand but what about refugees? It is not fair the different treatment between people coming through PAC and others coming as refugees... Tuvalu is under threat because of the sea level rise but it seems New Zealand continues to stick to their laws preventing many people from coming. People from the islands have no future because of climate change, the islands might be gone soon. It is the same as when refugees come because they want to save their lives. I would like a climate change visa for Tuvalu, it will be the only way they will include everyone to come to New Zealand even if some people are sick or with a disability.”

Tama (father of Sam), 57-year-old man from Tuvalu living in Aotearoa New Zealand, interviewed by phone, 22 March 2024.

298 K. Hampton, E. Raker and others, “The psychological effects of forced family separation on asylum-seeking children and parents at the US-Mexico border: A qualitative analysis of medico-legal documents”, 2021, PLoS ONE, Volume 16, Issue 11, <https://doi.org/10.1371/journal.pone.0259576>; C. Hvidtfeldt and others, “Waiting for family reunification and the risk of mental disorders among refugee fathers: a 24-year longitudinal cohort study from Denmark”, 2022, Soc Psychiatry Psychiatr Epidemiol Volume 57, <https://doi.org/10.1007/s00127-021-02170-1>, pp. 1061–1072. O. Shadid and others, “The mental health effects of migrant family separation”, Journal of the American Academy of Child & Adolescent Psychiatry, Volume 60, Issue 9, pp. 1052 – 1055. See also UNICEF and others, *Impact of Pacific Labour Mobility Schemes* (previously cited).

299 See, among others, B.R. Grossman and S. Magaña, “Introduction to the special issue: Family support of persons with disabilities across the life course”, 2016, Journal of Family Social Work, Volume 19, Issue 4, <https://doi.org/10.1080/10522158.2016.1234272>, pp. 237–251; Haorong Sun, “The important role of family on autism spectrum disorder”, Interdisciplinary Humanities and Communication Studies, 2024, Vol. 1 (7), <https://www.deanfrancispress.com/index.php/hc/article/view/768>; K. S. Bennett, K. S and D. A. Hay, D. A, “The role of family in the development of social skills in children with physical disabilities”, 2007, International Journal of Disability, Development and Education, Volume 54, Issue 4, <https://doi.org/10.1080/10349120701654555>, pp. 381–397; S.C. Ahuja, “Role of disabled persons & families in the equalization of opportunities”, presented at the International Meeting on Human Resources in the Field of Disability, Tallin, 14-22 August 1989, <https://www.independentliving.org/docs4/ahuja.html>.

5. PACIFIC PEOPLE DISPLACED IN AOTEAROA NEW ZEALAND: SAFE FROM DEPORTATION OR TRAPPED IN LIMBO?

“What’s the difference between being affected by climate change or being a civilian affected by conflict? People can be granted refugee status for wars created by someone else, but we are impacted by climate change, and we did not create it, others have imposed it on us. People should be given the possibility to choose between staying or leaving.”

Luka, 49-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024

It is impossible to determine how many Pacific People have decided to migrate to, or continue to live in, Aotearoa New Zealand, as a result of climate change impacts and other disasters.³⁰⁰ This is even more difficult considering that reasons for migrating are often multicausal, with climate change affecting people differently.³⁰¹

In this chapter, Amnesty International explores the situation of Pacific People who have been able to move to Aotearoa New Zealand and who might be at risk of being deported back to Tuvalu and Kiribati. This chapter looks at the increasingly significant role played by the risks associated with climate change and disasters in Pacific People’s efforts to resist deportation. It analyses the legal mechanisms that Pacific People must navigate in Aotearoa New Zealand to resist deportation based on climate change-related concerns. In doing so, it finds that while some options exist, these have limitations that call for more certain, consistent and targeted protection mechanisms for people displaced in the context of climate crisis and disasters. Finally, it looks at the human rights challenges faced by those who are unable to secure a regular immigration status and end up living in Aotearoa New Zealand as irregular migrants.

While climate change is at the forefront of Pacific People’s considerations about migration to Aotearoa New Zealand (see Chapter 3), it is strikingly absent from the country’s migration policy. In fact, not only does Aotearoa New Zealand not have a dedicated migration pathway for people affected by the negative effects of climate change; there is no law or policy instructing how climate change impacts could be taken into consideration when decisions are taken on any type of visa, immigration or

300 MFAT-commissioned research also observed that: “It is not possible to say how much of the current population movement between Pacific countries and Aotearoa New Zealand and Australia is in response to climate change but the three research teams all made reference to discussions at the family and community level about the importance of temporary and long-term international mobility as a strategy for adaptation to the impacts of climate change in Pacific communities.” Burson and others, *Pacific Peoples and Climate (Im)mobility* (previously cited), p. 157.

301 J. McAdam, “Moving beyond refugee law: Putting principles on climate mobility into practice”, 2022, *International Journal of Refugee Law*, Volume 34, Issue 3-4t, <https://doi.org/10.1093/ijrl/eeac039>

residency applications.³⁰² This policy void has particularly important consequences on the status of Pacific People who are in Aotearoa New Zealand irregularly (for example because they stayed beyond the expiration of their visa) and are therefore at risk of forcible return.³⁰³

As of 2017, an estimated 5,000 Pacific People were living in Aotearoa New Zealand beyond the expiration of their visa (often referred to as “overstayers”) and would be at risk of deportation due to their irregular immigration status.³⁰⁴ According to data provided by MBIE, between 2014 and 2024, 3,495 people “have been deported to member countries of the Pacific Islands³⁰⁵ due to breaches of the Immigration Act 2009”, including 55 to Tuvalu and 60 to Kiribati.³⁰⁶

Since the early 2010s, an increasing number of people appealed to Aotearoa New Zealand’s authorities to challenge their deportations to Pacific Island Countries, citing the risks to their lives and livelihoods if returned to areas particularly affected by climate change.³⁰⁷ By the mid-2010s, global media coverage began describing these as the world’s first cases of “climate change refugees”,³⁰⁸ referring to Pacific People applying for various forms of protection from deportation – including asylum – on the basis of climate change-related risks. This designation has been misleading, as in none of these cases have the applicants received refugee status.³⁰⁹

302 Amnesty International asked the government about any legislation, policy, practice, or internal instructions on how to take into consideration the adverse impacts of climate change when taking decisions on visa, immigration or residency applications. The answer was that “INZ does not hold any legislation, policy, or internal instructions in respect to this”. MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 2.

303 Under section 154 of New Zealand’s Immigration Act 2009, “A person unlawfully in New Zealand is liable for deportation”.

304 In 2017, INZ estimated that approximately 14,000 individuals had overstayed their visas in the country. Among the top nationalities were several Pacific countries, including Tonga (2,498 individuals), Samoa (1,549), Fiji (434) and Tuvalu (358). These figures indicate that Pacific nationals with irregular migration status accounted for at least 4,839 at that time, around a third of the total. INZ, “Overstaying a visa expiry”, 2017, www.immigration.govt.nz/about-us/media-centre/common-topics/overstaying-a-visa-expiry [last accessed January 2024]. In 2025, INZ released new estimates bringing the number of people who overstayed their visas to around 20,980. This number does not necessarily indicate an increase in the number of people with irregular status in the country – INZ indicated that direct comparisons between the two estimates (2017 and 2025) could not be made because of the different methodologies used; INZ, “Immigration New Zealand releases 2025 estimate of number of people who have overstayed their visa”, 4 September 2025, www.immigration.govt.nz/about-us/news-centre/immigration-new-zealand-releases-2025-estimate-of-number-of-people-who-have-overstayed-their-visa/ [last accessed September 2025]

305 Including Federated States of Micronesia, Fiji, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, Norfolk Island, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu, as well as Pacific Island territories of the United States.

306 The data provided by INZ include people unlawfully in New Zealand or temporary visa holders who were “made liable for deportation” and who departed either through a forcible deportation (“Client deported”) or “at no cost to the Ministry” after (“Client Self-deported”) or prior to (“Voluntary departure”) the “date when the person may be served with a deportation order”. MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 18, and Table 1, Appendix C.

307 In none of these cases have the applicants received refugee status. J. McAdam, “The emerging New Zealand jurisprudence on climate change, disasters and displacement”, 2015, *Migration Studies*, Volume 3, Issue 1, <https://doi.org/10.1093/migration/mnu055>, pp. 131-142.

308 New Zealand Herald, “World’s ‘first climate change refugee’ fights to stay in NZ,” 17 October 2013, <https://www.nzherald.co.nz/nz/worlds-first-climate-change-refugee-fights-to-stay-in-nz/VZCZK3ASHDYKYK2P2PZDJIED7Q/>; BBC, “New Zealand rejects ‘climate change refugee’ bid,” 5 November 2015, www.bbc.com/news/world-asia-34674374; The Washington Post, “Has the era of the climate change refugee begun?,” 7 August 2014, www.washingtonpost.com/news/worldviews/wp/2014/08/07/has-the-era-of-the-climate-change-refugee-begun/;

309 Amnesty International does not use the terms “climate refugee” or “environmental refugees” because these designations do not exist in international law. Amnesty International does not distinguish between different types of refugees. The notion of “climate refugee” is also seen as problematic by many in the Pacific who do not see themselves as “refugees”. For example, in Kiribati and Tuvalu, the term “refugee” was seen “as invoking a sense of helplessness and a lack of dignity”. See J. McAdam, “The Normative Framework of climate change-related displacement”, 2012, paper prepared for Addressing the Legal Gaps in Climate Change Migration, Displacement and Resettlement, Brookings Institution, 3 April 2012, <https://www.brookings.edu/articles/the-normative-framework-of-climate-change-related-displacement>

THE PRINCIPLE OF NON-REFOULEMENT AND INTERNATIONAL PROTECTION IN THE CONTEXT OF CLIMATE CHANGE AND DISASTERS

Everyone has the right to be protected against their forcible removal to another country or jurisdiction, where they may be at real risk of suffering serious violations of their human rights. Known as the principle of non-refoulement, this rule is part of international customary law, making it legally binding on all states.³¹⁰

Non-refoulement protections extend to human rights risks associated with disasters and the impacts of climate change in the country of return, such as risks of a violation of the right to life, including in situations where environmental factors affect a person's right to live a dignified existence.

The ICJ clearly reaffirmed this in its July 2025 Advisory Opinion on the Obligations of States in respect of Climate Change:

The Court considers that conditions resulting from climate change which are likely to endanger the lives of individuals may lead them to seek safety in another country or prevent them from returning to their own. In the view of the Court, States have obligations under the principle of non-refoulement where there are substantial grounds for believing that there is a real risk of irreparable harm to the right to life in breach of Article 6 of the ICCPR if individuals are returned to their country of origin.³¹¹

Other rights that may validly raise non-refoulement obligations include the right to personal integrity (both physical and psychological integrity),³¹² or the right to health.³¹³ States must suspend the return of people to places affected by disasters and climate change where environmental degradation has compromised the upholding of human rights to the point of triggering non-refoulement protections.³¹⁴

310 UNHCR, *The Principle of Non-Refoulement as a Norm of Customary International Law: Response to the Questions Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93*, 31 January 1994.

311 ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), para. 378

312 Considering the deportation of an I-Kiribati man from Aotearoa New Zealand, the CCPR stated that “the effects of climate change in receiving States may expose individuals to a violation of their rights under articles 6 [right to life] or 7 [prohibition of torture or other cruel, inhuman or degrading treatment or punishment] of the [ICCPR], thereby triggering the *non-refoulement* obligations of sending States”. The CCPR accepted that living conditions in a country particularly affected by slow onset environmental events may become incompatible with the right to life with dignity before a life-threatening risk is realized, and that “States parties may be in violation of [the right to life] even if such threats and situations do not result in the loss of life”. CCPR, *Ioane Teitiota v. New Zealand* (previously cited), paras. 9.4 and 9.11.

313 The threshold for triggering non-refoulement protections varies in relation to individual circumstances and characteristics (gender, age, disability, and others) and their interaction with environmental phenomena. Amnesty International, *Americas: Amicus curiae* (previously cited), paras. 74-76.

314 In 2015, the Nansen Initiative found that a significant number of states have refrained from returning people affected by climate change and environmental disasters. Nansen Initiative (previously cited), p. 50. Judicial authorities in several countries have also interpreted existing human rights obligations as recognizing protection against refoulement to places where people's rights would be at risk due to climate or environment-related events; Amnesty International, *Americas: Amicus curiae* (previously cited), paras. 77-78.

People displaced by environmental disasters and climate change-related impacts may in specific circumstances also benefit from international protection under the 1951 Refugee Convention.³¹⁵ Although the adverse effects of climate change tend to extend to entire populations, “a well-founded fear of being persecuted may arise especially for people who are already marginalized or vulnerable”.³¹⁶ Among others, women, children, older people and people with disabilities, Indigenous People, persons living in rural areas relying on natural resources for their livelihoods, and environmental defenders or activists are especially at risk.

Countries across the world have introduced “complementary” forms of protection in their legislation, to protect from refoulement those individuals who do not qualify for refugee status, including Aotearoa New Zealand. Only some, though, introduced forms of protection specifically designed for people displaced in the context of the climate crisis and environmental disasters;³¹⁷ Aotearoa New Zealand is not one of them.

5.1 PROTECTIONS FROM DEPORTATION FOR PACIFIC PEOPLE IN AOTEAROA NEW ZEALAND

5.1.1 ACCESS TO INTERNATIONAL PROTECTION FOLLOWING THE *TEITIOTA* CASE

Aotearoa New Zealand’s Immigration Act of 2009 offers international protection to refugees within the meaning of the 1951 Refugee Convention (s. 129), and to others (known as “protected persons”) who “would be in danger of being subjected to torture” (s. 130)³¹⁸ or “to arbitrary deprivation of life or cruel treatment if deported from New Zealand” (s. 131).³¹⁹ The country does not have forms of protection specifically designed for people displaced in the context of the climate crisis and environmental disasters.³²⁰

“If you don’t have any other option, and you experience and see the bad impacts we see from climate change, especially in those days when you see the impacts of king tides and all the damages it provokes, why would I not want to apply for international protection? Experiencing and seeing what is happening in the islands, if there was some sort of ‘refugee visas’ for us, I would definitely go for that visa.”

Tealofi (not his real name), 47-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024

315 UNHCR clarified that “both in the short and longer term, [climate change-] affected populations may be exposed to a risk of human rights violations that amount to persecution within the meaning of the 1951 Convention”. UNHCR, *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters*, 2020, <https://www.refworld.org/docid/5f75f2734.html>, (UNHCR, *Legal Considerations*), para. 7.

316 UNHCR outlined examples of persecution qualifying under the 1951 Convention, such as situations where access to resources is denied in a discriminatory manner; where “a government withholds or deprioritizes protection by denying relief aid to specific populations”; “where post-disaster relief is politicized”; or “where the environment, its natural resources or ancestral lands are deliberately destroyed to persecute particular populations”. Social pressures caused by environmental degradation may also lead to situations of violence and conflict, which would provide many with valid claims for refugee status. UNHCR, *Legal Considerations* (previously cited), para. 10.

317 Amnesty International, *Americas: Amicus curiae* (previously cited), para. 107. See also W. Kälin, and H. 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, UNHCR Research Paper 43, www.refworld.org/reference/lpprs/unhcr/2024/en/148128, pp. 16-20.

318 “Protected person” under the Convention Against Torture

319 “Protected person” under ICCPR

320 MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 2.

Since the early 2010s and with the worsening of the climate crisis, an increasing number of Pacific People have challenged their deportations and claimed refugee or “protected person” status. One of these cases, that of Ioane Teitiota, led to a pronouncement by the CCPR (see below), which although not preventing his deportation, reasserted the international legal obligation to offer protections from deportation to people fearing the human rights impacts of climate change and disasters.

THE CASE OF IOANE TEITIOTA V. NEW ZEALAND

In 2020, the CCPR delivered a landmark decision which affirmed the application of non-refoulement obligations in situations where returning an individual to another country could expose them to human rights violations determined by the effects of climate change. The case concerned a man from Kiribati, Ioane Teitiota, who in 2012 had applied for asylum in Aotearoa New Zealand, claiming risks upon return due to the impacts of sea level rise on habitability and security in Kiribati. Aotearoa New Zealand rejected his applications for refugee or “protected person” status and in 2015 deported him to Kiribati. In the *Teitiota* decision, the CCPR accepted that sea level rise may render conditions of life in Kiribati incompatible with the right to life with dignity,³²¹ even before life-threatening risks materialize in loss of life.³²²

However, the CCPR did not find that Aotearoa New Zealand had violated Ioane Teitiota’s rights and validated Aotearoa New Zealand’s “assessment that the measures taken by Kiribati would suffice to protect the author’s right to life”.³²³ The decision suggested that Pacific People may have valid grounds to challenge their deportation due to climate change impacts if they can demonstrate personal risks and show that the authorities in the country of return are unable to protect them from such risks.

The CCPR reminded Aotearoa New Zealand that state authorities have a “continuing responsibility... to take into account in future deportation cases the situation at the time in Kiribati and new and updated data on the effects of climate change and rising sea levels thereupon”,³²⁴ which suggested that future claims may have a greater chance of success. The CCPR did not establish a precise time frame when discussing intervening acts by the Republic of Kiribati to protect and, where necessary, relocate its population, only noting a time frame of 10 to 15 years, as suggested by the appellant. More than a decade after Ioane Teitiota’s first application for international protection, it is likely that as the window for action narrows, Pacific People might have increasingly valid claims for protection.

321 “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”, see CCPR, *Ioane Teitiota v. New Zealand* (previously cited), paras. 9.11 and 9.12.

322 CCPR, *Ioane Teitiota v. New Zealand* (previously cited), para. 9.12.

323 The CCPR noted a “time frame of 10 to 15 years, as suggested by the author, could allow for intervening acts by the Republic of Kiribati, with the assistance of the international community, to take affirmative measures to protect and, where necessary, relocate its population”; and that “Kiribati was taking adaptive measures to reduce existing vulnerabilities and build resilience to climate change-related harms; CCPR, *Ioane Teitiota v. New Zealand* (previously cited), para. 9.12.

324 CCPR, *Ioane Teitiota v. New Zealand* (previously cited), paras. 9.4 and 9.11.

Immigration New Zealand (INZ) informed Amnesty International that between July 2014 and 30 June 2024, they received eight refugee and protection claims from nationals of Tuvalu and 11 claims from nationals of Kiribati.³²⁵ As of November 2024, no Pacific People had received, in Aotearoa New Zealand, the status of refugee or “protected person” in relation to the risks caused by climate change in their countries of origin.³²⁶

However, in at least one case, the New Zealand Immigration and Protection Tribunal (IPT) relied on the *Teitiota* decision³²⁷ and considered the risks imposed by climate change in recognizing the status of “protected persons” to two older people from Eritrea, due to the “real chance that they will suffer cruel, inhuman or degrading treatment by way of starvation and destitution, as a result of decades of financial and agricultural mismanagement by the [Eritrean] state”.³²⁸ The IPT noted in its 2023 decision that, among other factors, “[t]he risk of the appellants returning to abject poverty, even starvation, is further heightened by climate change”; that the appellants faced “severe food security challenges, exacerbated through the impacts of ongoing climate change and disaster”; and that the Eritrean government’s steps towards climate change “risk mitigation factors are inadequate to reduce the risk of the appellants facing starvation here and now below the real chance level”.³²⁹

The availability of alternative mechanisms to resist deportation under Aotearoa New Zealand’s domestic legislation may explain the relatively low number of international protection applications from Tuvaluan and I-Kiribati nationals. It also helps account for the fact that no asylum seeker from Kiribati or Tuvalu has been granted refugee or protected person status in relation to the human rights impacts of climate change. As shown in the data below, Tuvaluans and I-Kiribati have made extensive use of alternative options, including requests for ministerial discretion and humanitarian appeals to Aotearoa New Zealand’s IPT. Interviews conducted by Amnesty International also indicated that the widely publicized rejection of Teitiota’s asylum claim contributed to a perception among Pacific communities that applications for international protection may be unlikely to succeed.

“Having heard of Ioane Teitiota’s case, that he was deported, it makes us think twice whether it’s even worth applying for international protection, or if it’s just a loss of time. There should be a more dignified process for people who come here. We should not be disheartened by Teitiota’s case, but we should push on it, for us to make a point. For us to fight for our human rights and get our voices heard.”

Luka, 49-year-old Tuvaluan man, Aotearoa New Zealand, 15 March 2024

325 MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, on file with Amnesty International.

326 In a response to Amnesty International’s request about applications for international protection granted in favour of individuals claiming risks upon deportation due to the impacts of climate change or other disasters, the New Zealand government replied: “The only case of which RSU [INZ Refugee Status Unit] is aware is AC (Eritrea) [2023] NZIPT 802201-202 [https://forms.justice.govt.nz/search/Documents/IPTV2/RefugeeProtection/ref_20231103_802201.pdf] in which the IPT [Immigration Protection Tribunal] recognised the appellants as protected persons under the International Covenant on Civil and Political Rights. Climate change was one of a number of factors considered by the IPT to contribute to the finding that the appellants were in danger of cruel treatment upon return to Eritrea. There have been no recognitions as a refugee or protected person based on a risk of harm arising from the impacts of climate change alone”. MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 22.

327 IPT, AC (Eritrea), [2023] NZIPT 802201–202, 3 November 2023, para. 138.

328 IPT, AC (Eritrea), [2023] NZIPT 802201–202, 3 November 2023, para. 166.

329 IPT, AC (Eritrea), [2023] NZIPT 802201–202, 3 November 2023, paras. 144, 146 and 146.

5.1.2 MINISTERIAL DISCRETION AGAINST DEPORTATION: S. 61 REQUESTS

Data released by MBIE to Amnesty International reveals that Tuvalu and Kiribati nationals extensively resorted to ministerial discretion to challenge their deportations, presenting requests under section 61 of the Immigration Act 2009 (s. 61 requests). This gives the Minister of Immigration the authority to grant a visa of any type, at their absolute discretion, to people with an irregular migration status or who are otherwise “liable for deportation”.³³⁰

Between 2014 and 2024, 1,343 Tuvaluans and 648 I-Kiribati submitted s. 61 requests.³³¹ Out of 522 decisions taken concerning Kiribati nationals, 336 (around 64%) were approved. For Tuvaluans, out of 1,175 decisions, 680 (58%) were approved.³³²

In response to a request by Amnesty International, the government replied that “[d]ue to the volume of requests made under section 61, those that relate to adverse impact of climate change are unknown”.³³³ In at least one case, a Tuvaluan woman shared her s. 61 request with Amnesty International, showing among her motivations, her concerns for the future of her family if they had to return to Tuvalu due to sea level rise.³³⁴

The outcomes of s. 61 requests are rigged with uncertainty, as these are granted on a fully discretionary basis. Even when they are granted, the minister of immigration could grant any kind of visas, including “interim” or visitor visas, which do not automatically give additional rights to the beneficiaries, beyond offering temporary regular status. As such, interim and visitor visas perpetuate precariousness, as in the case of *Noa* and *Sera* (not their real names). *Noa* was recovering from cancer when he came to Aotearoa New Zealand to access vital medical checks and follow-up treatments that are not available in his Pacific Island Country,³³⁵ accompanied by his wife *Sera*. In Aotearoa New Zealand, *Noa* was warned by doctors that he continued to be exposed to cancer risks. While he received treatment, they overstayed their initial visas, but as soon as they realized, they submitted s. 61 requests. They succeeded in their requests, and during almost three years they were given a combination of interim and visitor visas, mostly lasting three months at a time, which they had to renew each time. At times, *Noa* would get an interim visa, and *Sera* a visitor visa. *Noa* and *Sera* tried to convert their status to a work or family permit, but they could never meet the requirements, despite receiving a job offer and being parents of an Aotearoa New Zealand resident. They shared that finding a job with these visas was very challenging, with employers often preferring to hire people with a more stable permit.

330 INZ, “Section 61”, 13 January 2023, <https://www.immigration.govt.nz/about-us/news-centre/section-61/>; also see Community Law, “Applying for a visa as a special case (‘section 61’ visas)”, (undated), <https://communitylaw.org.nz/community-law-manual/chapter-28-immigration/if-youre-here-illegally-understanding-your-options/applying-for-a-visa-as-a-special-case-section-61-visas/> (accessed on 16 September 2025).

331 As of 2 September 2024; MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Appendix A, Tables 4(b) and 4(c).

332 According to governmental data, out of 1,175 decisions concerning Tuvaluans between 2014 and 2 September 2024, 680 were “approved”, 409 were “refuse[d] to grant” and 86 were “refused to consider”. Out of 522 decisions concerning I-Kiribati between 2014 and 2 September 2024, 336 were “approved”, 146 were “refuse[d] to grant” and 40 were “refused to consider”. MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Appendix A, Table 4(a).

333 MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Questions 28 & 31.

334 Tuvaluan woman, Email to Amnesty International, 10 May 2025, on file with Amnesty International.

335 The nationality of “Noa” and “Sera” was withheld to preserve anonymity and confidentiality.

“We thought we could be given a one-year visa or multiple visas, but every time it is an interim visa for three months. I want a visa that allows me to work. I want to follow the laws. I will try other ways; we will have to find other ways to extend our visas. I don’t want to be an overstayer. My medical condition is very important for me and my family. I am scared of going to [my country] for medical reasons. We will try and fight for every right we can to stay here. I don’t want to get to the point of receiving a letter [saying] that I have to leave... If I go back to [my country], I fear I cannot access my medicines.”

Noa, 59-year-old man, Aotearoa New Zealand, 16 March 2024

In this period, they had no right to work and had to pay the medical bills linked to Noa’s condition, in addition to having to pay the fees for renewing their visas each time (about US\$200 per person), costs that were particularly expensive given they could not work. “Once, my husband had to go to the hospital, but I told him not to sleep there because if you sleep in the hospital with an interim visa, it would cost you thousands of dollars,” recalled Sera. “If there is a reoccurrence of the tumour, I can’t imagine how much it would cost.” Noa added: “If I need a new operation, it would be for sure more than NZ\$10,000. When you go there, the hospital immediately asks you if you are a resident.”³³⁶

5.1.3 APPEALS AGAINST DEPORTATION: HUMANITARIAN APPEALS BEFORE THE IMMIGRATION AND PROTECTION TRIBUNAL

In addition to s. 61 requests, Aotearoa New Zealand’s Immigration Act also allows people who are “liable for deportation” to file an “appeal on humanitarian grounds against liability for deportation” to the IPT. The IPT has the power to overturn a deportation decision, if there are “exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the appellant to be deported”, but only if the IPT determines that allowing the applicant to remain in Aotearoa New Zealand would not be “contrary to the public interest” (Immigration Act 2009, s. 207). If the appeal is successful, the appellant’s liability for deportation is lifted and the IPT may order the granting of a visa (Immigration Act 2009, s. 210).

The “humanitarian appeal” offers a flexible opportunity to those seeking review of their deportation decisions. What constitutes a circumstance of humanitarian nature is not precisely defined in legislation or caselaw,³³⁷ thus allowing the IPT to consider several factors, ranging from issues of family separation and the best interests of the child to health-related concerns or risks upon return linked to climate change and disasters.³³⁸ At the same time, however, such flexibility also means that the IPT is not bound by strict criteria, allowing it a certain degree of discretion in reaching a decision.

Many Tuvaluans and I-Kiribati have successfully challenged their deportations through humanitarian appeals, including many citing concerns around the impacts of climate change. According to data released by the government to Amnesty International, from January 2014 until 31 July 2024, at least 135 humanitarian appeals against deportation were filed by Tuvaluans and 45 by I-Kiribati.³³⁹ Out of

336 Joint interview with Noa, 59 years old. man, and “Sera”, 54 years old, Auckland, 16 March 2024.

337 In the words of New Zealand’s Supreme Court: “It is unnecessary and undesirable to attempt to define the compass of the word ‘humanitarian’. It is unlikely to be difficult to decide whether the circumstances of a particular case fulfil that description.” New Zealand Supreme Court (NZSC), *Ye v. Minister of Immigration* [2009] NZSC 76, [2010] 1 NZLR 104 at [34] (*Ye v. Minister of Immigration*).

338 T.P. Fadgen and others, “Narrowing the scope of judicial review for humanitarian appeals of deportation orders in Canada, New Zealand and the United States”, 2014, Hamline University School of Law’s Journal of Public Law and Policy, Volume 35, Issue 2, <https://digitalcommons.hamline.edu/jplp/vol35/iss2/1/>, pp. 1-35.

339 MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982, Appendix D, Tables 1 and 2.

the total appeals concerning Tuvaluans and I-Kiribati resolved on their merits by the IPT,³⁴⁰ the majority (about 68%) were successful.³⁴¹

Amnesty International conducted a quantitative analysis of 125 publicly available decisions by the IPT on humanitarian appeals filed by nationals of Tuvalu and Kiribati who were “liable of deportation” due to an irregular immigration status.³⁴² See Annexure 1 to this report for more detail on how this review was carried out. Its main findings are:

- The number of appeals by nationals of Tuvalu and Kiribati against their deportation through humanitarian appeals has been on the rise: between 2012 and 2022, an average of about seven appeals per year were decided, involving an average of about 12 appellants annually. These numbers rose to 27 appeals (involving 44 appellants) in 2023, and 17 appeals (involving 40 applicants) in 2024 (Figure 1).

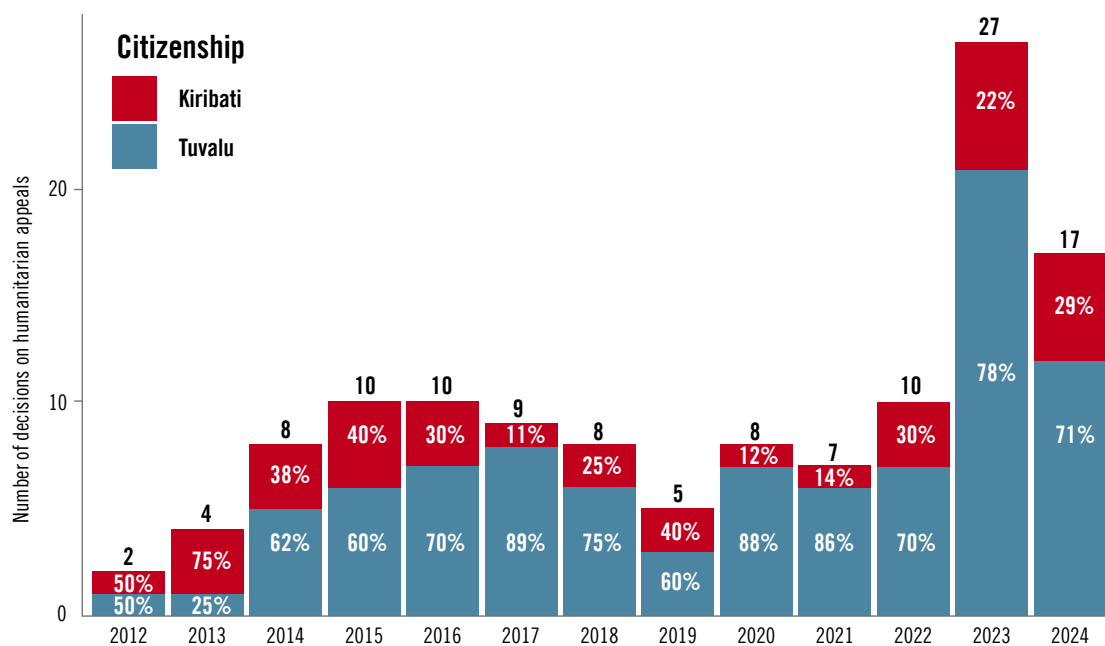


Figure 1: This bar graph shows the yearly number of decisions on humanitarian appeals. The number on top of each bar indicates the total number of decisions on humanitarian appeals that year. The 2024 bar only represents decisions until 21 November. Bar segments are coloured according to whether the appellant(s) of a decision were nationals of Kiribati (red) or Tuvalu (blue). Bar segments are annotated with the percentage of decisions each year that regard citizens of either nationality.

340 For example, excluding those closed administratively, including withdrawals, invalid appeals (e.g., filed out of time), or those filed out of jurisdiction.

341 According to governmental data, out of 135 appeals lodged by Tuvaluans between 2014 and 31 July 2024, 31 were “closed administratively”, leaving 104 appeals decided on the merits; of these, 68 were “successful” and 36 were “unsuccessful”. Out of 45 appeals lodged by I-Kiribati for the same period, 38 were decided on the merits (7 were “closed administratively”), 29 were “successful” and 9 were “unsuccessful”. MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Appendix D, Tables 1 and 2.

342 See Annexure 1 to this report for a detailed outline of the methodology for this quantitative review of IPT decisions.

- Humanitarian appeals before the IPT concerning nationals of Tuvalu and Kiribati have been increasingly addressing concerns linked to climate change and disasters with a notable spike since 2023. In both 2023 and 2024, more than 80% of appeals mentioned climate change and disasters. This temporal trend suggests that climate change increasingly plays a role in determining the exceptional humanitarian circumstances required to stop deportations (Figure 2).

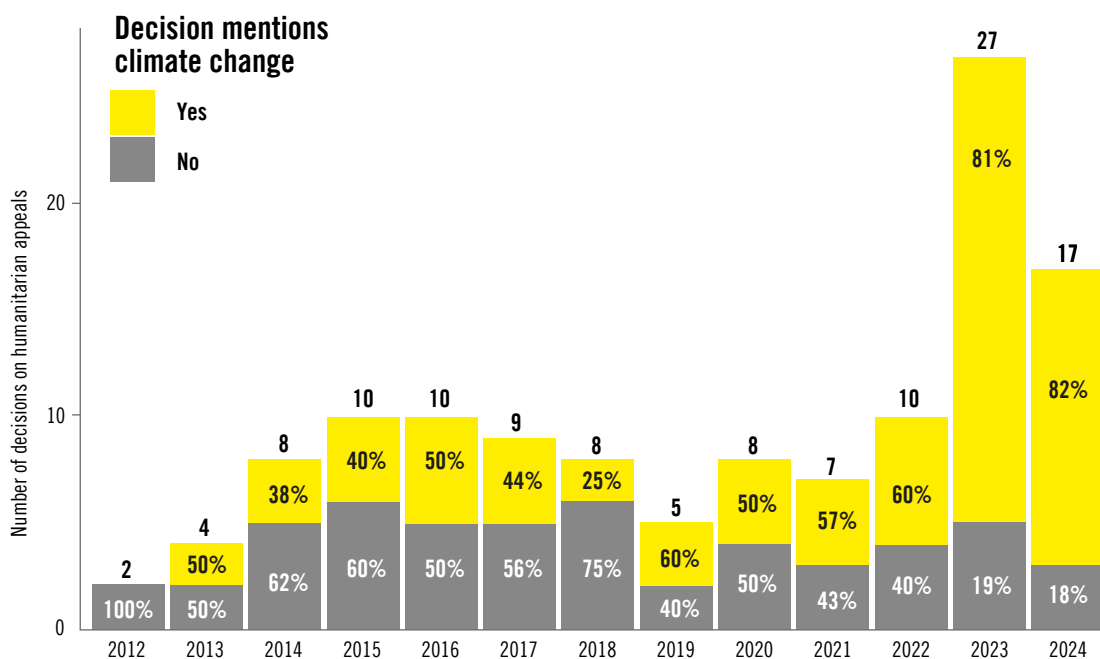


Figure 2: This bar graph shows the proportion of decisions that mention aspects of climate change among all decisions on humanitarian appeals. The number on top of each bar indicates the total number of decisions on humanitarian appeals that year. The 2024 bar only represents decisions until 21 November. Bar segments are coloured according to whether a decision mentions aspects of climate change (yellow) or not (grey). Bar segments are annotated with the percentage of decisions each year that mention climate change or not.

- The appeals mentioning climate change or other environmental concerns have had a significant rate of success. In fact, 74% of appeals mentioning climate change or other environmental concerns between 2013³⁴³ and 21 November 2024 have been successful with different success rates over the years.

343 In 2012, no appeals from nationals of Tuvalu or Kiribati mentioned climate change or disasters.

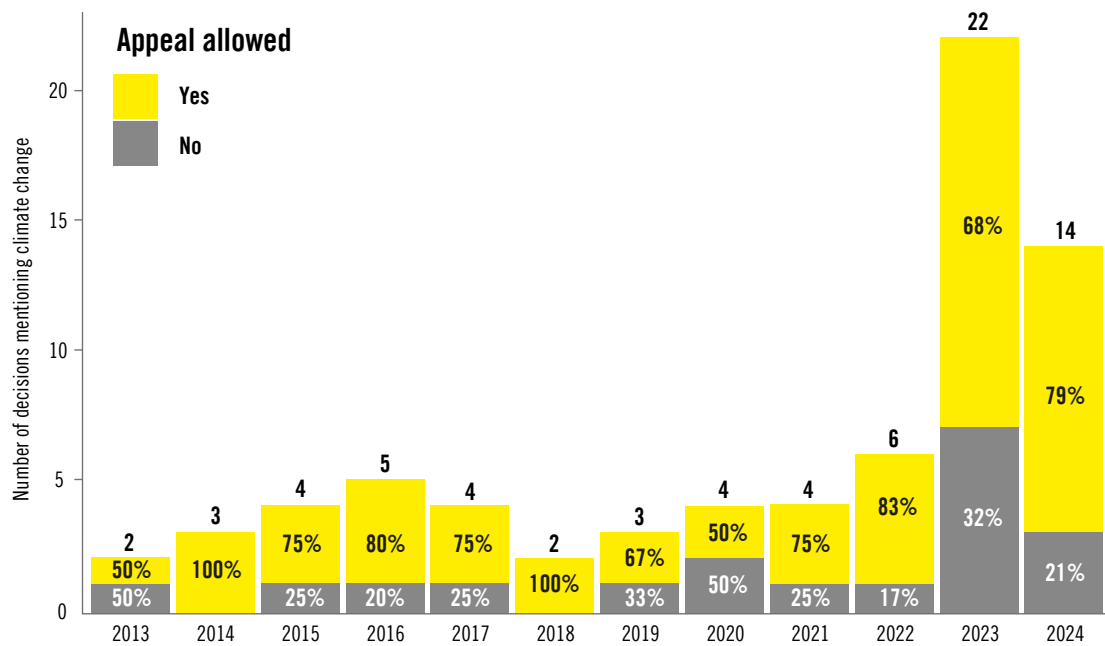


Figure 3: This bar graph shows the proportion of successful appeals among decisions that mention aspects of climate. The number on top of each bar indicates the total number of decisions on humanitarian appeals that mention climate change that year. The 2024 bar only represents decisions until 21 November. Bar segments are coloured according to whether a decision that mentions aspects of climate change allowed an appeal (yellow) or not (grey). Bar segments are annotated with the percentage of decisions mentioning climate change each year that allowed an appeal or not.

A 2023 decision known as *Limoni*,³⁴⁴ is a reference case for the IPT’s most recent jurisprudence. The IPT extensively considered the dire societal conditions linked to the environment in Tuvalu, accepting the following as “prevailing environmental and social issues”: high climate change vulnerability, land degradation, coastal erosion, coastal floodings from strong waves, high tides, storm surges, deteriorating groundwater quality due to increased salinity and pollution, occasional tropical cyclones, vulnerability to tsunamis and others.³⁴⁵ The IPT accepted that “the main problem facing the nation is ‘critical water shortage to satisfy human needs’ in times of drought”.³⁴⁶ Sanitation was also mentioned as an “issue of concern”,³⁴⁷ as well as housing, overcrowding³⁴⁸ and unemployment.³⁴⁹

This decision coincided with the spike in decisions considering elements linked to climate change or other environmental issues (see Figure 2), with climate change featuring more frequently among the elements considered by the IPT in determining the exceptional humanitarian circumstances required to stop deportations.

By 21 November 2024, at least 82 Tuvaluans and 30 I-Kiribati had successfully resisted their deportation, citing concerns linked to climate change and/or environmental conditions. The IPT’s caselaw suggests a growing recognition of the exceptional humanitarian risks posed by climate change and disasters for individuals from Tuvalu and Kiribati facing forced return.

344 *Limoni* [2023] NZIPT 505874.

345 *Limoni* [2023] NZIPT 505874, para. 27.

346 *Limoni* [2023] NZIPT 505874, para. 30.

347 *Limoni* [2023] NZIPT 505874, para. 31.

348 *Limoni* [2023] NZIPT 505874, para. 33.

349 *Limoni* [2023] NZIPT 505874, para. 34-35.

5.1.4 THE LIMITS OF THE CURRENT SYSTEM

While both s. 61 requests and the “humanitarian appeals” system may offer a pathway for people with irregular status to avoid deportation and thus provide safeguards against potential violations of the principle of non-refoulement, they also present significant limitations that leave many Pacific People in a precarious situation. These limitations make the system insufficient compared to international protection and highlight the need for a system that better protects people impacted by the climate crisis.

S. 61 requests are granted on a fully discretionary basis and cannot be considered as a protection measure that could provide any legal certainty to applicants.

As for the “humanitarian appeal”, first, this is a measure of last resort, as one can appeal only after becoming liable for deportation.³⁵⁰ While applications for international protection can be placed at any time, regardless of visa status, only individuals in an irregular migration status (overstaying their visa) can seek a humanitarian appeal. Irregular migration status involves serious human rights risks, including barriers to employment, healthcare or access to justice, exploitation and discrimination (see section 5.2 on living with irregular migration status in Aotearoa New Zealand).

“I arrived in New Zealand in 2018, and I stayed here ever since. I don't have a visa here, and I have not done [a humanitarian appeal] because I feel uncomfortable, I am afraid that [if I reveal my irregular status] the police would come. I want to continue staying here with my grandchildren, and I see the news of the king tides in Tuvalu, so I'm fearful.

I have been scared since I was a child, after part of my family died in Tuvalu from a cyclone in 1972. Four family members died. At that time, I was in Kiribati, and I was scared of going back to Tuvalu.³⁵¹

When I was living [in the islands], I felt uncomfortable. I was scared because of climate change... the waves were coming in the land and water was everywhere. It was coming in the house; I remember our cooking pots floating in the sea water. Parts of the house got destroyed.”

Akineti (not her real name), 64-year-old Tuvaluan woman, Aotearoa New Zealand, 13 March 2024

Second, the humanitarian appeal remains an “exceptional” individual measure,³⁵² that does not adequately and consistently protect people from risks that affect an entire population or large segments of it (as is the case for the impacts of climate change). Despite the Tribunal consistently finding the impacts of climate change in Tuvalu and Kiribati particularly serious, it often found such effects – regardless of their severity – insufficient on their own to grant the appeals, in the absence of individually exceptional circumstances when compared to those of the general population in Kiribati and Tuvalu.³⁵³

350 An appeal can only be lodged within 42 days after the appellant became “liable for deportation”; s. 154. This limitation is particularly concerning given that many people in irregular status may not be immediately aware of the legal options available to them or may struggle to secure legal representation within the given time frame. Many in this situation are only left with the possibility of applying for ministerial discretion with a s. 61 request, the outcome of which is left to the absolute discretion of the Minister. At times, the Minister issues a one-day visa, only to allow an individual to reset their deportation timeline and reapply for a humanitarian appeal, a practice that does not provide a meaningful solution but instead perpetuates legal uncertainty. Those who are already issued with a deportation order are legally prevented from this option too.

351 Kiribati and Tuvalu were part of one British colony (the Gilbert and Ellice Islands) until 1976, when they officially separated.

352 *Ye v. Minister of Immigration* (previously cited).

353 The IPT has consistently considered personal circumstances in addition to the impacts of climate change as necessary for appeals to be successful. For instance, in the Limoni case, the IPT determined that despite their gravity, environmental impacts “would not be exceptional compared to those of the general population. The difficulties and hardships the appellant is likely to face in terms of food, water, sanitation, crowded housing, and lack of employment are shared by large numbers of Tuvaluans”. It allowed the appeal only because “[t]he exceptional aspect of the appellant's situation is that she previously had stable employment in the public sector upon which she and her family depended”; *Limoni* [2023] NZIPT 505874, paras. 40-41.

Third, the potential outcome of a humanitarian appeal is uncertain. While Tribunal case law indicated a recognition of Pacific People’s environment-related humanitarian concerns, the flexibility and specificity of its legal framework also created inconsistencies, where cases presenting similar climate change impacts have obtained different outcomes.

Moreover, even where an appellant could demonstrate exceptional humanitarian circumstances, the law allows their deportation, if the IPT assesses that an individual has a medical condition requiring expensive treatments, or if they present “character issues”, which would make it “contrary to the public interest to allow the appellant to remain in New Zealand”.³⁵⁴

Finally, compared to the situation of refugees and protected persons who obtain permanent residence after a successful application for international protection, appellants for humanitarian appeals linger with uncertainty in relation to the kind of migratory status that they obtain after successfully challenging deportation, as the law equally allows for the issuance of either a resident (permanent) visa or a temporary visa for a period not exceeding 12 months.³⁵⁵ In 79.3% of the reviewed cases that were successful, residence status was granted, with the remaining 20.7% only granting temporary visas of up to one year.

5.2 LIVING WITH IRREGULAR MIGRATION STATUS IN AOTEAROA NEW ZEALAND

“If I had to go back tomorrow... I actually miss my island, but I cannot go back. If I had gotten a visa here, I would feel free. Till now we've been in a prison, without the freedom to do whatever you want to. Wherever you go, you find limits.”

Mele (not her real name), 58-year-old Tuvaluan woman with irregular migration status in Aotearoa New Zealand, 12 March 2024

People seeking to escape rising seas and living conditions that are increasingly compromising a life with dignity find themselves before a troubling reality: individuals hoping to migrate have no dedicated legal avenues, while those who do manage to reach Aotearoa New Zealand through other channels must first fall into irregular status before they can submit a humanitarian appeal against deportation. Protection from deportation is contingent on precarity, forcing individuals into legal limbo before their pleas for safety can even be heard.

“Overstaying” – remaining in the country beyond the expiration of a valid permit to stay or not complying with the terms of your visa – results in migrants falling into irregular status and becoming liable to deportation. The country does not exclude children from the possibility of being deported.³⁵⁶ The number of children in this situation is unknown.³⁵⁷ Recently, the first generation of children born with irregular status is reaching the age to start working or enrolling in university – for which showing a valid visa is required. Therefore, reports of New Zealand-born youth being faced with the prospect of

354 The IPT has interpreted the public interest criterion to encompass an assessment of whether the individual has a clear criminal record (“character” issues), and an assessment of the potential costs to the health systems if the appellant has a medical condition that requires treatment. See for instance *DA (South Africa)* [2021] NZIPT 505154 at [35]-[38].

355 Immigration Act 2009 (NZ), s. 210.

356 Since a 2006 amendment to New Zealand’s citizenship law, babies born in New Zealand also can be considered to have irregular migration status if neither of their parents was authorized to be in New Zealand. H.T. Nguyen and D.J. Kenkel, *Talení Seki Atagina - Te Akasakiga o Kaaiga Tuvalu Seki Nofo Tumau Iluga i Aotearoa Niusila, Hidden Gems - Lived Experiences of Tuvaluan Hope Seekers and Their Families in Aotearoa New Zealand*, 2021, UNITEC Institute of Technology and Tuvalu Auckland Community Trust, <https://www.unitec.ac.nz/sites/default/files/public/documents/Tuvalu%20project%20report%20FINAL-13.12.2021.pdf> (H.T. Nguyen and others, *Hidden Gems*)

357 RNZ, “Immigration New Zealand admits it lacks accurate data on child overstayers”, 25 February 2025, www.rnz.co.nz/news/indonz/542896/immigration-new-zealand-admits-it-lacks-accurate-data-on-child-overstayers;

deportation are growing.³⁵⁸ Data shared by MBIE with Amnesty International, shows that between 2014 and 2024, at least 15 children have been deported to either Tuvalu or Kiribati, or “voluntarily departed”, due to breaches of the Immigration Act 2009.³⁵⁹ People with irregular migration status live with the constant fear of detection and deportation and are forced to lead a life in the shadows, avoiding contact with the authorities. *Mele*, for example, recounted how scared she was of releasing a statement to the police after a crime occurred in her neighbourhood. “One day,” she said, “the police came to our house because something bad had happened on the other side of the street..., asking if we wanted to be witnesses. They just came to knock at our door.... I was scared because I don't know what they would ask [about my immigration status].”³⁶⁰

“During the time I was ‘unlawful’ in New Zealand, you still need to work but you are scared. Driving around was really scary. You don’t know when there’s checkpoints in the road... At that time, we never went anywhere, just work and home, shopping on Thursday and church on Sunday. It’s very limiting when I think back compared to now.”

Sosefina (not her real name), Tuvaluan woman in Aotearoa New Zealand, formerly living with irregular status, 14 March 2024

Many feared doing simple daily activities, such as driving or taking English classes, because leaving home might attract police checks. *Lisa* (not her real name) recalled that she “could not go anywhere until [her] status got cleared”, which prevented her from learning English:

“I haven’t gone to any language school to learn English... I must learn English to live here! I have been scared of going anywhere. I have been scared of going to school if immigration showed up. I was only going to church... I had a very fast heartbeat waiting for the clearance. We were praying as a family to get my clearance.”³⁶¹

Migrants with irregular status are legally prevented from accessing the labour market and therefore have no choice but to either accept low-paid jobs in the informal sector or to seek support from their families and social network. While they are more likely to face discrimination, abuse and various forms of exploitation, their access to justice is jeopardized, with the fear of deportation preventing them from effectively seeking any opportunity to vindicate their rights, or to access the remedies which should protect them.³⁶²

358 RNZ, “Citizenship law under fire as children discover they are overstayers”, 19 February 2025, www.rnz.co.nz/news/national/542345/citizenship-law-under-fire-as-children-discover-they-are-overstayers; RNZ, “Preventing deportation of NZ-born teen ‘sensible thing to do’ – Labour”, 18 February 2025, www.rnz.co.nz/news/national/542178/preventing-deportation-of-nz-born-teen-sensible-thing-to-do-labour.

359 This includes cases of children being “deported”, “self-deported” (“left at no cost to the Ministry” after being served with a deportation order), or “voluntary departures” (“left at no cost to the Ministry” and prior to being served a deportation order). MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982 by MBIE, Answer to question n. 18, and Table 2, Appendix C.

360 Interview with *Mele*, 58-year-old Tuvaluan woman living in Aotearoa New Zealand, Auckland, March 2024.

361 Interview with *Lisa*, 56-year-old I-Kiribati woman living in Aotearoa New Zealand, Auckland, March 2024.

362 CESCR, *General Comment 23: The Right to Just and Favourable Conditions of Work*, 2016, UN Doc. E/C.12/GC/23, para. 47(e); UN Human Rights Council, *How to expand and diversify regularization mechanisms and programmes to enhance the protection of the human rights of migrants: Report of the Special Rapporteur on the human rights of migrants*, 20 April 2023, UN Doc. A/HRC/53/26, para 33-34; CEDAW, *General Recommendation No. 26 on women migrant workers*, 5 December 2008, UN Doc. CEDAW/C/2009/WP.1/R paras. 21-22.

“Many overstayers here are conned by people who say they are immigration lawyers, asking a lot of money but doing nothing about their cases, and then they are left without any money.

The problem is also that here overstayers cannot access decent jobs. They can only work in the farms, but now even the farms are asking for an IRD number [taxpayer identifier number]. They can only work under the table. They are also being exploited, paid NZ\$10 or less, in some very ugly jobs in various sectors, like cleaning, farming, construction. There are many cases like that.”

Teo, Tuvaluan man, Aotearoa New Zealand, 15 March 2024

These findings confirm those of the 2021 *Hidden Gems* report by the Unitec Institute of Technology and the Tuvalu Auckland Community Trust, which provided a first rare glimpse into the plight of undocumented Tuvaluans in Aotearoa New Zealand, whom it called “hope seekers”. The report denounced Aotearoa New Zealand’s immigration system for inadequately reflecting the climate-driven humanitarian needs of people seeking to stay in Aotearoa New Zealand.³⁶³ *Hidden Gems* documented how “once they become overstayers, they are trapped in a system where the conditions mean that they are pushed down into hardship, no matter what they do, how hard they work, or how smart and creative they are”. The report described how Tuvaluans with irregular status had to give up on “good jobs” for fear of being detected and they were not eligible for government benefits. In practice, they were excluded from tertiary education opportunities, being left with no other choice than to work in “the lowest paid jobs”, facing financial hardship, destitution and social isolation. Many were “cheated and exploited by unethical lawyers and immigration agents”.³⁶⁴

Amnesty International met with *Teretia*, a young woman from Kiribati who was preparing her humanitarian appeal after living with irregular migration status for over five years.

“I cannot work here; my family is supporting me. I'm scared that people know [that I am undocumented]. I've been told that I cannot do anything, I cannot drive, I cannot work. If I drive, I could be stopped by the police, and they would find out. I want to do something; I want to go out.

I always dreamt to be in hospitality: housekeeping, cleaning, babysitting. I was even volunteering here for a [community] centre, but even for that I was asked for an IRD number, and I knew I couldn't get it because I'm an overstayer, so I also left the volunteering. Immigration would still consider it as work, and I'm not allowed to do that.”

Teretia, 28-year-old I-Kiribati woman living with irregular migration status in Aotearoa New Zealand, 14 March 2024

Teretia was assisting her family members in Aotearoa New Zealand, when her application for a visitor visa extension was declined. She had fled a situation that was “not good to start with” in Kiribati – having to share a two-room house with “30-40 people squashed together”. Her parents decided that it would be better for her to leave the country. She had been experiencing firsthand the impacts of climate change, as she recalled “the sea coming inside the house. It was a flat traditional home”. She told Amnesty International how she “was helping [her] aunts putting everything on the tables [to avoid water damage]”. She remembered “the sea coming closer and the wind being very strong” and “thinking to put my little nephews inside buckets, in case the sea comes in... Sometimes there were announcements of tsunamis. It did not happen, but it was always very scary. She said, “We always think,

363 H.T. Nguyen and others, *Hidden Gems* (previously cited).

364 H.T. Nguyen and others, *Hidden Gems* (previously cited).

what do we do? Where do we go? There is nowhere to go that is high enough.” She also recalled how difficult it was to get food and drinking water:

“We used to have little food, so we would feed the kids first, and we [the adults] would eat only if there were leftovers. For drinking water, we had a well, but with the sea level rise, the water becomes salty. The government provided drinking water in our area on Thursdays, so it could be times where we would get the water later [than when we needed]. The ‘government water’ is like rainwater. We used it to drink or to bathe babies, and the well water [for adults] to bathe.”³⁶⁵

5.2.1 IRREGULAR MIGRATION STATUS AND ACCESS TO HEALTHCARE

The right of everyone to enjoy the highest attainable standard of physical and mental health is a well-established human right recognized by a number of international treaties, including Article 12 of the ICESCR. The CESCR Committee has repeatedly reminded states of their obligation to ensure that all persons, regardless of their migration status, should have equal access to preventive, curative and palliative health services.³⁶⁶ Access to healthcare should be available, accessible, acceptable and of quality.³⁶⁷ Accessible also means economically affordable,³⁶⁸ an important factor for migrants not covered by subsidized healthcare. Access to health facilities, goods and services should be ensured on a non-discriminatory basis, especially for vulnerable or marginalized groups.³⁶⁹ Yet, the CESCR observed that “The lack of documentation frequently makes it impossible for parents to send their children to school, or for migrants to have access to health care, including emergency medical treatment, to take up employment, to apply for social housing or to engage in an economic activity in a self-employed capacity. That situation cannot be tolerated.”³⁷⁰

Irregular migrants are often prevented from accessing essential services, undermining their economic, social and cultural rights.³⁷¹ Even where they may have a nominal entitlement to access services, excessive costs due to being excluded from national insurance schemes, or the fear of detection and deportation often stops them from seeking services or interacting with the authorities. Ultimately, they live in situations of extreme marginalization. *Hidden Gems* also documented how the constant fear of

365 Interview with *Teretia*, 28-year-old I-Kiribati woman living with irregular migration status in Aotearoa New Zealand, interviewed in Auckland, March 2024.

366 CESCR, General Comment 14: The Right to the Highest Attainable Standard of Health (Article 12), 2000, UN Doc.E/C.12/2000/4 (CESCR, General Comment 14), para. 34; CESCR, *Duties of States Towards Refugees and Migrants Under the International Covenant on Economic, Social and Cultural Rights*, UN Doc. E/C.12/2017/1 (CESCR, *Duties of States Towards Refugees and Migrants*), paras. 5, 6, 9, 11, 12 and 15.

367 CESCR, General Comment 14 (previously cited), para. 12.

368 CESCR, General Comment 14 (previously cited), para. 12(b).

369 CESCR, General Comment 14 (previously cited), para. 43(a).

370 CESCR, *Duties of States Towards Refugees and Migrants* (previously cited).

371 The “fundamental rights of all persons, regardless of their migration status, include: The right to life, liberty and security of the person and to be free from arbitrary arrest or detention, and the right to seek and enjoy asylum from persecution; The right to be free from discrimination based on race, sex, language, religion, national or social origin, or other status; The right to be protected from abuse and exploitation, to be free from slavery, and from involuntary servitude, and to be free from torture and from cruel, inhuman or degrading treatment or punishment; The right to a fair trial and to legal redress; The right to protection of economic, social and cultural rights, including the right to health, an adequate standard of living, social security, adequate housing, education, and just and favourable conditions of work; and Other human rights as guaranteed by the international human rights instruments to which the State is party and by customary international law”; UN Global Group on Migration, *Statement on the Human Rights of Migrants in Irregular Situation*, 30 September 2010, www.refworld.org/policy/statements/ohchr/2010/en/85574

deportation, and lack of access to healthcare, education and employment led to severe mental health decline for Tuvaluan “hope seekers”.³⁷²

“Looking back at the time when I was an overstayer, it was really hard. I feel for overstayers here. It’s hard to see doctors because of the fees, it restricts the kids from going to school. It’s really hard life, but on the other side, looking back about climate change in the islands... when you look at the videos and photos of the king tides, it’s really sad. Many of the places we used to go to, like where we played volleyball, they now get covered in water.”

Sosefina, Tuvaluan woman, Aotearoa New Zealand, 14 March 2024

In Aotearoa New Zealand, irregular migrants are excluded from subsidized healthcare, and they must pay inaccessible “international rates”, at times leading to lifelong debt.³⁷³ For instance, they are not able to access publicly funded medications or funded maternity services, and undocumented mothers must pay “international rates” to give birth in an Aotearoa New Zealand hospital or receive antenatal care.³⁷⁴

Many shared how hard it was to get healthcare, especially as they had to pay much higher fees. Such costs have a chilling effect on people with irregular status who may prefer not to seek health, at great risk to their well-being and safety. *Mele*, a 58-year-old woman from Tuvalu told Amnesty International that she had been living in Aotearoa New Zealand for over 20 years with an untreated condition that has been causing visible infections on her abdomen. After an initial check from a family doctor several years ago, due to her irregular status, she never went to see a doctor again. When Amnesty International spoke to her, she was preparing a humanitarian appeal to enable her to finally receive medical treatment.

“I am doing [a humanitarian appeal] because otherwise it is difficult to access healthcare. Every time you have a private visit, you must pay a lot of money. I have a sickness that cannot be treated in Tuvalu. I first came here to treat it... I had an uncle who was a doctor here, so he initially treated it. After that I never knew if it was in a good state or not, because I never went to the hospital to check. I’m waiting to get my visa to go and have a check.”

Mele, 58-year-old Tuvaluan woman with irregular status in Aotearoa New Zealand, 12 March 2024

Amnesty International also met *Maleta*, a person with diabetes. Because of her irregular status, she must pay international rates for treatment – about NZ\$200 for insulin, while residents can have it for free. She needed to regularly visit a GP for treatment, paying up to 400% more than residents per visit. Not being allowed to work and gain an income, she relied on family members to buy her medicines.

372 In addition to obstacles in accessing healthcare, the *Hidden Gems* report also denounced instances of children in compulsory education being “inappropriately asked for passports or residence documents” “due to a lack of knowledge among school staff”. It described difficulties in accessing decent housing and affordable healthcare. H.T. Nguyen and others, *Hidden Gems* (previously cited).

373 They are generally included though in health services where lack of access might represent a risk for the broader population, including in relation to infectious diseases. People with irregular status have had free access to COVID-19 immunizations, and children are eligible for immunizations offered to New Zealanders. H.T. Nguyen and others, *Hidden Gems* (previously cited), pp. 14-15.

374 H.T. Nguyen and others, *Hidden Gems* (previously cited), pp. 29-30; this finding is confirmed by the “Guide to eligibility for public health services” published by Aotearoa New Zealand’s Public Health Agency, which consistently requires citizenship, residency or specific visas status to access publicly funded health services. Limited exceptions include compulsory treatments, childhood vaccinations, treatment for infectious diseases, specific maternity services for women living with HIV, services for people in custody. Maternity services may also be available to otherwise ineligible women if their partners are eligible (for instance, as citizen or visa holders); see Te Whatu Ora – Health New Zealand, “Guide to eligibility for public health services”, (undated) www.tewhatauora.govt.nz/corporate-information/our-health-system/eligibility-for-publicly-funded-health-services/guide-to-eligibility-for-public-health-services (last accessed August 2025).

“I still don’t have my papers – I don’t have any of the privileges and rights of New Zealanders... As a diabetic patient, I have never been denied care, but it is very expensive for me... If I had my legal papers, insulin would be free and residents would pay only about NZ\$20 per visit. I just need my papers to be approved, and I will have my rights to get my medication.”

Maleta, 46-year-old Tuvaluan woman with irregular status living in Aotearoa New Zealand, 14 March 2024

Lisa is an older woman from Kiribati who has been living in Aotearoa New Zealand with irregular status while taking care of her daughter’s family. She told Amnesty International how, having been billed several thousand NZ dollars for a hospital medical check that lasted “a few hours”, she decided never to go to hospital again, regardless of her condition:

“If I had got COVID, I wouldn’t go to the hospital because I was hospitalized once before for a few hours and I was billed thousands of dollars. Over 10,000! In that moment I realized I couldn’t access healthcare here. [It happened] when I came back from my daughter’s wedding. I had heart ache, maybe from the stress. I went to the hospital, and I told them I had heart pain in my chest, and they found I had hypertension. I felt sad to realize I couldn’t go to the hospital. I felt sicker than when I had entered. They asked me for NZ\$17,000 for three hours. I was crying when the bill came out and I knew my kid had to pay for it because I did not have the money. My kid has paid it back.”

Lisa, 56-year-old I-Kiribati woman, Aotearoa New Zealand, 13 March 2024

Lisa had only recently arrived in Aotearoa New Zealand when she was hospitalized. She attributed her medical condition, including hypertension, to the living conditions she had experienced back in Kiribati. After spending some time in Aotearoa New Zealand, away from environmental stress, she reported feeling much better. Yet, she continued to fear the moment she might need healthcare again.

“I had dental issues after that, but I had to find home remedies because I was not confident to go to the hospital any more. Home remedies sometimes help but I still have a lot of dental pain. Now I’m scared that the cold comes again. When COVID hit, I was very worried because I felt I couldn’t have access to the hospital, and I told my daughter to send me back to Kiribati so that if I died, I wouldn’t be a further burden for my kids. If I had a ‘clear immigration status’, I wouldn’t worry about that.”

Lisa, 56-year-old I-Kiribati woman, Aotearoa New Zealand, 13 March 2024

Just like *Lisa*, many of those Amnesty International spoke to with irregular status were people of older age and/or with medical conditions. This was the case, for instance, of *Fakatou* (not his real name; 72-year-old Tuvaluan man), *Fiafia* (68-year-old Tuvaluan woman), *Akineti* (64-year-old I-Kiribati woman), *Noa* (59-year-old Tuvaluan man), *Mele* (58-year-old Tuvaluan woman), *Tafao* (not her real name; 58-year-old Tuvaluan woman), *Susana* (54-year-old Tuvaluan woman), and *Lisa* (56-year-old woman from Kiribati). As older people, they shared with Amnesty International their deep concern for how their countries of origin have dramatically changed over their lifetime, but also their unease over the limitations they must face in Aotearoa New Zealand because of their status.

“I came here because I am sick. I have blood pressure problems. I have diabetes and hypertension, but I am feeling so much healthier here than in the islands. I tried [apply for resident visas] but they were declined because of my sickness. I then came with a visitor visa; my children are here... They advised me to go back home. But there is no medical help there. I still do ‘some business’ to support my medical costs, like making handicrafts, garlands.

I am an older person. Since I was a kid, I saw a huge change because of climate change. I experienced waves going through the house in the village, and that had never happened when I was a child... Water coming out of nowhere, coming up in the middle of the land, I had never seen that before. Before you could see waves coming from the coast, but nowadays it just comes up out of nowhere. It is immediate. The sea comes from the ground.”

Fiafia, 68-year-old Tuvaluan woman with irregular migration status in Aotearoa New Zealand, 14 March 2024

“My children here are NZ citizens, and they are working to support for my healthcare, with a support from a local charity, because otherwise for me, as an overstayer, it is very expensive. A visit that would normally cost NZ\$20 or 30, I would have to pay NZ\$100-150”.

Fakatou, 72-year-old Tuvaluan with irregular migration status in Aotearoa New Zealand, 15 March 2024

“I’m scared for my mom, if she gets sick and we cannot go to the hospital because of the costs. She has not been sick so far, but I’m always worried if she gets sick. She came in 2018, and we tried to clear her status with Immigration New Zealand, but nothing happened. We never received an answer to our queries during the Pandemic. She came with a visitor visa from Tarawa, life was hard, she was really worried about climate change.”

Ameria, daughter of Akineti, Aotearoa New Zealand, 13 March 2024



The people of Kiribati are under pressure to relocate due to sea level rise. Each year, the sea level rises by about half an inch. Though this may not sound like much, it is a big deal considering the islands are only a few feet above sea level, which puts them at risk of flooding and sea swells. © 2015 Jonas Gratzner/Getty Images

5.3 PROTECTION FROM RETURN FOR INDIVIDUALS AND GROUPS MOST AT RISK FROM THE IMPACTS OF CLIMATE CHANGE AND DISASTERS

In cases where an individual's return to their country is not advisable or is impossible, states must formalize the individual's situation and grant them some form of residence permit allowing them the enjoyment of human rights, including the right to an adequate standard of living.³⁷⁵ Access to stable and more permanent regularization permits is especially important in cases involving non-refoulement concerns where return does not seem possible in the longer term, such as in the case of people unable to return to their country of origin because of the impacts of climate change. If such effects are permanent, those affected should have access to permanent regularization pathways.³⁷⁶

A mere withholding of deportation – without the possibility of enjoying a formal legal status – is neither sufficient nor compatible with human rights law. The status afforded should provide for recognition of basic rights as defined in relevant international and regional instruments, including access to employment, education, healthcare, adequate housing, family reunification and so forth.³⁷⁷ Durable solutions must be established for migrants who, due to the situation in their country of origin, cannot be returned.³⁷⁸ This includes regularizing groups or individuals for whom this process is necessary for the enjoyment of their human rights.³⁷⁹

International and domestic case law should have served as wake-up calls for the government of Aotearoa New Zealand to establish clear, non-discretionary, individualized human rights-based mechanisms to recognize Pacific People's non-refoulement needs due to climate change-related fears, granting them a regular status and full exercise of their rights.

The latest reminders came from the ICJ's assessment that "conditions resulting from climate change which are likely to endanger the lives of individuals may [...] prevent them from returning to their own [country]", and that in this context states have obligations under the principle of non-refoulement.³⁸⁰ The court also noted that the IPCC has described sea level rise as "unavoidable" and has concluded with a high level of confidence that, as a result, the risks to people will continue to increase. It noted that scientific data "demonstrates that sea level rise is likely to have adverse consequences

375 UNHCR has encouraged states, "in granting complementary forms of protection to those persons in need of it, to provide for the highest degree of stability and certainty by ensuring the human rights and fundamental freedoms of such persons without discrimination, taking into account the relevant international instruments and giving due regard to the best interest of the child and family unity principles". UNHCR, Conclusion 103 (LVI): Provision of International Protection Including Through Complementary Forms of Protection, 2005, UN Doc. A/AC.96/1021 ([UNHCR, Complementary Forms of Protection](#)).

376 Amnesty International, *Americas: Amicus curiae* (previously cited), paras. 104-109.

377 UNHCR (2001), Complementary Forms of Protection, paras. 19-24, www.refworld.org/reference/research/unhcr/2001/en/12588; see also UNHCR, *Guidance Note on International Protection Considerations for Venezuelans. Update I*, May 2019, www.refworld.org/docid/5cd1950f4.html. As stated by the Special Rapporteur on the human rights of migrants, "There is a need for migration with dignity for all migrants, including those affected by climate change, and to address their human rights and protection.... States should put into action their commitment to... put in place appropriate mechanisms to guarantee that all migrants who require human rights protection and are unable to return to their countries owing to climate change are provided with a legal status". UN Special Rapporteur on the Human Rights of Migrants, Report, 19 July 2022, UN Doc. A/77/189

378 The former UN Special Rapporteur on the Human Rights of Migrants recommended that countries: "Establish durable solutions for migrants who, due to the situation in their country of origin or non-cooperation of consular authorities, cannot be returned. This should include providing them with an appropriate status"; UN Special Rapporteur on the Human Rights of Migrants, Report: Management of the External Borders of the European Union and its Impact on the Human Rights of Migrants, UN Doc. A/HRC/23/46, para. 95.

379 The PRFCM also included commitments to "explore opportunities to provide people who are compelled to cross borders in the context of the adverse effects of climate change with... access to longer-lasting and sustainable solutions including... regularisation of their legal status as relevant in line with each domestic laws and regulations as relevant". PIFS, *PRFCM* (previously cited), para. 39.

380 ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), para. 378.



It takes a week for this Tuvaluan woman to weave this traditional Tuvaluan mat at her home on Funafuti. © Amnesty International

particularly for “small island” and “low-lying” coastal states, “potentially leading to the forced displacement of populations within their territory or across borders”, as well as affecting their territorial integrity and their population’s right to self-determination.³⁸¹

In addition to individualized mechanisms available to nationals of any country, there may be situations where return is not possible for entire groups, due to the serious human rights implications that climate change and disasters create in their countries of origin as a whole, especially in the context of a phenomenon that has been described as “unavoidable” and that affects whole populations. For these reasons, in at least the following cases, protection mechanisms should be in place to allow the automatic suspension of deportation liability for an entire group, allowing them access to regular status and full exercise of human rights.

This would be the case for:

- Nationals of the countries most affected by climate change, such as Tuvalu and Kiribati, where sea level rise and other impacts of climate change constitute an existential threat on human rights for entire communities; and/or
- The groups most impacted by major disasters, such as cyclones, tsunamis, earthquakes, volcanic eruptions and so forth, in the aftermath of such disasters.

³⁸¹ ICJ, *Advisory Opinion on the Obligations of States in Respect of Climate Change* (previously cited), paras. 356-357.

CONCLUSIONS AND RECOMMENDATIONS

“I remember in high school once, I was putting my trash in the wrong bin and the teacher told me off telling me ‘Your island is sinking, you should pay more attention’. It got me mad because it is not only our responsibility to fight climate change, it is everybody’s!”

Aroara (not her real name), 20-year-old woman from Kiribati, Aotearoa New Zealand, 8 March 2024

“Climate change for us is life and death.”

Susana, 54-year-old Tuvaluan woman with irregular status in Aotearoa New Zealand, 14 March 2024

Climate change is a present and accelerating crisis wreaking havoc on the human rights of millions of people. Across the Pacific, the catastrophic impacts of climate change and disasters are undermining basic human rights, including the rights to food, water, health and housing, ultimately compromising the very essence of the right to life and to live with dignity. These issues do not affect all people equally. Those who are disproportionately impacted include children, older persons, people with disabilities, and people with medical conditions.

Pacific nations are on the front lines, facing rising seas, extreme weather events and the erosion of their homelands. Communities have shown extraordinary resilience, pursuing adaptation and mitigation strategies to safeguard human rights and guarantee that people can remain on their lands. However, the scale and urgency of the threat require far greater international cooperation and support across the Pacific and beyond. This is particularly the case for low-lying nations, such as Tuvalu and Kiribati, where possibilities for internal relocation are scarce vis-à-vis the existential threat posed by rising sea levels. All countries have obligations to collectively fight climate change, so that people’s right to live in dignity in their homeland is truly ensured. High income countries that were historically big emitters such as Aotearoa New Zealand have a heightened responsibility to lead the way and support lower income countries, particularly island and low-lying states, with among others, grant-based climate finance.

Faced with such threats, many in the Pacific see migration as a necessary part of adaptation. Aotearoa New Zealand and the rest of the international community have an obligation to respect, protect and promote the human rights of those who move in response to climate change, facilitating those affected in rebuilding their lives across borders. The PRFCM reminded that “rights-based” migration means that mobility “should be built on rights inherent to all human beings without discrimination, based on the principles of dignity, equality and mutual respect”.

Aotearoa New Zealand was previously perceived as a global leader on both climate action and human rights issues. Yet, its current immigration policy framework fails to reflect leadership when it comes to climate-affected Pacific People. Regular pathways for migration remain severely limited. Existing schemes, although offering a lifeline for some, are mostly lottery-based, and as such they are inherently arbitrary. Discriminatory health and age criteria exclude older people, individuals with health conditions, and persons with disabilities – violating international human rights law.



Tuvalu stage at Pasifika Festival 2024 in Auckland, a festival celebrating Pasifika New Zealanders and their pan-cultural identity.
© Amnesty International

The failure to provide adequate legal pathways, including specific pathways for those most at-risk from climate harm, has left many Pacific People with little choice but to overstay visas and fall into irregular status. Pacific People with irregular migration status in Aotearoa New Zealand live under constant threat of deportation and being forced back to the increasing risks from the climate crisis. They are denied access to basic rights and essential services. This treatment is incompatible with Aotearoa New Zealand's international obligations, including the right to an adequate standard of living and broader economic, social and cultural rights.

It is imperative that Aotearoa New Zealand urgently reforms its immigration and protection policies to align with a rights-based approach to climate-related displacement. This would include offering a dedicated humanitarian visa and/or additional complementary pathways prioritizing those who are unable to meet the PAC and SQ requirements; repealing any discriminatory immigration requirement, and ensuring the rights of those who migrate, including their family unity.

For people challenging returns, Aotearoa New Zealand has not established any consistent or transparent mechanism or guideline for addressing climate-related claims for international protection. Instead, the current systems rely on processes that are discretionary, exceptional and rigged with uncertainty. The "humanitarian appeal" system has saved some from deportation, but its limitations perpetuate precarity, and force individuals to live in limbo before relief becomes available. Aotearoa New Zealand must ensure that all people at real risk of serious human rights violations upon return on account of the impacts of climate change and environmental disasters can access, at any time and regardless of migration status, dedicated protection mechanisms leading to regular status. This applies in particular to people from island countries, such as Tuvalu and Kiribati, where sea level rise threatens the right to live with dignity for entire communities. Their deportations must be suspended and their access to rights in Aotearoa New Zealand should be ensured.

Aotearoa New Zealand – and the international community at large – must act now to protect, respect and promote the rights and dignity of Pacific People in the face of the climate crisis, both at home and in their country of destination. Anything less is a betrayal of our shared responsibility to uphold human rights and ensure climate justice.

In light of these findings, Amnesty International makes the following recommendations:

TO AOTEAROA NEW ZEALAND:

All recommendations to the New Zealand Government must be addressed in a way that upholds obligations under Te Tiriti o Waitangi and International Indigenous human rights law.

Increase the range of rights-based migration opportunities available to Pacific People affected by climate change. In particular:

- Collaborate at regional, sub-regional, and bilateral levels with Pacific Island Countries to develop and implement harmonized rights-based policies and practices on admission and stay in the context of climate change and disasters, in line with the PRFCM.
- Consider free movement arrangements.

Adopt complementary pathways to admission for people displaced in the context of climate change. In particular:

- In close consultation with, and with the active involvement of Pacific communities, establish rights-based “humanitarian” visas and/or other complementary pathways targeting people impacted by climate change and disasters that allow them “to move safely and on their own terms in the context of climate change”, in line with the PRFCM.
- These complementary pathways should:
 - prioritize for admission groups and individuals who are unable to meet the PAC or SQ requirements, such as those who are older than 45, with disabilities, and people with medical conditions.
 - assess the risk of human rights harm related to the impacts of climate change and disasters, taking into account not only the full range of hazards to which the applicant may be exposed, but also the circumstances, characteristics and capacities of the individual applicant.
 - ensure people can fully access their economic, social and cultural rights in Aotearoa New Zealand, and that they can return on their own terms to their home countries, should they wish to do so, to preserve connections, while not risking losing their regular migration status in Aotearoa New Zealand.
 - include private/community sponsorship, family reunification and/or work and study programmes targeting people impacted by climate change and disasters.

Review domestic migration laws and policies to ensure that they align with applicable international human rights law, are non-discriminatory and free from exploitation. This includes:

- immediately repealing any “acceptable standards of health” (ASH) requirements, which discriminate against people with disability and/or medical conditions.
- accepting and implementing the recommendations of the United Nations Committee on the Rights of Persons with Disabilities to “(a) Review and amend [...] immigration and asylum legislation and administrative rules, in close consultation with and with the active involvement of organizations of persons with disabilities and migrants and refugees, to ensure that persons with disabilities do not face discrimination in any of the formalities and procedures relating to immigration and asylum, in particular as a result of the application of the acceptable standard of health requirements; (b) Reverse the ineligibility under the acceptable standard of health medical waiver policy of persons with disabilities whose impairment requires full-time care; (c) Repeal section 392, paragraphs (2) and (3), of the Immigration Act of 2009, which prohibits the lodging of immigration-related complaints to the Human Rights Commission”.³⁸²

382 CRPD, Concluding Observations: New Zealand (previously cited), para. 38.

- immediately repealing all rules perpetuating prolonged family separation, including Instruction A4.60(b) of INZ's Operational Manual - which does not allow medical waivers to be issued to family members of Aotearoa New Zealand residents applying for a family category visa, if they were eligible to be included in an earlier application for a residence class visa, such as PAC or SQ, as part of a family application and were either not declared or included, or were withdrawn from that earlier application.
- restoring unity in Aotearoa New Zealand for all the families of people with disabilities who have been separated in the process of migrating due to difficulties meeting the ASH requirements, issuing visas to all family members with disabilities.
- extending access to PAC and SQ visas to people over the age of 45.

Enhance flexibility of, and access to, existing migration pathways for Pacific People and expand pathways to permanent stay for people from affected communities. In particular:

- Ensure that visa holders in Aotearoa New Zealand can return at any time to their Pacific Island Countries without jeopardizing their right to continue living in Aotearoa New Zealand.
- Reform the RSE scheme to ensure fair treatment of RSE workers, including by implementing the recommendations of New Zealand's Te Kāhui Tika Tangata Human Rights Commission's Human Rights Review of the RSE Scheme.

Ensure access to international protection and durable solutions for Pacific People in Aotearoa New Zealand who would face a real risk of serious human rights violations related to climate change and disasters if returned. In particular:

- Develop and implement specific guidelines, policies and training to ensure that domestic refugee law is interpreted and applied in accordance with the guidance in UNHCR's *Legal Considerations Regarding Claims for International Protection Made in the Context of the Adverse Effects of Climate Change and Disasters*.
- Establish targeted, non-discretionary and individualized protection mechanisms for people who cannot be returned to the country of origin on account of the impacts of climate change and environmental disasters. These mechanisms should be accessible at any time, irrespective of migration status in Aotearoa New Zealand, and free from "public interest" requirements.
- In situations where return is impossible due to the serious human rights implications of climate change and disasters on entire communities, automatically suspend deportation liability for an entire group/s, allowing them access to regular status and full exercise of their human rights. This includes establishing mechanisms to automatically suspend deportations and grant regular status to:
 - nationals of the countries most affected by climate change – such as Tuvalu and Kiribati – where the impacts of climate change constitute an existential threat to entire communities; and/or
 - the groups most impacted by major disasters, such as cyclones, tsunamis, earthquakes, volcanic eruptions and so forth, in the aftermath of such disasters.

Ensure the effective enjoyment of economic, social and cultural rights – including the right to an adequate standard of living – for all people with irregular migration status in Aotearoa New Zealand.

- This should include guaranteed and subsidized access, regardless of migration status, to accessible and affordable healthcare encompassing preventative, curative and palliative services.

TO THE GOVERNMENTS OF KIRIBATI AND TUVALU:

- Ensure to the greatest extent possible that the right to adequate housing, including climate-resilient housing and security of tenure, the right to health and access to health care, the right to clean drinking water and the right to food are adequately protected for all people.
- Ensure that at-risk people including but not limited to older people, persons with disabilities and persons with medical conditions are included and consulted in disaster response, and climate mitigation and adaptation plans that impact them.
- Work with the international community to ensure climate finance – primarily in the form of grants – is adequately resourced, reaches those who are disproportionately impacted by the effects of the climate crisis, and implemented with appropriate consultation consistent with international human rights law and standards.
- Conduct adequate and meaningful public consultation, particularly ensuring the participation without discrimination of those most affected by climate change and by the proposed decisions, when planning and designing climate strategies, laws, national plans, including specific climate mitigation and adaptation projects and initiatives, as well as international cooperation initiatives to facilitate migration in the context of the climate crisis, and any relocation plans for impacted communities.
- Fulfil their obligations under international law in relation to the rights of internally displaced persons and ensure these are reflected in domestic laws and policies. Work with the international community to ensure opportunities for human rights-based migration for people affected by climate change and disasters for those who wish to migrate, and work towards removing existing barriers to movement, including discrimination and poverty.

TO THE INTERNATIONAL COMMUNITY, INCLUDING AOTEAROA NEW ZEALAND AND PACIFIC ISLAND COUNTRIES:

- Rapidly and equitably phase out all fossil fuel extraction, production and use, and shift towards renewable energy for all produced in a manner consistent with human rights as quickly as possible, based on a state's capacities and responsibility for emissions.
- Rapidly provide adequate, new, additional and predictable finance – primarily in the form of grant equivalent public finance – to support Pacific Islands in reducing emissions, adapting to climate change, ensuring just transitions away from fossil fuels in all sectors, and addressing loss and damage to ensure Pacific People's right to live in dignity in their homelands is truly protected, and climate-related forced displacement is prevented to the greatest possible extent.
- Massively scale up funding for adaptation to address the adaptation finance gap.
- Reduce the likelihood and extent of climate-related displacement both internally and across borders, by supporting communities to stay safely at home, and avoid forced displacement and loss and damage to the greatest possible extent, supporting adaptation efforts.
- Protect people from disasters domestically and through international cooperation, as well as implementing commitments under customary international law, the SDGs, the Sendai Framework for Disaster Risk Reduction and the Paris Agreement.
- Ensure that climate adaptation projects such as island raising and relocating homes or communities are supported by national and international climate finance mechanisms, that they respect and protect all human rights, including the right to adequate housing and the right to a clean and healthy environment,

and that climate projects specifically prioritize at-risk people such as people with disabilities, people with medical conditions and older people.

- If permanent, planned or temporary relocations become necessary as a measure of last resort to protect people from the unavoidable impacts of climate change and disasters, ensure that:
 - the human rights of both the displaced and the host communities are respected, protected and fulfilled throughout the relocation process.
 - a genuine consultation process is followed, with a particular focus on meaningful participation of at-risk individuals such as persons with disabilities, persons with medical conditions and older people.
 - the affected people can re-establish themselves and maintain their collective identity and right to self-determination in a safe and adequate location that ensures all their human rights are guaranteed.

Increase and enhance international protection and rights-based migration opportunities for Pacific People and others affected by the adverse effects of climate change:

- Conclude and implement bilateral agreements and/or regional frameworks that facilitate safe and regular migration as an adaptation tool for communities most at risk in the context of climate change and disasters, including considering free movement arrangements.
- Establish new – and increase the range of existing – rights-based migration opportunities available to those affected by climate change impacts and disasters, including complementary pathways, such as “humanitarian” visas, temporary residence permits and other pathways for admission that specifically target people at risk of human rights violations caused by the impacts of climate change and disasters.
- Ensure that all migration pathways (including work visas, visas for educational purposes, or family visas) are non-discriminatory and free from exploitation.
- Refrain from removing anyone to any place where they would face a real risk of serious human rights violations as a result of the adverse effects of climate change and disasters. This would include:
 - taking into account the risk of human rights violations caused by the impacts of climate change when reviewing claims for international protection, following UNHCR’s *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters*; and
 - establishing specific international protection mechanisms for people who cannot return to their countries on account of the adverse effects of climate change and disasters.
- Ensure the meaningful, effective and informed participation of all persons, especially migrants, refugees, asylum seekers, internally displaced people, diaspora communities, and all those most affected by the climate crisis, to participate in national, regional and international decision-making processes related to climate change and international migration.
- Cooperate to implement the Pacific Regional Framework on Climate Mobility, the Global Compact on Refugees, the Global Compact for Migration and the recommendations of the UNFCCC Task Force on Displacement; and
- Consider integrating the human rights protections and recommendations proposed in the Kaldor Centre Principles of Climate Mobility.

ANNEX 1: CONDUCTING QUANTITATIVE ANALYSIS OF DECISIONS ON ‘HUMANITARIAN APPEALS’ OF CITIZENS OF TUVALU AND KIRIBATI.

INTRODUCTION

Amnesty International conducted a quantitative analysis of Aotearoa New Zealand’s Immigration and Protection Tribunal (IPT) decisions on ‘humanitarian appeals’ against deportation of citizens of Tuvalu and Kiribati. The analysis provided systematic insights into the outcomes of these cases and supported corroboration of the findings from interviews and desk research. Empirical analysis and data visualization were completed using the R programming language for statistical computing.

This appendix provides detail on each aspect of the quantitative research methodology regarding data collection, manual coding and empirical analysis.

RESEARCH METHODOLOGY: IDENTIFYING IMMIGRATION AND PROTECTION TRIBUNAL DECISIONS

In Aotearoa New Zealand, the Immigration and Protection Tribunal (IPT) hears and determines appeals concerning “liability for deportation”, among other issues.¹ The IPT is a statutory body, administered by the Ministry of Justice. The tribunal is chaired by a District Court Judge appointed by the Governor-General on the recommendation of the Attorney-General. It has 18 members, appointed by the Governor-General on the recommendation of the Minister of Justice.

For this research Amnesty International was interested in the IPT decisions related to humanitarian appeals against deportation decisions filed by nationals of Tuvalu and Kiribati who were “liable for deportation” due to an irregular immigration status.

Decisions on humanitarian appeals are made by the IPT, which has authority under the Immigration Act 2009 to overturn a deportation decision, if there are “*exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the appellant to be deported*” (Immigration Act, s. 207). If the appeal is successful, the appellant’s liability for deportation is lifted and the IPT may order the granting of a visa.²

The IPT decisions related to humanitarian appeals against deportations are publicly available from a database of deportation decisions available on the Ministry of Justice’s website (<https://forms.justice.govt.nz/search/IPT/Deportation/>). This database can be searched systematically.

Amnesty International researchers filtered decisions concerning Kiribati and Tuvalu nationals by altering information entered in the “country” option to either “Tuvalu” or “Kiribati” and leaving all other search field options as “Any” or blank.

1 Other appeals may concern issues including: “residence class visas, decisions about the recognition of a person as a refugee or protected person, decisions to stop recognising a person as a refugee or protected person, decisions to cancel the recognition of a New Zealand citizen as a refugee or protected person.” <https://www.justice.govt.nz/tribunals/immigration/immigration-and-protection/>

2 Immigration Act 2009, s. 210

The search was conducted on 21 January 2025. It produced 147 results: 105 cases for Tuvalu and 42 for Kiribati. For Tuvalu, the latest decision was from 21 November 2024, the earliest from 3 May 2011. For Kiribati, the latest decision was from 11 September 2024, the earliest from 13 December 2012. This number is less than the number of deportation decisions reported by the Ministry of Business, Innovation and Employment, which shared figures with Amnesty International, following an official request for information. The government reported on decisions on humanitarian appeals in the period from January 2014 to 31 July 2024, stating there were 135 decisions for Tuvalu and 45 decisions for Kiribati.³

These results suggest that not all IPT decisions on humanitarian appeals are made publicly available on the Ministry of Justice's website. Given these limitations, Amnesty International's systematic review can only be based on the IPT decisions that were accessible at the time of data collection.

The database provides a download option in PDF format, and all cases were saved onto Amnesty International servers.

Researchers read each decision, checking against the research criteria (see below). Six decisions concerning Tuvalu and one decision concerning Kiribati were discarded because they were taken in 2008-2010 by the predecessor of the IPT, the "Removal Review Authority" (RRA) in application of former legislation (in 2010, the IPT replaced the RRA with the coming into force of the Immigration Act 2009). One decision featured twice as it concerned an applicant holding dual Tuvalu-Kiribati nationality, it was coded as related to Kiribati as that was the place of the appellants' birth and where they had lived for most of their life.

MANUALLY CODING THE HUMANITARIAN DEPORTATION DECISIONS

Each IPT decision related to the humanitarian appeals against deportations comprised of multiple pages of text in English language. Two Amnesty International Researchers, who are both experts in refugee and migrants' rights, carefully read the decisions and systematically extracted information on a variety of issues, including: the citizenship of the appellant(s); the number of appellants per decision (adults and children); whether the appeal was allowed or denied; whether an appeal mentioned climate change and/or environmental disasters; whether a resident visa was issued; and whether a temporary visa was issued (see the Code Book section, below, for detailed information on the rules by which each variable was manually coded).

During the coding process, 11 decisions were excluded following in-depth analysis as the decisions concerned appellants who were liable for deportation due to a criminal conviction, rather than irregular status. These included five decisions concerning nationals of Kiribati, and six concerning nationals of Tuvalu. Two additional cases were discounted because the content was withheld from publication, one for Kiribati and one for Tuvalu, and a further case related to Tuvalu was dismissed as the IPT lacked jurisdiction to hear the case. **A total of 125 IPT decisions remained for quantitative research purposes** - 90 concerning nationals of Tuvalu and 35 concerning nationals of Kiribati.

To ensure reliability of the manually coded data, 28 randomly selected decisions were coded by a total of three researchers, the two original coders plus a third Amnesty International Researcher external to the research project. Measures of inter-rater reliability indicated "strong" or "near perfect agreement" between the three raters (Fleiss' Kappa 0.864) which confirmed reliability of the manually coded data. Any data errors that inter-rater reliability analysis identified were reviewed and rectified before empirical analysis was conducted.

3 Amnesty International received information from MBIE treated under New Zealand's Official Information Act 1982, on 31 October 2024, in response to an official request for information to the government of Aotearoa New Zealand, submitted on 19 July 2024, MBIE, DOIA 2425-0336, 31 October 2024, released under the Official Information Act 1982, Appendix D, Tables 1 and 2.

SYSTEMATIC CODING RULES (CODEBOOK)

This section outlines how IPT decisions on humanitarian appeals were coded by Amnesty International researchers. Researchers carefully read each decision to systematically extract relevant information. The following outlines the systematic rules that guided the manual coding effort.

STRUCTURE OF THE IPT HUMANITARIAN APPEAL DECISIONS

Each decision was written in English language. Each varied in length, roughly between five and 15 pages.

Each IPT decision has a unique case reference number, located in the top right corner and identifying the year of the decision in the Judicial Body [NZIPT] and a case number.

At the top of each decision, the Judicial Body hearing the appeal is stated as the **"IMMIGRATION AND PROTECTION TRIBUNAL NEW ZEALAND."**

Additional information is presented in the headings to detail the location of the hearing and the date of the decision, the representative or counsel for the Appellant and who the hearing is held "Before", meaning the name of the Tribunal judge/chair.

In general, the decisions are set out using sub-headings. The decisions are written in a clear tone and register and are straightforward to read and understand.

The order of the sections and the information included varies between decisions. Some may be ordered differently. However, in general, they follow a similar structure.

INTRODUCTION / BACKGROUND

In the first few paragraphs is usually an introduction, or 'Issues' section, that provides information about the individual(s) who are bringing the appeal. Their real names are not always included; appellants are usually referred to using anonymous initials or letters. It is common that the decision applies to more than one person, and an explanation of the number of appellants is given usually in the first paragraph of the decision. These first paragraphs also usually include details of the appellant(s) age, gender, nationality, and the reasons for their liability for deportation. In the first or second paragraph, details of the appellant(s) family, employment history, length of time spent in Aotearoa New Zealand are set out. In most decisions, the decision of the IPT is also stated in the introduction or background section.

In general, the key aspects of the appellant(s) case are detailed in the next section of the decision. This includes information of submissions made by their representatives or legal counsel and other submissions of support made on their behalf, for example by family members, employers, members of their community or religious institutions. This section also often includes details of the appellant(s) immigration history.

Generally, there is a section of the decision that relates to the appellant(s)' statutory ground of appeal. This explains the grounds for determining a humanitarian appeal, as set out in section 207 of the Immigration Act 2009.

ASSESSMENT

The decisions generally include an assessment section, which explains the factors that the IPT has taken into account when making the decision. This section may include information provided by government authorities, including Immigration New Zealand and police records, as well as consideration of factors such as the appellant(s)' family or other connection to Aotearoa New Zealand, the best interests of children (where applicable, either as the appellant(s) or as children of the appellant(s)). This section also usually includes a more detailed presentation of information relating to the appellant(s)' life history and immigration history. This is often where discussion of the appellant(s)' prospects in Kiribati or Tuvalu are explained, including any access challenges to employment, housing, food, and discussion of the effects of climate change and environmental impact and events.

CONCLUSION

In the conclusion section, the IPT presents the decision of whether there are exceptional circumstances of a humanitarian nature, which would make it unjust or unduly harsh for the appellant(s) to be removed from Aotearoa New Zealand.

The IPT applies the grounds for determining a humanitarian appeal, as required under the Immigration Act 2009, section 207:

- “(1) The Tribunal must allow an appeal against liability for deportation on humanitarian grounds only where it is satisfied that—
- (a) there are exceptional circumstances of a humanitarian nature that would make it unjust or unduly harsh for the appellant to be deported from New Zealand; and
 - (b) it would not in all the circumstances be contrary to the public interest to allow the appellant to remain in New Zealand.”

DETERMINATION

Depending on the IPT decision, the outcome will usually be stated in a final section of the decision, stating the Determination and Orders. When the IPT allows an appeal, they state whether they order the issuance of a resident visa or a temporary visa. If the appeal is declined, the IPT may issue an interim visa, usually for a set period, to allow the appellants time to get their affairs in order before leaving the country.

AMNESTY INTERNATIONAL RESEARCHERS CODED THE FOLLOWING VARIABLES:

1. YEAR

This variable indicated the year a decision was issued. Given the period of observation, possible values ranged from 2012 to 2024. Year information was extracted from the decision date.

2. CITIZENSHIP OF THE APPELLANT

This variable indicated the nationality of the defendant as mentioned in the decision. Some appellants held more than one citizenship at the time of the appeal. If at least one of their citizenships was of Tuvalu or Kiribati and the deportation back to either country was considered in the decision, their citizenship of either Tuvalu or Kiribati is expressed in this variable. Information on citizenships of other countries, dual or multiple citizenship status was not collected.

Possible values for this variable were:

Kiribati: The appellant(s) was (were) mentioned to be citizens of Kiribati

Tuvalu: The appellant(s) was (were) mentioned to be citizens of Tuvalu

3. NUMBER OF ADULT APPELLANTS

This variable indicated the total number of adult applicants (all individuals aged over 18 years of age at the time of the hearing) who were listed in the humanitarian appeal decision as appealing their deportation decision. As noted above, it is common that the decision applied to more than one person. The maximum number of adult appellants mentioned in the decisions that were reviewed was five.

Possible values for this variable were:

Zero: None of the appellants were adults.

A number value from one (1) to five (5).

4. NUMBER OF CHILD APPELLANTS

This variable indicated the total number of child applicants (all individuals aged under 18 years of age at the time of the hearing) who were listed in the humanitarian appeal decision as appealing their deportation decision.

Note that children whose status in Aotearoa New Zealand was independent of the status of their parents and were not liable for deportation, were not included in this variable. For example children who were citizens of Aotearoa New Zealand, residents or held a visa that was independent on their parents' status. They were often mentioned in the assessment of the appeal but were not considered to be appellants.

Possible values for this variable ranged from one (1) to (five), the maximum number of child appellants mentioned in the decisions that were reviewed. If no children were included in the appeal, this variable was coded as zero (0).

Possible values for this variable were:

Zero: None of the appellants were children.

A number value from one (1) to five (5).

5. DECISIONS MENTIONING CLIMATE CHANGE AND/OR ENVIRONMENTAL DISASTERS

This variable indicated whether a decision mentioned climate change and/or environmental disasters in general and explicitly; or whether a decision mentioned aspects that could be deemed directly related to climate change and/or the environmental issues.

Possible values for this variable were:

Yes: The decision mentioned any of the following terms at least once: climate change, sea level rise, global warming, coastal erosion, land degradation, salinization, contamination of water (and/or groundwater), cyclones, tsunamis, floodings, food and/or water scarcity, extreme weather, drought, extractive industries and concerns over the future of children linked to climate change/the environment prospects.

No: There was no mention of climate change, sea level rise, global warming, coastal erosion, land degradation, salinization, contamination of water (and/or groundwater), cyclones, tsunamis, floodings, food and/or water scarcity, extreme weather, drought, extractive industries and concerns over the future of children linked to climate change/the environment prospects.

6. APPEALS ALLOWED

This variable indicated whether the humanitarian appeal against the deportation decision was successful and “allowed” by the IPT, thus stopping the deportation. This was normally specified in the first and last paragraphs of the decision.

Possible values for this variable were:

Yes: the appeal was successful (allowed), and the applicant(s) were allowed to stay in Aotearoa New Zealand permanently or temporarily.

No: the appeal was declined (not allowed), and the applicant(s) were ordered to leave Aotearoa New Zealand.

7. VISA OUTCOMES

When the IPT allows an appeal, they may order the issuance of a resident visa or a temporary visa of one year or less. No temporary visas could be issued for more than one year, as the law (Immigration Act 2009, s.210) allowed for the issuance of either a resident visa or a temporary visa for a period not exceeding 12 months.

7.1 RESIDENT VISA ISSUED

This variable indicated whether the IPT decision established the issuance of a resident visa.

Possible values for this variable were:

Yes: the IPT decision ordered the issuance of a resident visa.

No: the decision did not establish the issuance of a resident visa.

7.2 TEMPORARY VISA ISSUED

This variable indicated whether the IPT decision established the issuance of a temporary visa that was valid for one year or less.

Possible values for this variable were:


Yes: the IPT decision established the issuance of a temporary visa valid for one year (12 months) or less.


No: the decision does not establish the issuance of a temporary visa for one year (12 months) or less.




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NAVIGATING INJUSTICE

CLIMATE DISPLACEMENT FROM THE PACIFIC ISLANDS OF TUVALU AND KIRIBATI TO AOTEAROA NEW ZEALAND

As human-induced climate change threatens the human rights of people living in the Pacific, many seek opportunities to migrate to Aotearoa New Zealand. Sea level rise constitutes an existential threat for low-lying island countries projected to increasingly lose land to the encroaching ocean, such as Tuvalu and Kiribati. Coastal erosion, king tides, floods, extreme heat, droughts, and cyclones threaten Pacific Peoples' rights to life, health, an adequate standard of living, and a clean, healthy and sustainable environment.

In this report, Amnesty International documents how Aotearoa New Zealand's immigration policy framework fails to reflect the needs of climate-affected Pacific Peoples. Instead, it offers limited and arbitrary migration pathways that discriminate, separate families, and disregard children's rights. In the absence of migration pathways and protections specifically dedicated to people displaced by the climate crisis, those attempting to navigate Aotearoa New Zealand's immigration opportunities in other areas fall through the cracks. They may be prevented from ever being admitted to the country on discriminatory grounds — like Sam from Tuvalu, who was separated from his parents when Aotearoa New Zealand granted visas for all his family but him, due to his disability. Others fall into irregularity and precarious migratory situations after admission, forced in the shadows of society — like Teretia from Kiribati, who lived in fear of deportation after her visa extension was declined, or Noa from Tuvalu, who struggled securing visas while fighting cancer.

The international community's failure to act on climate change, coupled with states' increasingly restrictive approaches to international migration, subjects people displaced in the context of the climate crisis to a double injustice. Aotearoa New Zealand – and the international community – must act now to protect the rights and dignity of Pacific Peoples in the face of the climate crisis, both at home and in their country of destination.