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UNSW Law & Justice

Kaldor Centre Principles on Climate Mobility

UNSW
Kaldor Centre
for International
Refugee Law

Jane McAdam and Tamara Wood

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Principles:
a snapshot

1 Support communities to stay safely at home

2 Protect people displaced in the context of climate change and disasters

3 Facilitate evacuations for people at imminent risk

4 Facilitate migration with dignity for those who wish to move

5 Facilitate planned relocations when necessary

6 Protect the human rights of all people affected by climate mobility

7 Ensure that the needs and rights of particular groups are met

8 Protect the cultural heritage and identities of affected communities

9 Protect citizenship and associated rights for affected communities

10 Ensure sustainable financing

11 Address loss and damage associated with climate mobility

12 Implement robust monitoring, evaluation and information management

13 Take a collaborative approach

Introduction

Climate change and disasters are having far-reaching impacts on human mobility around the world. Sudden-onset hazards (such as tropical storms, cyclones and flooding), slower-onset processes (such as sea-level rise, rising temperatures and desertification) and the combination of the two (such as storm surges riding on higher volumes of water because of rising sea levels)[1] may prompt people to move away from anticipated or actual harm. In the absence of significant and scaled-up global mitigation and adaptation efforts, the risks posed by climate change are likely to continue, contributing to the movement of people both within countries and across international borders.[2]

The drivers of human mobility are complex and multifaceted. Climate change does not cause movement on its own but rather intersects with and exacerbates other social, economic, cultural and political factors that prompt people to leave their homes.[3] It amplifies risk and vulnerability, and makes disasters more frequent and/or intense. As such, 'climate mobility' encompasses any type of movement – whether forced or voluntary, temporary or permanent, within or across borders – that may occur in the context of climate change and disasters.

Climate mobility is neither uniform nor linear. Individual, household and community decisions about movement will vary. Some people will move internally, others will go abroad, some will do both, and yet others will not move at all. Some people may be displaced multiple times. Distinctions between climate mobility and other forms of human mobility, and between forced and voluntary movement, are often blurry in practice. Furthermore, scales and patterns of movement may alter over time as physical conditions change. In all its forms, climate mobility can have significant impacts on human rights and human security and result in both tangible and intangible losses.

When it comes to legal and policy responses to climate mobility, there is no one-size-fits-all approach. A range of tools is needed to ensure that responses are context-specific and attuned to the particular needs of those affected – including those at risk of displacement, those who choose to move, those who stay behind, and host, transit and diaspora communities. The recommendations contained in these Principles are therefore not prescriptive but rather provide a toolkit that can be tailored to specific circumstances, now and into the future.[4]

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[1] Climate Council, 'Briefing Statement: Damage from Cyclone Pam Was Exacerbated by Climate Change' (18 March 2015) 1 <https://www.climatecouncil.org.au/uploads/417d45f46cc04249d55d59be3da6281c.pdf>.

[2] Intergovernmental Panel on Climate Change, *Climate Change 2022: Impacts, Adaptation, and Vulnerability* (Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, 2022).

[3] Nansen Initiative on Disaster-Induced Cross-Border Displacement, *Agenda for the Protection of Cross-Border Displaced Persons in the context of Disasters and Climate Change*, vol 1 (2015) (Protection Agenda) paras 76–86, 117–18.

[4] This aligns with the approach in ibid.

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About the Principles

The Kaldor Centre Principles on Climate Mobility provide governments, affected communities, international organisations, civil society groups and other stakeholders with evidence-based, legally sound tools for addressing climate mobility. The Principles draw on a wide range of international, regional and national laws, policies and standards to provide guidance that can be adapted to different contexts.

The Principles are holistic.
They include tools to build communities' adaptive capacity to remain in their homes for as long as possible; create safe and dignified pathways for movement where desired; and provide assistance, protection and durable solutions if displacement does occur. They acknowledge the needs of vulnerable and marginalised groups, and the importance of safeguarding people's human rights and human security, including culture and heritage.

The Principles are comprehensive.
They address all forms of internal and cross-border mobility, including displacement, migration, planned relocations and evacuations. They also address cross-cutting issues and challenges, including human rights, sustainable financing, monitoring and evaluation.

The Principles are interconnected.
They deal with specific issues and scenarios, as well as cross-cutting issues and challenges. They should be implemented collectively because they intersect with and reinforce each other.

The Principles are adaptable.
They provide general guidance and practical tools that can be tailored to specifical regional, national and local needs and priorities, now and into the future.

1 Support communities to stay safely at home

What?

For many people affected by the impacts of climate change and disasters, moving away from home is a measure of last resort. Enhanced measures to mitigate global greenhouse gas emissions, support adaptation, promote sustainable development and manage climate- and disaster-related risks are critical for all those who remain in place in the face of climate change impacts.

Why?

Many communities facing the prospect of climate mobility do not want to go anywhere: their priority is to stay safely in their homes for as long as possible. Even in the face of significant climate impacts, some people may choose to remain in place, or engage in circular forms of movement, instead of moving permanently elsewhere. Understandings of what it means for land to be 'habitable' or 'uninhabitable' may vary between communities and locations,[5] and despite considerable risks posed by climate change, 'voluntary immobility' may be a deliberate political choice.[6]

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. Individuals, families and communities who find themselves trapped by their circumstances and unable to move may face even greater precarity than those who are displaced. Moreover, their inability to move may make them invisible to policymakers and humanitarian actors.

Governments around the world have pledged their commitment to climate change mitigation and adaptation in international instruments, including the 2015 *Paris Agreement*,[7] the *Sendai Framework*[8] and the *Agenda for Sustainable Development*.[9] They have agreed to '[t]ake urgent action to combat climate change and its impacts'[10] and 'build resilience and reduce disaster risk, including … displacement risk'.[11] In the 2018 *Global Compact for Migration*, governments specifically committed to prioritising climate change mitigation and adaptation measures that minimise the need for people to leave their homes.[12]

A holistic and inclusive approach to climate change mitigation and adaptation requires local, indigenous and traditional knowledges to be factored into responses.[13] The *Sendai Framework* endorses the importance of leveraging local knowledge, skills and capacities in the design and implementation of disaster risk reduction measures.[14] The 2015 *Addis Ababa Action Agenda* further emphasises the importance of mitigation and adaptation activities, not only at the national level but within municipalities, cities and local authorities, particularly in least developed countries and small island developing states.[15]

[5] See Carol Farbotko and John Campbell, 'Who Defines Atoll "Uninhabitability"?' (2022) 138 *Environmental Science and Policy* 182.
[6] Carol Farbotko, 'No Retreat: Climate Change and Voluntary Immobility in the Pacific Islands' (Migration Policy Institute, 13 June 2018) <https://www.migrationpolicy.org/article/no-retreat-climate-change-and-voluntary-immobility-pacific-islands>.
[7] *Paris Agreement*, opened for signature 12 December 2015, 3156 UNTS 79 (entered into force 4 November 2016).
[8] *Sendai Framework for Disaster Risk Reduction 2015–2030*, UNGA Res 69/283 (3 June 2015) (*Sendai Framework*).
[9] *Transforming Our World: The 2030 Agenda for Sustainable Development*, UNGA Res 70/1 (25 September 2015) (*Agenda for Sustainable Development*).
[10] *Sustainable Development Goals*, Goal 13 in ibid.
[11] *Sendai Framework* (n 8) para 28.
[12] *Global Compact for Safe, Orderly and Regular Migration*, UNGA Res 73/195 (19 December 2018) (*Global Compact for Migration*) Objective 2, para 18(b).
[13] See generally Secretariat of the Convention on Biological Diversity, *Connecting Biodiversity and Climate Change Mitigation and Adaptation: Report of the Second Ad Hoc Technical Expert Group on Biodiversity and Climate Change* (CBD Technical Series No 41, 2009) 127; United Nations Framework Convention on Climate Change, *Best Practices and Available Tools for the Use of Indigenous and Traditional Knowledge and Practices for Adaptation, and the Application of Gender-Sensitive Approaches and Tools for Understanding and Assessing Impacts, Vulnerability and Adaptation to Climate Change: Technical Paper*, UN Doc FCCC/TP/2013/11 (2013) 62.
[14] *Sendai Framework* (n 8) para 36(a).
[15] *Addis Ababa Action Agenda of the Third International Conference on Financing for Development*, UNGA Res 69/313 (27 July 2015) para 34.

How?

Key priorities

1. Develop and implement mitigation, adaptation and disaster risk reduction measures that support communities to stay safely at home
2. Build the resilience of affected communities to deal with disasters and other adverse impacts of climate change
3. Facilitate the meaningful participation of affected communities in the development and implementation of mitigation, adaptation and disaster risk reduction strategies
4. Ensure that communities can access mobility options and are not hindered by systemic barriers to movement, including discrimination and poverty

Sample actions

a. Establish disaster preparedness strategies that help to avert and minimise displacement, including by drawing on guidance from the UN Office for Disaster Risk Reduction's *Words into Action – Disaster Displacement*[16]

b. Establish early warning systems in disaster-prone areas

c. Review national development policies, plans and programs to ensure that they align with Goal 13 of the *Sustainable Development Goals* (namely, to take urgent action to combat climate change and its impacts), including relevant targets and indicators[17]

d. Review zoning laws, policies and practices to ensure that they do not permit settlements to be built in unsafe areas or allow land to be overdeveloped

e. Develop and implement land audits and integrated vulnerability and adaptation assessments

f. Investigate the feasibility of building up land or creating artificial islands in places vulnerable to sea-level rise

g. Invest in sustainable housing, diversified livelihoods, education, food security and health care for affected communities

h. Establish cash-based assistance schemes to assist people affected by disasters

i. Integrate science-based tools and technologies with community-based disaster risk tools to inform decisions about the safety of land, including ecosystem-based disaster risk reduction activities

j. Establish programs that encourage innovation and creativity in the development of local and community-driven solutions, including by supporting traditional knowledges, livelihoods and job creation

k. Establish mechanisms for facilitating meaningful participation by affected communities, including vulnerable and marginalised groups, in planning and decision-making related to mitigation, adaptation and disaster risk management

l. Disseminate information about disaster risk reduction and management in accessible formats to affected communities

m. Collaborate at the regional and international levels to ensure technical and financial support for mitigation and adaptation activities in the most affected countries, in the spirit of international solidarity and climate justice

[16] UN Office for Disaster Risk Reduction, *Words into Action – Disaster Displacement: How to Reduce Risk, Address Impacts and Strengthen Resilience. A Companion for Implementing Target (E)* (2019).

[17] See *Sustainable Development Goals* in *Agenda for Sustainable Development* (n 9)*; Work of the Statistical Commission pertaining to the 2030 Agenda for Sustainable Development*, UN Res 71/313 (6 July 2017).

2 Protect people displaced in the context of climate change and disasters

What?

People displaced in the context of climate change and disasters, or stranded away from home because it is unsafe, impractical or otherwise unreasonable for them to return, should receive protection and assistance, including a secure legal status, financial and social support, and access to durable solutions.

Why?

Displacement following disasters is already a common occurrence all over the world. This is likely to increase as climate change amplifies the severity and frequency of disasters. While most displacement is likely to be internal (at least initially), some people may seek protection and assistance in other countries.

National governments have the primary responsibility to protect those displaced internally.[18] Governments must ensure that they provide protection and assistance before, during and after displacement, including by ensuring that people have access to durable solutions. The *UN Guiding Principles on Internal Displacement* reflect widely accepted principles from international refugee law, human rights law and humanitarian law, and set out standards for protection and assistance across a range of policy areas, such as disaster risk management, adaptation and development. They provide a useful tool to help governments develop well-attuned national laws and policies, including durable solutions that safeguard people's rights, livelihoods and physical security. The *Guiding Principles on Internal Displacement* are endorsed in the International Law Association's *Sydney Declaration of Principles on the Protection of Persons Displaced in the context of Sea Level Rise*,[19] which further calls for regional and sub-regional collaboration to enhance assistance and solutions for internally displaced persons.[20] At the regional level, the *Kampala Convention* provides a binding framework for addressing internal displacement in Africa.[21]

With respect to cross-border displacement, the principle of *non-refoulement* (non-removal) in international refugee law and human rights law prohibits states from removing people to places where they face a real risk of serious harm. Even countries that have not ratified the relevant refugee or human rights treaties are still bound by the principle of *non-refoulement* as a matter of customary international law.

In international refugee law, the 1951 *Refugee Convention* and its 1967 *Protocol* prohibit the removal of anyone who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, and whose own country is unable or unwilling to protect them.[22] While the effects of climate change or disasters do not explicitly provide the basis for refugee status, their interaction with other drivers of displacement (such as conflict and persecution), or their differential impacts on particular groups, may substantiate a refugee claim.[23] As the UN High Commissioner for Refugees (UNHCR) has emphasised, climate change and disasters provide a social and political context in which states' traditional *non-refoulement* obligations may be

[18] *UN Guiding Principles on Internal Displacement*, UN Doc E/CN.4/1998/53/Add.2 (11 February 1998) *(Guiding Principles on Internal Displacement); African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa*, opened for signature 23 October 2009, 49 ILM 86 (entered into force 6 December 2012) (*Kampala Convention*); see also *Charter of the United Nations*, opened for signature 26 June 1945, 1 UNTS XVI (entered into force 24 October 1945) (*UN Charter*) art 2(7).

[19] *Sydney Declaration of Principles on the Protection of Persons Displaced in the context of Sea Level Rise*, Annex to International Law Association Res 6/2018 (August 2018) (*Sydney Declaration*) principle 8. For Commentary, see Davor Vidas, David Freestone and Jane McAdam (eds), *International Law and Sea Level Rise: Report of the International Law Association Committee on International Law and Sea Level Rise* (Brill, 2018) 43–66.

[20] *Sydney Declaration* (n 19) principle 4, para 2(a)(iv)–(v).

[21] *Kampala Convention* (n 18).

[22] *Convention relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954) (*Refugee Convention*) art 1A(2), read in conjunction with the *Protocol relating to the Status of Refugees*, opened for signature 31 January 1967, 606 UNTS 267 (entered into force 4 October 1967) (*Protocol*).

[23] For example, the *Global Compact on Refugees* recognises that 'climate, environmental degradation and natural disasters increasingly interact with the drivers of refugee movements': *Report of the United Nations High Commissioner for Refugees: Part II: Global Compact on Refugees*, UN Doc A/73/12 (Part II) (2018) para 8.

[24] UNHCR, *Legal Considerations regarding Claims for International Protection Made in the context of the Adverse Effects of Climate Change and Disasters* (1 October 2020) (*Legal Considerations*) para 2.

[25] *Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa*, opened for signature 10 September 1969, 1001 UNTS 45 (entered into force 20 June 1974) art I(2); *Cartagena Declaration on Refugees*, adopted by the Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, 22 November 1984 (*Cartagena Declaration*) Conclusion III, para 3.

[26] *Cartagena Declaration* (n 25) Conclusion III, para 3.

[27] UNHCR *Legal Considerations* (n 24).

engaged.[24] Regional refugee instruments that extend protection to people fleeing serious disturbances to public order[25] and massive human rights violations[26] may also provide a basis for refugee protection, including in the context of widespread and indiscriminate impacts of climate change.[27]

In international human rights law, the principle of *non-refoulement* prohibits the removal of anyone who faces a real risk of being arbitrarily deprived of life or subjected to torture or cruel, inhuman or degrading treatment or punishment.[28] If the impacts of climate change in a particular location reach a sufficient level of severity, including cumulatively, then people may be eligible for international protection on these grounds. The UN Human Rights Committee has stated that 'without robust national and international efforts', 'the effects of climate change in receiving states may expose individuals to a violation of their rights under articles 6 or 7 of the [*ICCPR*], thereby triggering the *non-refoulement* obligations of sending states'.[29] It emphasised that the right to life includes 'the right of individuals to enjoy a life with dignity',[30] and noted that 'the conditions of life … may become incompatible with the right to life with dignity before the risk is realized',[31] meaning that protection should be available before the situation is imminently life-threatening.The *Global Compact for Migration* also recognises that international law precludes the removal of non-citizens 'when there is a real and foreseeable risk of death, torture and other cruel, inhuman and degrading treatment or punishment, or other irreparable harm'.[32]

In addition to applicable international protection frameworks, many states provide discretionary emergency humanitarian protection to people who are displaced across borders in the context of climate change or disasters, or who find themselves stranded abroad after a disaster strikes their country of origin. Measures such as temporary or permanent stay based on humanitarian considerations, expedited processing of regular visa applications and/or waivers of normal visa requirements are important tools in this context. In Latin America, the 2016 Regional Conference on Migration's *Guide to Effective Practices* advances a systematic, protection-oriented approach to the use of existing visa categories to protect people displaced across borders in the context of disasters.[33] In eastern Africa, the Intergovernmental Authority on Development (IGAD) 2020 *Free Movement Protocol* includes specific provisions guaranteeing entry and stay for people moving in anticipation of, during or in the aftermath of disasters.[34] While temporary stay may be sufficient in some cases, in others, more sustainable, long-lasting solutions will be required, including opportunities to transition from temporary to permanent status.

[28] See eg *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) (*ICCPR*) arts 6, 7; *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, opened for signature 10 December 1984, 1465 UNTS 85 (entered into force 26 June 1987) art 3; *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) (*CRC*) arts 6, 37; *European Convention on Human Rights*, opened for signature 4 November 1950, ETS 5 (entered into force 3 September 1953) art 3; *Charter of Fundamental Rights of the European Union*, opened for signature 7 December 2000, [2012] OJ C 329/391 (entered into force 1 December 2009) art 19(2); *African Charter on Human and Peoples' Rights*, opened for signature 17 June 1981, 21 ILM 58 (entered into force 21 October 1986) art 5; *Arab Charter on Human Rights*, opened for signature 22 May 2004 (entered into force 15 March 2008) art 8.

[29] *Teitiota v New Zealand*, Comm No 2728/2016 (UN Human Rights Committee, 24 October 2019) para 9.11. Article 6 of the *ICCPR* protects the right to life; article 7 prohibits torture and cruel, inhuman or degrading treatment or punishment.

[30] Ibid para 9.4.

[31] Ibid.

[32] *Global Compact for Migration* (n 12) Objective 21, para 37.

[33] Regional Conference on Migration, *Guide to Effective Practices for RCM Member Countries: Protection for Persons Moving across Borders in the context of Disasters* (November 2016).

[34] *Protocol on Free Movement of Persons in the IGAD Region*, endorsed in Khartoum, 26 February 2020, art 16.

How?

Key priorities

1. Identify and manage displacement risks in the context of climate change and disasters

2. Ensure that people displaced (or stranded) in the context of climate change and disasters have non-discriminatory access to protection and assistance, including emergency support and assistance, full respect for their human rights (including the right to move freely within the country) and a secure legal status

3. Ensure that the principle of *non-refoulement* is respected and given full effect where people seek international protection in the context of climate change and disasters

4. Facilitate access to long-term, sustainable solutions for displaced people that allow them to re-establish themselves and rebuild their lives

Sample actions

Internal displacement

a. Incorporate the *Guiding Principles on Internal Displacement* into domestic laws and policies

b. Establish specific guidelines, policies and trainings to ensure that the *Guiding Principles on Internal Displacement* are fully implemented in the context of climate change and disasters

c. Review domestic laws and policies relating to disaster risk management, climate adaptation, development, land tenure and so on to ensure that they address internal displacement in a coordinated manner and in accordance with applicable international and regional principles and standards

d. Articulate and communicate the respective roles and responsibilities of relevant regional, national and local disaster response and humanitarian actors in mitigating and responding to internal displacement

e. Incorporate displacement risk management into development project planning to ensure that development projects do not result in arbitrary displacement

f. Incorporate internal displacement scenarios in disaster contingency planning exercises

g. Provide non-discriminatory access to emergency support and assistance for affected communities, including immediate cash transfers

Cross-border displacement

h. Ratify the 1951 *Refugee Convention* and/or its 1967 *Protocol*, as well as applicable regional refugee protection frameworks

i. Incorporate applicable refugee protection frameworks into domestic laws and policies

j. Develop and implement specific guidelines, policies and trainings to ensure that domestic refugee law is interpreted and applied in accordance with the guidance in UNHCR's *Legal Considerations*[35]

k. Incorporate international and regional human rights-based *non-refoulement* obligations into domestic laws and policies

l. Establish special humanitarian visas or other targeted protection mechanisms that provide durable protection for people at risk of (or affected by) displacement in the context of climate change and disasters

m. Provide assistance and protection to people displaced across borders on a prima facie basis, especially in the aftermath of a disaster or in situations involving large-scale displacement

n. Establish domestic laws that provide for at least temporary entry and stay in the aftermath of a disaster

o. Establish flexible procedures and fee waivers to expedite entry and visa processing for people affected by a disaster

p. Establish consular procedures to identify and communicate with nationals affected by a disaster, issue replacement passports and other documentation expeditiously, provide emergency funding and disseminate information about consular and local services

q. Ensure that people for whom return to the country of origin is not possible or desirable in the reasonably foreseeable future can access durable solutions

r. Establish complementary pathways to protection for people displaced in the context of climate change and disasters, including through private sponsorship, family reunification and targeted work and study programs

s. Collaborate at the regional, sub-regional and/or bilateral levels to develop harmonised policies and practices concerning admission and stay in the context of climate change and disasters, including under the auspices of free movement arrangements

t. Collaborate at the regional, sub-regional and/or bilateral levels to facilitate repatriation for citizens who wish to return home in the aftermath of a disaster

[35] UNHCR *Legal Considerations* (n 24).

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3 Facilitate evacuations for people at imminent risk

What?

Well-planned and lawful evacuations are essential for people at imminent risk from disasters. To be effective, evacuations must take into account not only immediate needs but also the longer-term physical, social, economic, cultural and psychological aspects of recovery for affected communities, including host communities.

Why?

Evacuations are an emergency tool to protect people at imminent risk from disasters, including in the context of climate change. The duty to protect the right to life may require authorities to evacuate people.[36] However, while evacuations are intended to save lives, they can also be a form of arbitrary and unlawful displacement unless certain conditions are met.[37] Evacuations must be provided for by law, necessary and proportionate, for the shortest time possible, and carried out in a manner that safeguards people's safety, health and human rights.[38] Measures must be in place to ensure that families are not separated. If evacuations become prolonged, they may impinge on people's rights and security (particularly for vulnerable or marginalised groups).

The *Guiding Principles on Internal Displacement* provide key guidance on people's needs and rights before, during and after an evacuation. The *MEND Guide* complements the *Guiding Principles on Internal Displacement* with detailed, practical considerations,[39] while the *Sphere Handbook* sets out minimum standards to improve humanitarian responses and enhance accountability in crises.[40]

On occasion, cross-border evacuations may be needed to move people to places of safety, including for medical care. This is an act of international solidarity and cooperation, which may require states to waive their ordinary visa requirements and consider more durable forms of stay if return is not feasible.

How?

Key priorities

1. Ensure that evacuations are well planned, provided for by law, necessary and proportionate, and for the shortest time possible
2. Ensure that people's basic needs are met and their fundamental human rights are respected before, during and after evacuations
3. Ensure that evacuations do not result in arbitrary or prolonged displacement

Sample actions

a. Develop and implement domestic evacuation laws that:
   i. articulate who is authorised to order and carry out evacuations
   ii. provide safeguards against arbitrary or long-term displacement
   iii. establish clear and transparent accountability mechanisms
   iv. protect people's fundamental human rights, including the right to family unity
   v. prioritise people with urgent protection or medical needs

[36] See *Sydney Declaration* principle 5 and Commentary (n 19), referring to *Budayeva v Russia*, App Nos 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02 (20 March 2008) paras 148ff.
[37] *Guiding Principles on Internal Displacement* (n 18) principle 6(2)(d); *IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters* (January 2011) section I.6.
[38] *Guiding Principles on Internal Displacement* (n 18) principle 6(2)(d).
[39] *MEND Guide: Comprehensive Guide for Planning Mass Evacuations in Natural Disasters* (Camp Coordination and Camp Management Cluster, 2014).
[40] Sphere Association, *The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response* (4th edn 2018).

b. Establish detailed evacuation plans for communities, including plans relating to transport, communications, shelter, assistance and protection

c. Incorporate long-term recovery into evacuation planning, including physical, social, economic, cultural and psychological recovery

d. Incorporate contingency plans for alternative long-term solutions, such as local integration or planned relocation, if safe return is not possible

e. Collaborate with affected communities in the development of evacuation plans to ensure that local knowledge is incorporated

f. Establish evacuation training and simulation programs in high-risk areas to support local responders and communities

g. Establish early warning systems to alert people of a potential need to evacuate

h. Disseminate information relating to evacuations in a timely manner and accessible format, taking into account the varied needs of different sectors of the community

i. Incorporate recommendations from the *MEND Guide* into domestic evacuation laws, policies and plans

j. Establish clear procedures for identifying who will be evacuated and why, so that those with urgent protection or medical needs are prioritised

Image credit: UNHCR/Andrew McConnell

4 Facilitate migration with dignity for those who wish to move

What?

Both internal and cross-border migration can enable people who are at risk from the adverse impacts of climate change and disasters to move safely, with dignity and on their own terms. Well-managed migration pathways can facilitate adaptation and relieve pressure on affected communities, potentially averting future displacement.

Why?

Migration can provide a release valve for people who might otherwise be at risk of displacement, and it can reduce pressure on limited resources. Migration can enable people to diversify their livelihoods and acquire new skills abroad, while remittances can help fund adaptation and resilience-building efforts at home. Enhancing opportunities for both internal and cross-border migration can safeguard against involuntary immobility – that is, people becoming trapped by the adverse effects of climate change. More broadly, migration can contribute to development objectives and build resilience, especially if migrants contribute to sustainable industries.

That migration can be a form of adaptation to climate change is reflected in multiple international frameworks. It is included in the toolkit of strategies promoted by the Nansen Initiative's *Protection Agenda*, which recommends that states integrate mobility into their disaster risk reduction and climate change adaptation strategies[41] and facilitate 'migration with dignity' as a positive form of adaptation that can diversify livelihoods and build long-term resilience.[42] The *Global Compact for Migration* commits states to considering the development of 'coherent approaches to address the challenges of migration movements in the context of sudden-onset and slow-onset natural disasters';[43] developing 'national and regional practices for admission and stay … such as by providing humanitarian visas, private sponsorships, access to education for children, and temporary work permits';[44] and facilitating access to family reunification 'through appropriate measures that promote the realization of the right to family life and the best interests of the child'.[45] The *Agenda for Sustainable Development* calls on states to '[f]acilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies'.[46]

However, migration will only be an effective climate adaptation strategy if people's dignity, security and rights are adequately protected in accordance with international human rights law and labour law standards, and they are granted a domestic legal status that enables them to access essential support and assistance. Without adequate safeguards and oversight mechanisms, migrants may find themselves in situations of exploitation, discrimination and even trafficking. International Labour Organization (ILO) declarations and conventions establish fundamental labour standards, including in relation to wages, occupational health and safety and non-discrimination.[47] The *Migrant Workers Convention* provides more specific entitlements for migrant workers and their families.[48]

How?

Key priorities

1. Ensure that people have the right to move freely within their country
2. Support individuals, families and communities using migration as an adaptive tool to move safely and with dignity, and to access sustainable livelihoods
3. Enhance opportunities for sustainable, rights-based cross-border migration for people impacted by climate change and disasters
4. Ensure that all migrants have their rights respected in accordance with applicable human rights law and labour law standards

[41] *Protection Agenda* (n 3) paras 76–86, 117–18.
[42] Ibid paras 87–93, 119–20.
[43] *Global Compact for Migration* (n 12) Objective 2, para 18(l).
[44] Ibid Objective 5, para 21(g).
[45] Ibid Objective 5, para 21(i).
[46] *Agenda for Sustainable Development* (n 9) Target 10.7.
[47] For a summary of the fundamental principles set out in the ILO's 11 core instruments, see *ILO Declaration on Fundamental Principles and Rights at Work* (adopted 1998, amended 2022).
[48] *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, opened for signature 18 December 1990, 2220 UNTS 3 (entered into force 1 July 2003) (*Migrant Workers Convention*).

Sample actions

Internal migration

a. Establish educational and training programs to expand and diversify employment opportunities for communities at risk in the context of climate change and disasters

b. Invest in adaptation and other sustainable development projects, especially in rural and outer-island communities, to enable people to acquire skills and simultaneously enhance their future livelihood and migration opportunities

c. Identify and alleviate legal, administrative and/or practical barriers to movement for affected communities

d. Support traditional systems of land tenure that facilitate sustainable internal migration

Cross-border migration

e. Review domestic migration laws and policies to ensure that they align with applicable international law and policy frameworks – in particular, those relating to human rights, migration, labour standards, prevention of trafficking and sustainable development

f. Enhance access to existing migration pathways for people impacted by climate change and disasters – for example, by waiving specific financial or documentary requirements, increasing quotas, granting preferential access to visas and adopting flexible notions of 'family'

g. Establish or expand targeted migration pathways, bilateral agreements and/or regional frameworks that facilitate migration as an adaptation tool for communities most at risk in the context of climate change and disasters

h. Establish or expand pathways to permanent stay for people from affected communities

i. Review remittance mechanisms to maximise accessibility for affected communities, including by reducing remittance fees

j. Establish flexible mechanisms for recognising migrants' skills and qualifications and for facilitating the portability of work-related entitlements, including social security benefits

k. Establish training and skills-development programs that address labour market needs at home and abroad and enhance eligibility for skilled migration visas

l. Invest in educational support, including scholarships, to enhance eligibility for student visas

m. Collaborate with workers, employers, trade unions and diaspora communities in the development and implementation of sustainable migration schemes for affected communities

n. Establish practical and financial support mechanisms to assist affected communities with visa application processes

o. Establish pre- and post-departure cultural orientation and support for migrants and their families to enhance knowledge, confidence and adaptive capacity

p. Support migrants to maintain cultural and familial ties with their country of origin

Image credit: UNHCR/Samuel Otieno

5 Facilitate planned relocations when necessary

What?

Planned relocations can enable communities to move out of dangerous areas or to resettle safely after they have been displaced. They are generally a measure of last resort, given that they uproot people from their homes and can have long-term, intergenerational consequences. It is essential that planned relocations are undertaken in accordance with law and only after full consultation with all affected parties, including governments, prospective relocating and host communities, diaspora communities, traditional governance bodies and other relevant stakeholders (including those who wish to stay behind).

Why?

In the context of climate change and disasters, planned relocations can be both a pre-emptive measure (to avert displacement by assisting people to move to safer areas, including in anticipation of the slower-onset impacts of climate change) and a remedial measure in the aftermath of a disaster (to provide a durable solution for people who have been evacuated or otherwise displaced and who cannot safely return home). The *Sendai Framework* recognises planned relocation as a tool for achieving disaster risk reduction outcomes and calls on states to 'formulate public policies, where applicable, aimed at addressing the issues of prevention or relocation, where possible, of human settlements in disaster risk-prone zones'.[49]

Most relocations are likely to be internal and across short distances: the *Guiding Principles on Internal Displacement* provide important safeguards that can be readily adapted for this context. Cross-border relocations seem less likely in the near future but may be needed in time. These entail even greater complexity, including matters relating to immigration, citizenship, governance and self-determination.

In all cases, meaningful consultations are required before, during and after a relocation to ensure that multiple viewpoints are articulated, respected and addressed, and that consent is fully informed. Historical experiences reveal the long-term risks associated with relocations that are poorly planned, non-inclusive, and for which free and informed consent has not been obtained.

Planned relocations should be undertaken 'in accordance with national legislation and states' international obligations, such as obligations to safeguard the right to life and/or to ensure people are not subjected to inhuman, degrading, or discriminatory treatment'.[50] Economic and social safeguards should be put in place to ensure that people's quality of life and opportunities are not diminished after relocation (and ideally, are enhanced).

How?

Key priorities

1. Ensure that planned relocations are provided for by law in accordance with international and regional standards, including the *Guiding Principles on Internal Displacement*
2. Ensure that planned relocations are undertaken in an inclusive and culturally appropriate manner, in full consultation with affected communities and other stakeholders, and based on sound evidence and best practice
3. Support relocated communities to maintain traditional governance, cultural, community and religious structures and practices
4. Ensure that human rights, including cultural rights, are properly respected, protected and fulfilled before, during and after relocation

[49] *Sendai Framework* (n 8) para 27(k).
[50] *Guidance on Protecting People from Disasters and Environmental Change through Planned Relocation* (Brookings, Georgetown University and UNHCR 2015) section II.7.

Sample actions

a. Develop and implement domestic planned relocation laws that:
   i. articulate who is authorised to order and carry out planned relocations
   ii. establish safeguards against arbitrary displacement or future eviction
   iii. provide access to culturally appropriate dispute resolution mechanisms
   iv. protect people's fundamental human rights, including the right to family unity

b. Establish detailed advanced planning for planned relocations, including early engagement between relocating and host communities, clearly articulated accountability and oversight mechanisms, and agreed communication and coordination mechanisms between government and traditional governance structures, where relevant

c. Ensure that relocating communities have reliable access to adequate fresh water, sanitation, livelihood opportunities, education, infrastructure, transport and communications, as well as safeguards for traditional knowledges and culture (including traditional governance structures, where relevant)

d. Incorporate risk management strategies into relocation planning, including assessment and mitigation of risks and impacts on both relocating and host communities

e. Establish culturally appropriate mental health supports for relocating and host communities

f. Conduct land audits and consult with relevant stakeholders to identify the availability and capacity of land (including land for 'banking' for future use) and ensure that adequate and sustainable resources are in place

g. Review land tenure laws and systems to identify and address barriers and solutions for communities needing to relocate across traditional/customary land boundaries, and ensure security of tenure for future generations

h. Establish long-term funding mechanisms (eg trust funds) to finance relocations, provide equitable compensation for loss of land and other assets, and support people while they are re-establishing themselves in a new location

i. Establish knowledge management systems to gather longitudinal data and lessons from past relocations, including how communities fare over time, to inform future relocation policies and practices

j. Establish mechanisms for assessing and addressing economic and non-economic losses arising from people's loss of or restricted access to land, and for providing equitable compensation for land and other assets

k. Establish mechanisms to preserve the cultural identities and rights of relocated communities – for example, by allowing 'caretakers' to remain in the origin site and facilitating access visits to ancestral sites and graves

l. Establish regional, national and/or local operational guidelines on planned relocations, in full consultation with affected communities

m. Ensure that those who relocate abroad are granted a durable legal status (at least equivalent to that of permanent residents), the right to acquire citizenship in due course, and access to citizenship and/or a derivative legal status for their children

6 Protect the human rights of all people affected by climate mobility

What?

All responses to climate mobility should be non-discriminatory and respect the human dignity and fundamental rights of individuals and communities, including those who move, the communities to which they move, and those who stay at home.

Why?

Human rights are indivisible, interrelated and interdependent. The impacts of climate change threaten a range of human rights, including the rights to life, water, food, health, work, education, shelter and a clean and healthy environment. When considered alongside pre-existing stressors, these impacts may, individually or cumulatively, affect people's ability to live in safety and with dignity. As well, demographic pressures on resources, such as infrastructure, jobs and housing, may create social tensions, generate more informal settlements, impact on health and exacerbate crime, including sexual and gender-based violence.

Human rights law establishes minimum standards of treatment for all people, including with respect to fundamental rights, such as the rights to life,[51] equality and non-discrimination,[52] as well as more specific rights that arise in the context of mobility, such as freedom of movement, freedom to choose one's place of residence, and the right to leave and return to one's own country.[53] For those who move, as well as for those who stay behind, extra support may be required to secure the socio-economic rights critical to well-being and survival, including rights to food,[54] housing,[55] health[56] and education.[57] In 2022, the UN General Assembly recognised 'the right to a clean, healthy and sustainable environment as a human right',[58] noting the negative impacts of climate change on the enjoyment of rights and calling for enhanced collaboration between states, international organisations and other relevant stakeholders to ensure 'a clean, healthy and sustainable environment for all'.[59]

Human rights law applies wherever states act or assert their authority, which means that it is impossible for people to find themselves in a legal vacuum without any entity responsible for respecting and protecting their rights. People who move in the context of climate change and disasters are entitled to have their rights protected at home, as well as in countries of transit and destination. How rights are afforded in practice, however, often turns on national laws and policies. In some countries, human rights are directly enforceable or constitutionally protected, while in others, they are addressed in legislation (which is subject to parliamentary amendment or repeal) or left ill-defined. Whether and how rights are entrenched domestically also affects the extent to which they can be enforced by a court.

How?

1. Ensure that human rights and human security are front and centre in all measures to address climate mobility
2. Ensure that core human rights principles are implemented in domestic law and practice so that people impacted by climate mobility can enjoy safe, dignified and productive lives
3. Recognise that human rights are an inherent part of human security and sustainable development
4. Integrate human rights principles into national and regional processes on climate change, disasters, development and social justice

Sample actions

a. Ratify applicable international and regional human rights treaties

b. Incorporate applicable human rights frameworks into domestic laws and policies

[51] eg *ICCPR* (n 28) art 6; *CRC* (n 28) art 6.
[52] eg *ICCPR* (n 28) arts 2, 26; *CRC* (n 28) art 2.
[53] *ICCPR* (n 28) art 12.
[54] eg *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) (*ICESCR*) art 11; *CRC* (n 28) art 24.
[55] eg *ICESCR* (n 54) art 11; *CRC* (n 28) art 27.
[56] eg *ICESCR* (n 54) art 12; *CRC* (n 28) art 24.
[57] eg *ICESCR* (n 54) art 13; *CRC* (n 28) art 28. The *IASC Operational Guidelines* (n 37) provide a detailed framework for rights-based responses in disasters.
[58] *The Human Right to a Clean, Healthy and Sustainable Environment*, UNGA Res 76/300 (26 July 2022) para 1.
[59] Ibid preamble. See also *The Human Right to a Clean, Healthy and Sustainable Environment*, HRC Res 48/13 (8 October 2021).

c. Establish specific guidelines, policies and trainings to develop awareness of human rights and ensure that human rights are given full effect in all practical measures relating to climate mobility

d. Establish mechanisms to monitor relevant human rights indicators in the context of climate mobility, including disaggregated data to enable more tailored responses

e. Establish domestic mechanisms for receiving complaints and providing remedies/reparations where human rights are infringed in the context of climate mobility

f. Invest in National Human Rights Institutions to support the implementation and monitoring of human rights for affected communities

g. Establish comprehensive human rights education programs for schools, higher education institutions and workplaces

h. Invest greater resources in combatting inequality, social exclusion and discrimination

i. Provide affected individuals and communities with access to justice, including the opportunity to challenge government decisions and the right to an effective remedy

Image credit: IOM/Yemen

7 Ensure that the needs and rights of particular groups are met

What?

Responses to climate mobility should be proactive in addressing the specific needs and entitlements of particular groups, including women and girls, children and young people, older people, people with disabilities, indigenous peoples, ethnic and religious minorities, LGBTQIA+ people, rural and outer-island communities, and migrants.

Why?

The impacts of climate change may affect particular groups disproportionately, including by exacerbating existing gender and social inequalities associated with unequal access to resources and decision-making processes, and higher exposure to environmental shocks and stressors. In many cases, the most severe impacts of climate change will be felt by those who have contributed the least to its causes. Principles of equity and justice demand responses to climate mobility that take into account the historical and structural inequalities that leave some groups at greater risk than others.

The extent to which particular groups will be affected by climate mobility will vary depending on specific regional and national contexts and related historical, social and geographical factors. For example, rural and outer-island communities may be especially affected due to their location, with limited access to critical infrastructure and financial mechanisms. Women, in particular, may find themselves in difficult situations when family members move away, having to take on additional customary or caring responsibilities. Older people and people with disabilities may face heightened protection risks if they are less mobile or cannot access information or health services. An intersectional approach to addressing climate mobility recognises that particular individuals and communities may experience the differential impacts of climate change in complex, overlapping and cumulative ways.

A number of international and regional treaties provide specific safeguards for women, children, migrant workers and their families, people with disabilities, minorities and indigenous peoples. The 2006 *Convention on the Rights of Persons with Disabilities*, for instance, expressly requires states to take 'all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including … the occurrence of natural disasters'.[60] The 1989 *Convention on the Rights of the Child* requires states to 'ensure to the maximum extent possible the survival and development of the child'.[61] The best interests of the child must always be a primary consideration, and the UN Human Rights Committee has recognised that 'environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life'.[62]

When people migrate to other countries, they should receive adequate protection and assistance. At a minimum, states must ensure that migrants are treated in accordance with international human rights and labour laws. The *Migrant Workers Convention* sets out specific entitlements for migrant workers and their families, providing best practice standards for protecting those who move.[63] The *Global Compact for Migration* includes detailed commitments by states to ensure the protection of migrants' rights, including the rights of diverse groups, 'by applying a human rights-based, gender- and disability-responsive, as well as age- and child-sensitive approach'.[64]

[60] *Convention on the Rights of Persons with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) art 11.
[61] *CRC* (n 28) art 6.
[62] *Teitiota v New Zealand* (n 29) para 9.4; UN Committee on the Rights of the Child, *General Comment No 26 (2023) on Children's Rights and the Environment, with a Special Focus on Climate Change*, 93rd sess, UN Doc CRC/C/GC/26 (2023).
[63] *Migrant Workers Convention* (n 48).
[64] *Global Compact for Migration* (n 12) Objective 7(23)(a).

How?

Key priorities

1. Ensure that measures to address climate mobility proactively address the specific needs and entitlements of particular groups
2. Promote international and regional responses to climate mobility that advance principles of climate and environmental justice
3. Ensure that measures to address climate mobility align with applicable international and regional human rights treaty obligations relating to particular groups
4. Ensure that laws and policies relating to climate mobility are inclusive and adopt a gender- and age-sensitive approach
5. Ensure that the best interests of the child are a primary consideration in decision-making

Sample actions

a. Review national and regional laws and policies relating to climate mobility to ensure that the needs and rights of women and girls, children and young people, older people, people with disabilities, indigenous peoples, ethnic and religious minorities, LGBTQIA+ people, rural and outer-island communities, and migrants are protected

b. Establish specific guidelines, policies and trainings to raise awareness of the differential impacts, needs and entitlements of particular groups in the context of climate change and disasters

c. Mainstream gender in approaches to disaster risk reduction, adaptation and climate mobility

d. Establish programs aimed at preventing and protecting people at risk of sexual and gender-based violence

e. Support community-based organisations and initiatives that advance representation for marginalised groups

f. Establish tailored health care, psychological and other counselling services and assistance for particular groups

g. Disaggregate data relating to climate mobility to capture and reflect the experiences of particular groups

Image credit: IOM/Rikka Tupaz

8 Protect the cultural heritage and identities of affected communities

What?

Measures to address climate mobility must ensure the protection of culture, cultural identity and heritage of communities and peoples. This includes respecting the rights to culture and self-determination, and incorporating traditional knowledges and practices into climate change adaptation and mitigation efforts.

Why?

Across the globe, climate change threatens cultural heritage and the individual and collective identities of peoples and communities. Indigenous peoples may be especially at risk from the impacts of climate change due to pre-existing discrimination and marginalisation. Many communities at the frontline of climate change have deep, spiritual connections to land which may exacerbate the losses associated with climate mobility. At the same time, culture is not static and, under the right conditions, mobility can both reinforce and enhance it.

In international law, the rights to culture and self-determination protect all peoples' distinct identities and cultural heritage.[65] They also safeguard the right to take part in cultural life,[66] including to 'contribute to the design and implementation of national and local climate change adaptation and mitigation policies, including through the use of practices and traditional knowledge'.[67] Indeed, traditional knowledges, both alone and in conjunction with contemporary science and technology, can help to strengthen adaptation, sustainable development and resilience, and secure greater protection for the future.

How?

Key priorities

1. Ensure that measures to address climate mobility prioritise the protection of culture, cultural heritage and identities and safeguard the right to self-determination
2. Respect the rights of traditional communities, including indigenous peoples, under international, regional, national and customary laws
3. Integrate traditional knowledges and customary value systems into the design and implementation of measures to address climate mobility

Sample actions

a. Invest in communities to protect and preserve culture, cultural practices and cultural heritage, including through financial and technical resources

b. Consult and collaborate with affected communities to integrate traditional knowledges, practices and governance structures into measures relating to land, natural resources, education, health and information

c. Review existing laws and policies relating to climate mobility to ensure that they give effect to the right of self-determination and cultural rights under applicable international and regional frameworks

d. Establish mechanisms to enable relocated communities to re-establish customary and cultural norms, rituals and traditions and preserve cultural and spiritual knowledges, artifacts and heritage

e. Investigate innovative ways to safeguard traditional practices, knowledges and sites, including digital platforms and social networks

f. Support diaspora communities to develop and implement cultural preservation projects

g. Support traditional land councils to assist people who have lost (access to) customary land

[65] *ICCPR* (n 28) art 1(1); *ICESCR* (n 54) art 1(1).
[66] *ICESCR* (n 54) art 15.
[67] *UN Declaration on the Rights of Peasants and Other People Working in Rural Areas*, UNGA Res 73/165 (17 December 2018) art 18.

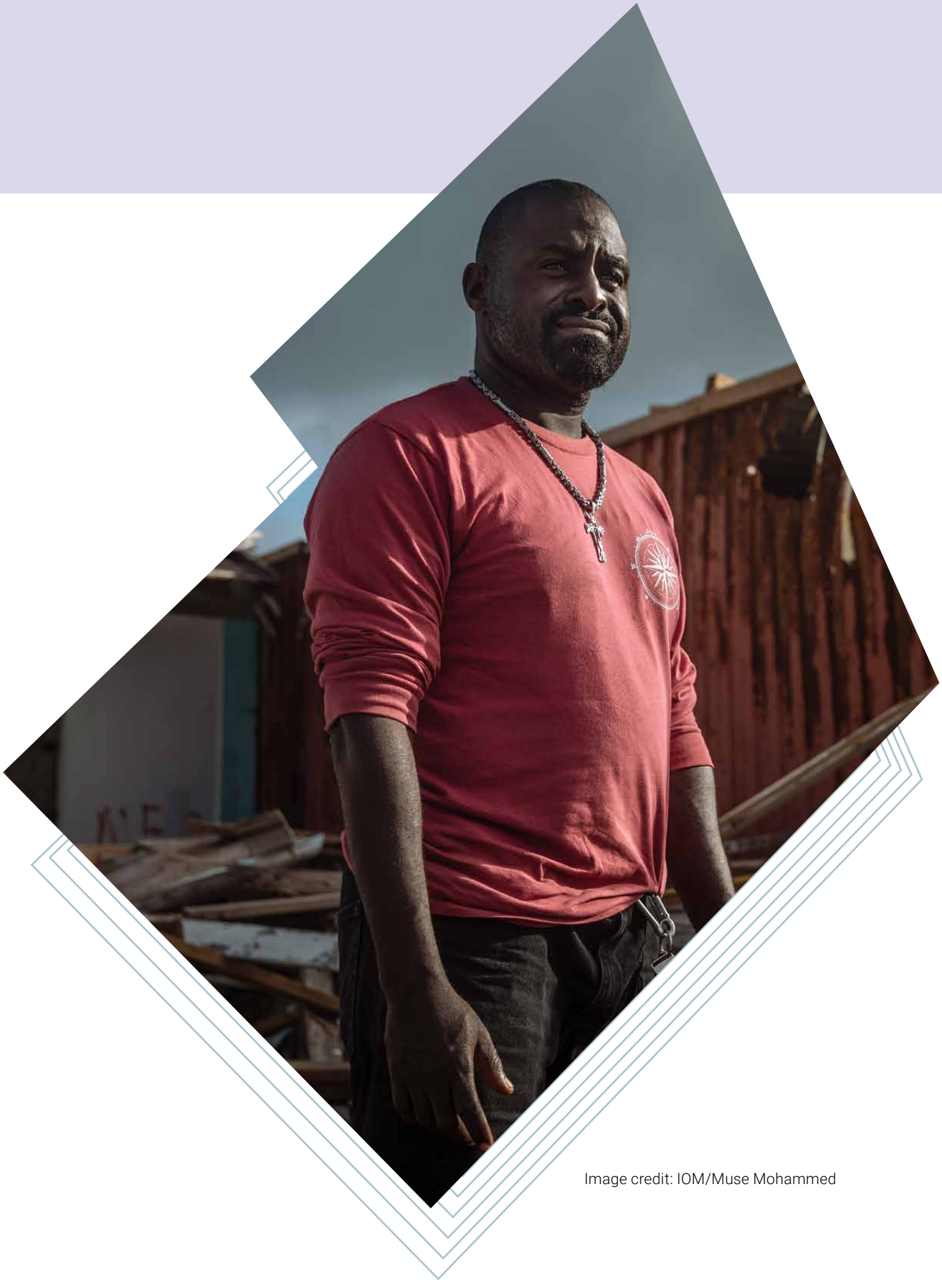

Image credit: IOM/Muse Mohammed

9 Protect citizenship and associated rights for affected communities

What?

Measures to address climate mobility should safeguard against loss of nationality and associated rights – for example, by permitting dual or multiple citizenship, allowing citizens who reside overseas to pass on their nationality to their children, and enabling citizens to vote from abroad.

Why?

The loss (or absence) of nationality breaks a person's formal legal connection to their country, severing their voting rights and other privileges that enable them to contribute to their country's political future. Domestic laws governing the loss, retention and acquisition of nationality, and the right to vote externally, will determine the extent to which people from affected states can maintain their formal legal connection to home. For small island states, in particular, large-scale loss of citizenship could have significant ramifications over the longer term – including for demonstrating the ongoing existence of a 'population' and 'government', two indicia of statehood.

At the international level, the prevention of statelessness and the protection of stateless persons are governed by the 1954 and 1961 statelessness treaties.[68] The idea that sea-level rise could render people 'stateless' is based on a literal interpretation of statelessness, rather than a juridical one. A 'stateless' person is narrowly defined in international law as someone who is 'not considered as a national by any State'.[69] As long as a state exists, it should continue to recognise its nationals.[70] Furthermore, the principles of stability, certainty and security mean that an inundated state would likely continue to be recognised by the international community as a legal entity for some time, even if it could not exercise all its usual functions.[71]

As such, the main risk of statelessness in the context of climate change (and rising sea-levels, in particular) is likely to result from domestic laws that deprive people of nationality if they reside elsewhere for a certain length of time, or deny children born overseas the right to acquire the nationality of their parents; or situations where people lose their identity documents after a disaster and/or cannot access consular services to replace them.[72]

How?

Key priorities

1. Ensure that domestic citizenship laws safeguard against statelessness and loss of nationality, in accordance with applicable international and regional standards

2. Ensure that people can (re)acquire passports and other official documents

Sample actions

a. Ratify the 1954 and 1961 statelessness treaties and ensure that they are given full effect in domestic law

b. Establish specific guidelines, policies and trainings to raise awareness of statelessness in the context of climate mobility

[68] *Convention relating to the Status of Stateless Persons*, opened for signature 28 September 1954, 360 UNTS 117 (entered into force 6 June 1960); *Convention on the Reduction of Statelessness*, opened for signature 30 August 1961, 989 UNTS 175 (entered into force 13 December 1975).

[69] *Convention relating to the Status of Stateless Persons* (n 68) art 1.

[70] *Convention on the Reduction of Statelessness* (n 68) art 8; *ICCPR* (n 28) art 24(3); *Universal Declaration of Human Rights*, UNGA Res 217A (III) (adopted 10 December 1948) (*UDHR*) art 15.

[71] See eg International Law Commission (ILC), *Sea-Level Rise in relation to International Law: Second Issues Paper by Patrícia Galvão Teles and Juan José Ruda Santolaria, Co-Chairs of the Study Group on Sea-Level Rise in relation to International Law (18 April–3 June and 4 July–5 August 2022)*, UN Doc A/CN.4/752 (19 April 2022) paras 183ff.

[72] See generally Michelle Foster, Nicola Hard, Hélène Lambert and Jane McAdam, *The Future of Nationality in the Pacific: Preventing Statelessness and Nationality Loss in the context of Climate Change* (Kaldor Centre for International Refugee Law, Peter McMullin Centre on Statelessness and UTS, 2022).

c. Review domestic laws to ensure that:
   i. people do not automatically lose their citizenship on account of residence abroad
   ii. children born overseas to nationals are not prevented from acquiring citizenship or are otherwise at risk of becoming stateless
   iii. citizenship laws do not discriminate on the basis of gender
   iv. dual/multiple nationality is permitted
   v. any decision to withdraw citizenship is reviewable by a court
   vi. children's births are registered
   vii. citizens residing overseas are able to vote in elections
d. Establish statelessness determination procedures to identify stateless people and provide them with protection
e. Establish digital registries to safeguard official documents for individuals and governments

Image credit: IOM/Leo Torreton

10 Ensure sustainable financing

What?

Predictable and continuous funding is needed to address all aspects of climate mobility, including disaster risk reduction and management, adaptation measures, early warning systems, education and awareness programs, livelihood diversification and capacity development.

Why?

Financial investment is critical to ensuring effective and sustainable responses to climate mobility. As a matter of international solidarity, collective responsibility and climate justice, the international community, development partners and global financing mechanisms should support affected states by providing technical and financial assistance, including through international agencies and mechanisms, the development banks, the Green Climate Fund, Climate Investment Funds and the Global Climate Change Alliance (GCCA+). The 2021 *Glasgow Climate Pact* reinforces the commitment by developed states to mobilise US$100 billion annually to support adaptation and mitigation, which provides a further funding stream. The private sector and diaspora communities may also have a role to play in providing technical and financial support. Ongoing investment in people is also crucial, including through livelihood diversification and support, education and skills training, community-based disaster planning and financial literacy.

How?

Key priorities

1. Increase predictable, sustainable, accessible and systemic funding for disaster risk reduction, climate change adaptation, loss and damage and climate mobility
2. Develop innovative financial arrangements to support climate mobility
3. Ensure rapid and equitable dispersal of funding at the community level when necessary, such as in the aftermath of disasters

Sample actions

a. Establish national budget allocations, special funds, trust funds or superannuation-type schemes to address climate mobility in a sustainable manner

b. Establish mechanisms for matching climate project proposals with potential funding sources and partners in a strategic and coordinated manner

c. Review disaster assistance programs to ensure that they are inclusive, accessible and adequate

d. Establish financial partnerships between governments, the private sector and diaspora communities

e. Establish a dedicated climate finance unit within national governments, with strong links to other ministries

f. Establish disaster insurance schemes and/or funds to help communities with recovery and restoration

g. Ensure that up-to-date data is available to support access to climate finance

h. Provide immediate assistance to people in the aftermath of a disaster through cash transfers

i. Establish or increase social protection investments, including through micro-enterprises or other economic inclusion models that target marginalised groups

Image credit: IOM/Muse Mohammed

11 Address loss and damage associated with climate mobility

What?

In the spirit of international cooperation, equitable burden-sharing and climate justice, mechanisms for addressing loss and damage should recognise the economic and non-economic loss and damage that arises in the context of climate mobility.

Why?

Climate mobility can result in severe economic and non-economic loss and damage. Moving away from home can disconnect people from critical economic resources and irreversibly disrupt cultural networks, communities, language, social cohesion and traditional knowledges. As such, it may represent the greatest form of loss and damage for some communities. Loss and damage is likely to be most severe in situations where people's agency is limited, such as where they are displaced. Displacement itself may constitute a form of loss and damage in the context of climate change. Loss and damage is fundamentally an issue of climate justice.

Non-economic loss and damage is difficult, if not impossible, to quantify or compensate in monetary terms. Even economic loss and damage can be challenging to calculate, especially when predicting future costs associated with loss and/or damage to housing, infrastructure, livelihoods, goods and services, and the use of land and marine resources. The Warsaw International Mechanism for Loss and Damage establishes a framework for addressing these issues. Under its auspices, the Task Force on Displacement provides a forum for advocacy relating to loss and damage associated with climate mobility, while the Santiago Network aims to catalyse technical assistance to implement approaches to avert, minimise and address loss and damage associated with the adverse effects of climate change.

How?

Key priorities

1. Advance equitable allocation of costs associated with loss and damage, based on principles of climate justice, solidarity and responsibility-sharing
2. Recognise displacement in the context of climate change as a form of loss and damage
3. Take steps to reduce economic and non-economic loss and damage in the context of climate mobility

Sample actions

a. Collaborate at the national, regional and international levels to advocate for:
   i. equitable accountability and allocation of costs associated with loss and damage, based on relative responsibilities for climate change
   ii. recognition of displacement in the context of climate change as a form of loss and damage
   iii. people-centred, human rights-based approaches in all discussions and responses to loss and damage
   iv. operationalisation of the Santiago Network

b. Develop and implement loss and damage assessments that take into account:
   i. data and evidence relating to the impacts of climate mobility
   ii. economic and non-economic losses arising from loss of, or restricted access to, land
   iii. socio-economic, political and cultural dimensions of climate change impacts

c. Establish equitable compensation schemes for loss of land and other assets

d. Collaborate with affected communities to identify and address the physical, mental and communal impacts of loss of land and culture

e. Document and share effective practices and policies for responding to, and working through, loss and damage

f. Establish mechanisms for people to retain economic benefits generated from their land and/or marine entitlements

12 Implement robust monitoring, evaluation and information management

What?

To be responsive and effective, all measures to address climate mobility must be informed by up-to-date evidence and subject to regular monitoring and evaluation.

Why?

Up-to-date, coherent and accurate data is a precondition for well-informed decision-making and effective implementation of law and policy. Without this, authorities and communities cannot adequately plan, prepare for or respond to disasters and the impacts of climate change, including through climate mobility. The *Agenda for Sustainable Development* recognises the importance of 'high-quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics'.[73] Similarly, the *Global Compact for Migration* commits states to 'improving and investing in the collection, analysis and dissemination of accurate, reliable and comparable data' and ensuring that such data 'fosters research, guides coherent and evidence-based policymaking and well-informed public discourse, and allows for effective monitoring and evaluation of the implementation of commitments over time'.[74]

Rigorous, evidence-based decision-making, combined with innovation, creativity and flexibility, will enable more tailored and contextually appropriate responses. For this reason, traditional knowledges and local expertise must also be a core part of the evidence base.

Image credit: UNHCR/Ruben Salgado Escudero

How?

Key priorities

1. Ensure that all measures to address climate mobility are based on up-to-date evidence and data
2. Implement regular monitoring and evaluation of programs over the short, medium and long term

Sample actions

a. Establish international, regional and national mechanisms to collect, analyse and evaluate data on climate mobility, including disaggregated data that is informed by the experiences of particular groups

b. Establish robust, reliable, up-to-date and accessible databases on disaster and climate hazards and risks, livelihood assessments, and the economic, social and cultural implications for people who move

c. Establish robust, reliable, up-to-date and accessible databases on laws relevant to climate mobility, including immigration legislation and regulations

d. Establish mechanisms for independent longitudinal monitoring and evaluation of climate mobility

e. Establish information repositories for effective practices and lessons learned, to inform future planning on climate mobility

f. Establish mechanisms for sharing laws, policies and practices on climate mobility to international fora, including the Task Force on Displacement, the UN Network on Migration and the Global Forum on Migration and Development

g. Review data collection and storage practices to ensure that they respect the right to privacy

[73] *Agenda for Sustainable Development* (n 9) Target 17.18.
[74] *Global Compact for Migration* (n 12) Objective 1, para 17.

13 Take a collaborative approach

What?

It is essential to take a broad approach to addressing climate mobility that facilitates collaboration between governments and a wide range of other stakeholders at the international, regional, national and local levels.

Why?

Partnerships and collaboration across different levels and sectors are key to the successful implementation of climate mobility strategies. Regional and international cooperation is essential to ensure that countries particularly vulnerable to climate change receive adequate, predictable and accessible assistance. A wide range of actors can play a critical role in responding to climate mobility, including governments, international and regional organisations, civil society groups, the private sector and diaspora communities. In particular, the perspectives of affected communities should be prioritised through inclusive, participatory and collaborative approaches to the generation and implementation of solutions.

The duty to cooperate is a fundamental principle of international law, reflected in the *UN Charter* and other instruments.[75] In the context of climate change, it includes commitments by governments to cooperate on a range of mitigation and adaptation activities (taking into account their 'common but differentiated responsibilities').[76] In the context of mobility, a commitment to engage in 'international, regional and bilateral cooperation and dialogue' is recognised.[77] The *Sendai Framework* calls for the promotion of 'transboundary cooperation … to build resilience and reduce disaster risk, including … displacement risk'.[78] Under the *Kampala Ministerial Declaration on Migration, Environment and Climate Change*, African states have pledged 'enhanced cooperation and action' on issues ranging from adaptation, climate resilience and urban planning through to enhanced knowledge and data sharing.[79] In November 2023, Australia and Tuvalu announced a bilateral agreement providing a 'special human mobility pathway' for citizens of Tuvalu to live, study and work in Australia, as part of the two countries' 'shared interest in each other's prosperity, stability and security, including by responding to current and emerging security challenges, such as climate change'.[80]

Climate mobility cannot be addressed by governments alone. The *Global Compact for Migration* advocates a 'whole-of-society approach' that includes 'migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, National Human Rights Institutions, the media and other relevant stakeholders in migration governance'.[81] Likewise, the *Agenda for Sustainable Development* seeks to '[e]ncourage and promote effective public, public-private and civil society partnerships'.[82] In the 2023 *Pacific Regional Framework on Climate Mobility*, Pacific governments pledged to work together with communities and other actors to address climate mobility 'through a proactive, inclusive and collaborative regional approach'.[83]

To have the greatest effectiveness and buy-in, legal and policy responses to climate mobility must reflect the perspectives of affected communities, host communities and those who stay behind. The principle of 'public participation' has roots in international human rights law[84] and is recognised as an essential component of sustainable development and good governance.[85] Ongoing, meaningful and inclusive consultation is essential to ensuring that applicable frameworks meet the needs, and respect the rights, of all those affected.

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[75] *UN Charter* (n 18) art 56. See also *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, UNGA Res 2625 (XXV) (24 October 1970) Annex, para 1.
[76] *United Nations Framework Convention on Climate Change*, opened for signature 9 May 1992, 1771 UNTS 107 (entered into force 21 March 1994) esp arts 4(1)(c) and 4(1)(d) on mitigation; 4(1)(e) on adaptation; and 6(b)(ii) on strengthening the capacities of institutions to deal with climate change.
[77] *Global Compact for Migration* (n 12) para 15.
[78] *Sendai Framework* (n 8) para 28.
[79] *Kampala Ministerial Declaration on Migration, Environment and Climate Change*, adopted in Kampala, 29 July 2022; *Addendum to the Kampala Declaration*, adopted in Nairobi, 4 September 2023.
[80] *Australia–Tuvalu Falepili Union Treaty*, announced 10 November 2023.
[81] *Global Compact for Migration* (n 12) para 15.
[82] *Agenda for Sustainable Development* (n 9) Target 17.17.
[83] *Pacific Regional Framework on Climate Mobility*, para 9, Annex C to the Pacific Islands Forum, *Forum Communiqué* (52nd Pacific Islands Forum, November 2023).
[84] *UDHR* (n 70) art 21; *ICCPR* (n 28) art 25.
[85] *New Delhi Declaration of Principles of International Law relating to Sustainable Development*, Annex to International Law Association Res 3/2002 (April 2022) principle 5.

How?

Key priorities

1. Facilitate international, regional, national and local cooperation to prevent, avert and respond to risks arising from the impacts of climate change and disasters, including with respect to disaster risk reduction, climate adaptation and resilience building
2. Enhance regional coherence on cross-border mobility policies and mechanisms
3. Facilitate the full and inclusive participation of affected communities in all measures to address climate mobility
4. Facilitate meaningful collaboration between governments, affected communities, international and regional organisations, civil society groups, the private sector and other stakeholders

Sample actions

a. Request and provide international assistance when needed (such as technical, financial and operational support), including with respect to evacuations, displacement, humanitarian assistance and longer-term recovery

b. Enhance regional coherence on laws, policies and practices relating to admission and stay, and consider creating regional guidelines on the admission and stay of non-citizens following a disaster or emergency request by an affected state

c. Establish regional policy dialogues to explore opportunities for expanding existing cross-border migration pathways and/or developing multilateral or bilateral agreements to facilitate movement

d. Mainstream climate mobility in national and regional laws and policies relating to land, sustainable development, migration, climate change and disaster risk reduction (to avoid siloed approaches)

e. Establish mechanisms to enable the full and inclusive participation of affected communities, drawing on traditional knowledges and governance systems, where relevant

f. Establish information-sharing systems to better understand and address climate mobility

g. Establish clear processes for government ministries to share information and collaborate with each other, as well as with other stakeholders

h. Establish guidelines to strengthen and facilitate government engagement with civil society organisations

i. Integrate climate mobility into school curricula and post-secondary education and training programs to build awareness and understanding

j. Establish tailored strategies to engage diverse groups – including women and girls, children and young people, older people, people with disabilities, indigenous peoples, ethnic and religious minorities, LGBTQIA+ people, rural and outer-island communities, and migrants – to ensure that their concerns are reflected

Image credit: IOM/Julie Batula

The authors

Professor Jane McAdam AO is Scientia Professor of Law and Director of the Kaldor Centre for International Refugee Law at UNSW Sydney. She is an Australian Research Council Laureate Fellow, and a Fellow of both the Academy of the Social Sciences in Australia and the Australian Academy of Law. She has held visiting appointments at Oxford and Harvard and was previously a non-resident Senior Fellow in Foreign Policy at The Brookings Institution in Washington DC (2012–16). She publishes widely in international refugee law and forced migration, with a particular focus on mobility in the context of climate change and disasters. Professor McAdam's prestigious Laureate Fellowship (2024–28) examines the legal underpinnings and practical challenges of evacuations across a range of contexts, including conflict, disasters and other humanitarian crises. Her work has been highly influential in the development of international, regional and national frameworks on climate mobility. In 2017, she was appointed by the United Nations High Commissioner for Refugees to make recommendations on its institutional strategy on displacement in the context of disasters and climate change (with Professor Guy S Goodwin-Gill). As Co-Rapporteur of the International Law Association's Committee on International Law and Sea-Level Rise, she spearheaded the 2018 *Sydney Declaration of Principles on the Protection of Persons Displaced in the context of Sea Level Rise*. In 2022, she was commissioned to lead the drafting of the world's first regional framework on climate mobility for Pacific governments. In 2021, Professor McAdam was appointed an Officer of the Order of Australia (AO) 'for distinguished service to international refugee law, particularly to climate change and the displacement of people'. In 2022, she won the Australian Human Rights Law Award for her work in this field.

Dr Tamara Wood is a Senior Research Fellow at the Kaldor Centre for International Refugee Law, UNSW Sydney; Postdoctoral Researcher (external) at the Hertie School, Berlin; and an Adjunct Researcher at the Faculty of Law, University of Tasmania. Dr Wood publishes widely in the fields of international refugee law, regional refugee law, free movement agreements, complementary pathways to protection, and displacement in the context of disasters and climate change. She has acted as a consultant to the United Nations High Commissioner for Refugees, the International Organization for Migration, the Platform on Disaster Displacement, the Nansen Initiative on Disaster-Induced Cross-Border Displacement, the Institute for Security Studies Africa and the World Bank. Dr Wood is a member of the Advisory Committee of the Platform on Disaster Displacement and the founding Co-Chair and current Steering Group member of the Climate Mobility Africa Research Network (CMARN). In 2022, she acted as Deputy Lead for the technical team commissioned to draft the Pacific Regional Framework on Climate Mobility.

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The Andrew & Renata Kaldor Centre for International Refugee Law at UNSW Sydney is the world's leading research centre dedicated to the study of international refugee law. Founded in October 2013, the Centre undertakes rigorous research on the most pressing displacement issues in Australia, the Asia-Pacific region and around the world, and contributes to public policy by promoting lawful, sustainable and humane solutions to forced migration. Through outstanding research and engagement, the Centre has become recognised as an intellectual powerhouse with global impact.

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kaldorcentre.unsw.edu.au

or email us at
kaldorcentre@unsw.edu.au

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