



# State Responsibilities and International Obligations in Responding to Climate Mobilities: What Should International Assistance Look Like?

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## Abstract

Climate change-related events are already pushing people towards mobility, and it is likely this dynamic will only escalate as the effects of the climate crisis are more readily felt. Despite knowing this, before 2018, there were very few examples of state-level policies to manage climate mobilities. Unpacking the two path-leading policies designed by Fiji and Vanuatu in this space, we can see a significant recognition of the rights that individuals faced with mobility have and the obligations that states have to take to protect these rights and prevent harm. Although these policies are still in their infancy, we can already see significant barriers to implementation developing. In addition, considering the unequal distribution of responsibility for the drivers of climate change, there is a compelling legal and moral argument that the international community has a duty to step forward and assist states like these in discharging their responsibilities and managing climate mobilities effectively. In this chapter, I argue that the early experiences of Fiji and Vanuatu show us that the international

community has a responsibility to help and I attempt to showcase what this responsibility should look like. It is my assertion that the international support must be locally led and tailored to local needs and context. Those who know how to best implement policies are already on the ground, so instead of parachuting in foreign experts, local actors should be supported and assisted with technical and financial support that builds their capacity.

## 1 Introduction

Climate change-related events are already pushing people towards mobility, and it is likely that this dynamic will only escalate as the effects of the climate crisis are more readily felt. This has been acknowledged in the international community for almost three decades.<sup>1</sup> Most of this movement will occur within states rather than across borders to neighbouring states. Despite knowing this for some time, it is only recently that states have begun to develop detailed domestic-level policies for specifically managing climate mobilities within their borders. Fiji and Vanuatu were among the first states to

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<sup>1</sup> 'The Changing Atmosphere: Implications for Global Security' (Secretariat of the World Meteorological Organization 1989) 20.

adopt these types of policies in 2018, and the Solomon Islands has since followed them in 2022. While these policies offer concrete pathways towards better management of climate mobilities by state-level actors, their implementation has been hamstrung by issues including financial limitations. Therefore, the question I explore in this chapter is how the international community can better fulfil its obligations to assist states like these to protect people within their borders from harm associated with climate mobilities. Under international law, it is clear that states have the primary responsibility to assist when people face harm related to current or future mobilities within their borders.<sup>2</sup> However, the international community also has an obligation to assist states in overcoming barriers to implementing climate mobilities management and protection plans. This is especially the case when the states in question have not significantly contributed to drivers of climate change.<sup>3</sup> I argue that this assistance should be designed to allow states to implement their policies in line with existing rights-based approaches by filling capacity gaps through financial and technical contributions. To do this, the assistance needs to be delivered in a way that is locally led and focused on the contextual needs of the recipients, not the donors.

I make this argument in four sections. The first section looks at the obligation of the international community to assist states in protecting the rights of climate-mobile individuals. Second, I look at how Fiji and Vanuatu have approached the management of climate mobilities and the

barriers they have faced in implementing their policies. Thirdly, I pivot towards the role the international community can and should play in supporting states to fulfil their protection responsibilities around climate mobilities. I look at what should be done under existing international obligations and how this could be improved to better address the specificities of climate mobilities. Then, I argue that for this type of international assistance to be successful, it must be locally led and focused on the needs of the community and not the donors. Recognising agency and improving processes so that development and assistance partners work with, instead of acting for, these states and communities is key to ensuring those affected have the best chance at finding durable solutions to their situations of mobility. Finally, I offer policy prescriptions on how to develop and improve climate mobilities-related assistance. Throughout the chapter, I consciously use the term climate mobilities over alternatives like migration or displacement. This is because it better captures the diversity of the ‘multiple forms, directions, and multiplicities of human movement in the context of climate change’,<sup>4</sup> including immobility, relocation, and circular mobility.<sup>5</sup>

To piece together these narratives, I adopt a process tracing methodology. Within this, I supplement desk-based research with data from eight semi-structured elite-level interviews conducted with key policymakers through 2022 and 2023 in locations across Suva, Fiji, as well as remotely.<sup>6</sup> The interview participants were initially identified through desk research, and the pool was expanded through methods of snowballing. The University of Wollongong Ethics Committee granted the ethics approval, and all participants have agreed to be identified at various levels in this research.<sup>7</sup>

<sup>2</sup>Ferris [1], McAdam and Ferris [2], Bellamy [3], UN High Commissioner for Human Rights [4]; UN General Assembly, Resolution 46/182 1991 [46/182 (paragraphs 3–5)].

<sup>3</sup>Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General: Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights 2009 [A/HRC/10/61] paras 84–7; ‘United Nations Framework Convention on Climate Change’ (United Nations 1992) FCCC/INFORMAL/84 Articles 3–4.

<sup>4</sup>Boas et al. [5].

<sup>5</sup>Boas et al. [6].

<sup>6</sup>Gusterson [7].

<sup>7</sup>Ethics was granted on 13/September/2022 under Ethics number 2022/230 from the University of Wollongong’s Human Ethics Committee.

## 2 The Protection and Assistance Obligations of States and the International Community Around Climate Mobilities

Two fundamental aspects of international law form the foundations of this chapter. The first is that individuals have basic rights.<sup>8</sup> Beyond basic rights, international human rights treaties and their guidance note that specific groups of people are owed additional protections based on their needs and circumstances.<sup>9</sup> For instance, people forced to move can claim rights and protections due to displacement.<sup>10</sup> This is applicable in the case of cross-border displacement due to ‘persecution’ in the form of refugee

<sup>8</sup> ‘Universal Declaration of Human Rights’ (United Nations 1948) A/RES/217(III). <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/043/88/PDF/NR004388.pdf?OpenElement>. Accessed 17 July 2023; ‘International Covenant on Civil and Political Rights’ (UN General Assembly 1966) 14668. <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>. Accessed 17 July 2023; Human Rights Committee, ‘General Comment No. 6: The Right to Life (Art 6)’ (United Nations Human Rights Committee 1982) para 1; Pictet [8], Shue [9].

<sup>9</sup> ‘Convention on the Rights of the Child’ (UN General Assembly 1989) 44/25. <https://www.ohchr.org/sites/default/files/crc.pdf>. Accessed 17 July 2023; ‘Convention on the Rights of Persons with Disabilities’ (UN General Assembly 2007) A/RES/61/106; ‘Convention on the Elimination of All Forms of Discrimination against Women’ (UN General Assembly 1979). <https://www.ohchr.org/sites/default/files/cedaw.pdf>. Accessed 17 July 2023; ‘United Nations Declaration on the Rights of Indigenous Peoples’ (UN General Assembly 2007) A/61/L.67 and Add.1. [https://social.desa.un.org/sites/default/files/migrated/19/2018/11/UNDRIP\\_E\\_web.pdf](https://social.desa.un.org/sites/default/files/migrated/19/2018/11/UNDRIP_E_web.pdf). Accessed 17 July 2023; ‘United Nations Principles for Older Persons’ (UN General Assembly 1991). <https://social.un.org/ageing-working-group/documents/fourth/AWAZUNprinciplesforolderpersons.pdf>. Accessed 17 July 2023; UN High Commissioner for Refugees [10], African Union [11]; Kälin [12]; Colloquium on the International Protection of Refugees in Central America, Mexico, and Panama, Cartagena Declaration on Refugees 1984; McAdam [13], Pérez [14].

<sup>10</sup> UN High Commissioner for Refugees (n 9); Kälin (n 9); African Union (n 9); Colloquium on the International Protection of Refugees in Central America, Mexico, and Panama, Cartagena Declaration on Refugees 1984 (n 9).

protection, adjacent types of protection for conflict displacement, and other forms of unrest.<sup>11</sup> However, these protections are not limited to those who cross an international border; in fact, those forced to move within their borders—whether due to conflict, environmental hazards, disasters, or a combination thereof—can also claim specific protections related to their circumstances.<sup>12</sup>

This is important since most climate-related movements will be internal—within countries. Therefore, it is the state that holds the primary responsibility for protection.<sup>13</sup> States’ protection responsibilities have been explicitly identified as including disasters and environmental hazards.<sup>14</sup> Further, these hazards need not be experienced, but merely foreseeable for these responsibilities to apply.<sup>15</sup> So, while there are no specific global treaties or laws on protection in the context of climate mobilities, as McAdam has argued, we already have clear frameworks from international human rights and humanitarian law that could guide our actions in this space.<sup>16</sup> We are generally missing the specifics of applying these rights and obligations in the context of climate mobilities. In this section, I offer a broad idea of the direction this should take, focusing on the international community’s responsibilities and financial assistance.

<sup>11</sup> McAdam (n 9) 6.

<sup>12</sup> Kälin (n 9); Oloka-Onyango [15].

<sup>13</sup> UN General Assembly Resolution 46/182 (n 2) paras 3–4; UN High Commissioner for Human Rights (n 2) 226; Ferris (n 2) 66; Thakur [16]; Bellamy (n 2) 619; McAdam (n 9) 6.

<sup>14</sup> UN General Assembly Resolution 46/182 (n 2) paras 3–4; *Case of Öneriyıldız v Turkey* [2004] European Court of Human Rights 48939/99 [71–2]; Kälin (n 9); International Law Commission [17].

<sup>15</sup> Human Rights Committee, ‘Views Adopted by the Committee under Article 5 (4) of the Optional Protocol, Concerning Communication No. 2728/2016’ (United Nations Human Rights Committee 2020) CCPR/C/127/D/2728/2016 para 9.4; *Case of Budayeva and Others v Russia* [2008] European Court of Human Rights 15339/02, 21166/02, 20058/02, 11673/02 and 15343/02 [128–9, 135]; Foster and McAdam [18].

<sup>16</sup> McAdam [19].

### A. The Responsibilities of the International Community

While states may hold the primary responsibility to uphold the rights of those within their borders, they are not the sole duty bearers. The specific complexities and dynamics of climate change and climate mobilities add weight to the argument that the international community has a significant role in supporting states and stepping in when they are unable to adequately fulfil their responsibilities. Three broad points can be raised to support this proposition.

Firstly, almost all states have committed to some level of emissions reduction at various UN Framework Convention on Climate Change (UNFCCC) and Conference of the Party (COP) meetings in recent years.<sup>17</sup> Mitigation measures like these are the foundational aspects of reducing risk for climate-vulnerable communities. The process was first crystallised at the 1992 UN Conference on Environment and Development in Rio, which produced the UNFCCC and the Rio Declaration. Principle 16 of the Rio Declaration states that polluting states should bear the costs associated with pollution.<sup>18</sup> Article 4 of the UNFCCC states that developed countries should provide financial assistance to developing countries to help them limit their emissions. Article 4 of the UNFCCC also imposes individual obligations on all state parties to mitigate climate change by limiting anthropogenic greenhouse gas emissions.<sup>19</sup>

Mitigation actions are a collective obligation for the international community to act in concert to reduce emissions and limit the drivers of climate change where possible. However, not every

state has the same level of obligation. Article 3 of the UNFCCC creates the idea of common but differentiated responsibility, where some states will need to shoulder more of the burden and responsibility than others.<sup>20</sup> These collective but differentiated obligations were further spelled out by the 1997 Kyoto Protocol,<sup>21</sup> and the 2015 Paris Agreement.<sup>22</sup> Article 9 of the Paris Agreement states that developed countries ‘shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation’, whilst also continuing ‘to take the lead in mobilising climate finance from a wide variety of sources, instruments and channels’. However, the agreement only required developed countries to communicate projected levels of available finances and keep developing countries informed on the support on offer.<sup>23</sup> There were no binding commitments to ensure developed states committed significant assistance measures—financial or otherwise.

Paragraph 14 (f) of the Cancun Adaptation Framework was the first UNFCCC document to explicitly link issues of climate change and ‘displacement, migration, and planned relocation’, although it also stops short of assigning obligations and instead ‘invites’ states to enhance action whilst ‘taking into account their common but differentiated responsibilities and respective capabilities’.<sup>24</sup> While discussions of climate mobilities in the forum of the UNFCCC have not yet consolidated around concrete outlines

<sup>17</sup> ‘Paris Agreement’ (UN Framework Convention on Climate Change 2015), article 4. [https://unfccc.int/files/essential\\_background/convention/application/pdf/english\\_paris\\_agreement.pdf](https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf). Accessed 15 July 2023.

<sup>18</sup> UN General Assembly, Report of the United Nations Conference on Environment and Development (Rio Declaration on Environment and Development 1992, para 16).

<sup>19</sup> ‘United Nations Framework Convention on Climate Change’ (n 3), Article 4.

<sup>20</sup> Lee [20].

<sup>21</sup> Meguro [21], Hermwille et al. [22]; Lee (n 21) 77; United Nations, ‘Kyoto Protocol to the United Nations Framework Convention on Climate Change’ (UN Framework Convention on Climate Change 1998). <https://unfccc.int/resource/docs/convkp/kpeng.pdf>. Accessed 12 September 2022.

<sup>22</sup> ‘Paris Agreement’ (n 17); Meguro (n 21) 943.

<sup>23</sup> ‘Paris Agreement’ (n 17) article 9.

<sup>24</sup> UN Framework Convention on Climate Change, ‘Report of the Conference of the Parties on Its Sixteenth Session, Held in Cancun from 29 November to 10 December 2010’ (UN Framework Convention on Climate Change 2011) UNFCCC/CP/2010/7/Add.1 para 14(f). <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>. Accessed 15 July 2023.

of state obligations, existing understandings of the protection obligations of both states and the international community in the context of climate change and human rights are already well established.

Secondly, the basis for international obligations extends far beyond the remit of the UNFCCC. In a report to the UN General Assembly, the Office of the High Commissioner for Human Rights noted that while states have the primary obligation to protect and uphold human rights where they are impacted by climate change,<sup>25</sup> this exists alongside an obligation for all members of the international community to cooperate to address these issues effectively.<sup>26</sup> Drawing on the precautionary principle, they confirmed these obligations could extend across time to encompass questions of intergenerational equity as well.<sup>27</sup> Therefore, there are two layers of obligations here. While states hold the responsibility of primary protection, the international community must act to assist states and avoid harm wherever it may occur across time and space. Bringing this into conversation within the climate context, the Inter-Agency Standing Committee's Operational Guidelines on the Protection of Persons in Situations of Natural Disasters suggest that a disaster can become an issue of international concern if the capacity of the authorities to fulfil their responsibilities 'is/are insufficient'.<sup>28</sup> In this case, it is up to the international community to step in and assist.

<sup>25</sup>Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General: Report of the Office of the United Nations High Commissioner for Human Rights on the relationship between climate change and human rights (n 3) paragraphs 72–4.

<sup>26</sup>Ibid., 84–7.

<sup>27</sup>Ibid., 89–91.

<sup>28</sup>Inter-Agency Standing Committee, 'IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters' (Brookings—Bern Project on Internal Displacement 2011) 6. [https://www.ohchr.org/Documents/Issues/IDPersons/OperationalGuidelines\\_IDP.pdf](https://www.ohchr.org/Documents/Issues/IDPersons/OperationalGuidelines_IDP.pdf). Accessed 28 August 2020.

Thirdly, adding to the transnational nature of the problem, when people are forced into mobility due to climate-related reasons, their decisions to move are often driven by the localised effects of a broader international crisis. Climate change is a global process that members of the wider international community are responsible for. It follows that those most responsible should be, in some way, accountable for the emissions that have led to these climatic changes and have a particular obligation to assist those states that have contributed the negligible emissions, to protect their populations from environmental hazards.<sup>29</sup> States with the least capacity and who have contributed the least to the root problem should not have to face these issues alone; cooperation from high-emitting states is essential.<sup>30</sup> Cooperation, in this case, extends beyond helping with immediate disaster response. Contributions must be made towards long-term recovery, adaptation, and risk reduction projects, as less-developed states that will be most affected by climate-related hazards often lack the financial and technical capacity to fully implement adaptation policies on their own—particularly at the scale and speed required.<sup>31</sup> So, while the mobilities may be internal, and states have the primary responsibility for protecting those within their jurisdiction, the transnational nature of climate change and the varied capacities and differentiated responsibilities of states means that the international community does have an obligation to assist states in discharging their protection obligations. The international community, particularly higher-emitting states, has a legal and normative obligation to assist least-emitting states to fulfil their protection obligations towards their citizens, prevent harm, and provide compensation when harm is unavoidable. One form these obligations manifest in is the need to offer financial assistance to developing states to help them adapt to the realities of climate change.

<sup>29</sup>Cohen and Bradley [23].

<sup>30</sup>Farbotko et al. [24].

<sup>31</sup>Charan et al. [25].



## B. International Financing Mechanisms

Having states acknowledge and fulfil these obligations has proven extremely difficult, however. Vanuatu and the Alliance of Small Island States campaigned vigorously over a long period for a global fund and insurance pool based on the Polluter Pays principle to be established during negotiations to develop the UNFCCC.<sup>32</sup> However, it was not until 2007 that the term ‘loss and damage’ was referenced in a UNFCCC document.<sup>33</sup> From this point, it was another five years until the Warsaw International Mechanism on Loss and Damage (WIM) was established. The WIM has a mandate to enhance ‘action and support, including finance, technology, and capacity-building, to address loss and damage associated with the adverse effects of climate change’.<sup>34</sup>

The WIM was given a durable legal basis in Article 8 of the 2015 Paris Agreement.<sup>35</sup> However, while provisions for the WIM to be strengthened in the future were included, paragraph 52 of the decision accompanying the Paris Agreement specifically stipulates that Article 8 ‘does not involve or provide a basis for any liability and compensation’.<sup>36</sup> As a result, there is a great degree of ambiguity in both the mandate and how loss and damage was framed in discussions. The concerns of developed states resulted in the terms ‘liability’ and ‘compensation’ being

excluded from the document as well.<sup>37</sup> However, despite this, developing states saw the establishment of a process that could address loss and damage from climate change as a significant breakthrough.<sup>38</sup>

After 30 years of campaigning, COP27 in 2022 saw another breakthrough with an international agreement on establishing a global fund to pay for climate-related loss and damage. However, the Conference had been preceded by a long-drawn struggle to get loss and damage on the agenda since the United States and other wealthy large emitters had attempted to block negotiations. It was only after marathon negotiations into the wee hours on the first day of the Conference that developing countries and small island states succeeded in getting loss and damage onto the agenda.<sup>39</sup> Therefore, gaining a formal agreement to develop a loss and damage fund is an extremely significant success.<sup>40</sup> It was effectively admitted that prior efforts had failed to prevent climate change, and that adaptation now has to sit alongside mitigation on the agenda.<sup>41</sup> The caveat here is that significant questions remain about the form the fund will take, the amount of funds required, who will pay into the fund, whether contributions will be voluntary or mandatory, who is entitled to claim compensation from the fund, and what even counts as loss and damage in this context.<sup>42</sup> Additionally, while an agreement was finally reached on beginning the process to establish this fund, China’s initial response was that they would not be contributing to the fund. Key petrostates also pushed back on the idea of being compelled to contribute.<sup>43</sup>

As Harris argues, the idea of the fund is ‘ripe with possibility’, but there is a real danger that

<sup>32</sup> ‘United Nations Framework Convention on Climate Change’ (n 3) article 4.8; Wewerinke-Singh and Salili [26].

<sup>33</sup> ‘Bali Action Plan’ (UN Framework Convention on Climate Change 2007) Conference of the Parties UNFCCC/CP/2007/6/Add.1 article 1(c) (iii). [https://www.preventionweb.net/files/8376\\_BaliE.pdf](https://www.preventionweb.net/files/8376_BaliE.pdf). Accessed 15 July 2023.

<sup>34</sup> ‘Report of the Conference of the Parties on Its Eighteenth Session, Held in Doha from 26 November to 8 December 2012’ (UN Framework Convention on Climate Change 2013) UNFCCC/CP/2012/8/Add.1 article 5(c). <https://unfccc.int/sites/default/files/resource/docs/2012/cop18/eng/08a01.pdf>. Accessed 15 July 2023; Wewerinke-Singh and Salili (n 32) 4.

<sup>35</sup> ‘Paris Agreement’ (n 17) article 8.

<sup>36</sup> Wewerinke-Singh and Salili (n 32) 4.

<sup>37</sup> Wewerinke-Singh and Salili (n 32) 4.

<sup>38</sup> *Ibid.*

<sup>39</sup> Peel [27], Donald [28].

<sup>40</sup> McDonald [29], Lillo et al. [30].

<sup>41</sup> Harris [31].

<sup>42</sup> *Ibid.*; McDonald (n 39).

<sup>43</sup> Lillo and others (n 39).

larger states will stonewall or slow roll the process to avoid financial liabilities.<sup>44</sup> As in the Paris Agreement, the final text of the agreement on loss and damage again avoided using terms like liability or compensation—in this case largely due to campaigning from the United States. Additionally, by 2023, there is only a commitment to establish a transitional committee that will make recommendations for consideration at COP28 in 2023. While recent progress is positive, there is still the chance this could turn into another ‘placebo fund’ that never eventuates at the promised or required scale.<sup>45</sup>

Vanuatu’s submission to the Executive Committee of the WIM (Warsaw International Mechanism) on loss and damage finance adds specificity to how they believe the fund should function. A range of activities that should be covered by loss and damage are outlined in the proposal, including the costs of relocating coastal communities; reconstruction after extreme weather; a range of social programmes including those around gender equality and livelihood transformation and protection; subsidies for insurance premiums; emergency financial and contingency planning support for governments; and technological cooperation and transfer.<sup>46</sup> To strengthen their claims, Vanuatu has successfully petitioned the International Court of Justice (ICJ) to issue an advisory opinion to clarify the nature and scope of obligations industrialised nations have for climate change and resulting loss and damage.

This campaign took an important step forward on 29 March 2023, when the UN General Assembly adopted a resolution by consensus to request an advisory opinion from the ICJ on states’ obligations regarding climate change. The resolution was co-sponsored by more than

120 countries; however, the US was notable for its absence as a co-sponsor and the reservations it expressed during discussions. Despite this, the motion was passed with unanimous state support—the first time this has happened for a General Assembly request for an advisory opinion.<sup>47</sup> While advisory rulings are non-binding, the findings will shape how states understand their international obligations around climate change.<sup>48</sup>

The two recent developments, of COP27’s loss and damage agreement and the successful request for an ICJ advisory ruling, show that there is a growing understanding and acknowledgment that those states that have the ability and have contributed the most to driving climate change, are obligated to assist and compensate those smaller states who are bearing the worst of a problem they did not create. However, precisely what these obligations should look like is still in question. The ICJ’s opinion is awaited, and there is a lack of clarity around how the loss and damage fund will be structured. Therefore, I offer a proposal of how this assistance should look. This is based on the lessons learnt from two of the first states to develop policies on climate-related mobilities—Fiji and Vanuatu. Beyond the lessons these cases offer for other states developing their own climate mobilities policies, I argue that they also show how the international community needs to step forward. Assistance must proceed in a way that supports states in protecting the rights and futures of those at risk of mobilities—it must be locally led and driven by the context-specific needs of communities rather than the interests of donors. With this objective, the following section evaluates the policy initiatives in Fiji and Vanuatu.

<sup>44</sup>Harris (n 40).

<sup>45</sup>Najam [32].

<sup>46</sup>Wewerinke-Singh and Salili (n 32) 2.

<sup>47</sup>UN Press, ‘General Assembly Adopts Resolution Requesting International Court of Justice Provide Advisory Opinion on States’ Obligations Concerning Climate (GA/12497 29 March 2023 /03/20023). <https://press.un.org/en/2023/ga12497.doc.htm>. Accessed 10 April 2023; Lakhani [33], Peel and Nay [34].

<sup>48</sup>Peel and Nay (n 46).

### 3 Pioneering Approaches to Climate Mobility Management: Fiji and Vanuatu

#### A. Fiji

Fiji is comprised of more than 330 islands and 500 islets, with around 110 of the islands permanently inhabited. Rather than a small island nation, Fiji and other Pacific Island states have re-framed themselves as large ocean nations in the last decade.<sup>49</sup> More than 98% of Fiji's 1.3 million square kilometre territory is comprised of ocean.<sup>50</sup> Even on land, the majority of Fiji's approximately 850,000 citizens live in coastal areas, with 76% living within 5 km of the coast and 27% within 1 km.<sup>51</sup> These characteristics and the broader location of Fiji leave the state extremely exposed to the effects of climate change. Since 1992, the ocean around Fiji's islands has been rising at an average of around 5.5 mm per year, almost twice the global average.<sup>52</sup> This trend may be accelerating. In 2019, the Intergovernmental Panel on Climate Change stated that sea levels in the Western Pacific Ocean were rising at around three times greater than the global mean.<sup>53</sup> This shows that climate change poses a clear material threat to Fiji and its people.

The 2014 relocation of Vunidogoloa is now widely accepted as the world's first state-sponsored climate change-related community relocation project.<sup>54</sup> This was the first of six relocations the Fijian Government has been involved in, with another three due in 2023.<sup>55</sup>

Legislative and policy development has supported these practices. Recent developments have included the 2018 Planned Relocation Guidelines,<sup>56</sup> the 2019 Displacement Guidelines in the Context of Climate Change and Disasters,<sup>57</sup> the 2019 Climate Relocation and Displaced Peoples Trust Fund for Communities and Infrastructure,<sup>58</sup> and the 2021 Climate Change Act, which writes these ambitious climate-related policies into law.<sup>59</sup> However, despite an abundance of will to implement positive protective practices, the projects have been hamstrung by problems. Interviews with government officials have shown that the most significant of these issues is often finding adequate financing to carry out projects at the scale required and in the ways outlined in these key policy documents.

One example of the complexity of the problems faced in implementing these policies is the proposed relocation of the village of Nabukadra. This was one of the initial 42 candidates identified by the Government for relocation. Heavily impacted by rising sea levels and the Tropical Cyclone Winston in 2016, plans were undertaken to relocate the community to a new hillside site. However, a protracted and fractured decision-making process meant that even by 2019, only a few houses had moved. A lack of available financing from the government or donors was a key barrier to relocation here.

<sup>49</sup> Chan [35], Morgan [36].

<sup>50</sup> Fiji has a land area of 18,270 km<sup>2</sup> and an Exclusive Economic Zone of 1,289,978 km<sup>2</sup>; Hume et al. [37].

<sup>51</sup> Andrew et al. [38].

<sup>52</sup> Martin et al. [39].

<sup>53</sup> Church et al. [40].

<sup>54</sup> Tronquet [41], McNamara and des Combes [42].

<sup>55</sup> Interview with Lebaiatelaite Gaunavinaka, Fiji Climate Change Division, 'Interviewed by Liam Moore' (13 January 2023). The six relocations include the initial relocation of Vunidogoloa, alongside Vunisavisavi, Denimanu, Nagasauva, Narikoso, and Tukuraki.

<sup>56</sup> Ashna Kumar, 'PM Launches Our Adaptation Plan at COP24' *Fiji Sun* (Suva, Fiji, 15 December 2018). <https://fijisun.com.fj/2018/12/15/pm-launches-our-adaptation-plan-at-cop24/>. Accessed 24 April 2019.

<sup>57</sup> Sarina Theys, 'COP25 and Pacific Island States: "We Are Keen to Lead, Not to Be Led"' (*International Affairs Blog*, 21 October 2020). <https://medium.com/international-affairs-blog/cop25-and-pacific-island-states-we-are-keen-to-lead-not-to-be-led-ced74ece0f4e>. Accessed 29 October 2021.

<sup>58</sup> Fiji Ministry of Communications, 'World's First Ever Relocation Trust Fund for People Displaced by Climate Change Launched by Fijian Prime Minister' (Ministry of Communications 2019). <https://www.fiji.gov.fj/Media-Centre/News/WORLD%E2%80%99S-FIRST-%E2%80%93EVER-RELOCATION-TRUST-FUND-FOR-PEOP>. Accessed 29 October 2021.

<sup>59</sup> Republic of Fiji, Climate Change Act 2021.



The households that did move were restricted to only rebuilding slightly further up the hillside, where land could be cleared by hand. Without the investment and technical expertise needed to remove and level land further up the hillside, the community was limited to rebuilding within the boundaries of their existing village.<sup>60</sup>

Since 2016, issues of funding and capacity have persisted. In 2023, two of the three relocations slated to occur have faced significant financing issues. For the relocation of the community of Cogeia, the Fijian Government did not have the funding to implement the project. Instead, the project will be implemented by the Fijian Council of Social Services, a civil society organisation, and the funding is coming from the Christian charity, Bread for the World.<sup>61</sup> Interviews held with officials at the Fiji Climate Change Division revealed that while the Government would have preferred to conduct the relocation themselves, they are grateful for the support, as the project is unlikely to have been funded in the immediate future.<sup>62</sup> It was also stated that funding had not been secured for the second state-led planned relocation scheduled for 2023, and that the project is currently stalled. The third relocation was allocated funding, but was then held up for almost three years due to difficulties in finding suitable land and securing its rights. As of May 2023, however, a site has been secured and funding is in place.<sup>63</sup> Officials estimate these projects to cost around FJ\$1 to 4 million (USD\$ 440,000 to 1.75 million) each to implement,<sup>64</sup> with projects taking

between 18 and 24 months to complete in best-case scenarios.<sup>65</sup>

Compounding these issues is the knowledge that over 40 other communities are on a list to be relocated, however, currently the government team that assesses and plans for relocations can only manage one project at a time as they are a three-person team and simply do not have the bandwidth to manage more than this.<sup>66</sup> Government officials did confirm, however, that in 2023, in partnership with the Platform on Disaster Displacement, the Climate Change Division had hired a new staff member in the role of embedded climate finance advisor. This is part of the Project to Avert, Minimise, and Address Displacement Related to the Effects of Climate Change and is funded through the Norwegian Agency for Development Cooperation. The advisor's role is focused on donor coordination and increasing the profile of the trust fund to increase access to more sources of funding.<sup>67</sup> It is hoped this can help address some funding shortfalls and increase capacity to implement solutions in the future.

Fijian officials confirmed that a key part of making Fiji a more attractive prospect for donors and financiers has been the move to formalise climate-related policies and guidelines.<sup>68</sup> Perhaps the most important recent development was the approval of the Standard Operating Procedures (SOPs) associated with the Relocation Guidelines in March 2023. The SOPs offer extremely detailed operational guidelines on how the principles from the relocation guidelines should be applied during all stages of implementation—including identification, planning, relocation, and long-term

<sup>60</sup>Nichols [43].

<sup>61</sup>Vakasukawaqa [44]; Interview with Filimone Ralogaivau, Fiji Climate Change Division, 'Interviewed by Liam Moore' (3 September 2023).

<sup>62</sup>Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60).

<sup>63</sup>Interview with Lebaiatelaite Gaunavinaka, Fiji Climate Change Division (n 54).

<sup>64</sup>Interview with Christine Fung, 'Interviewed by Liam Moore' (30 January 2023); Interview with Lebaiatelaite Gaunavinaka, Fiji Climate Change Division (n 54). Christine Fung estimated between FJ\$ 2 and 4 million, with Lebaiatelaite Gaunavinaka saying the government was currently budgeting for around FJ\$1 million for a standard relocation.

<sup>65</sup>Interview with Christine Fung (n 63).

<sup>66</sup>Interview with Lebaiatelaite Gaunavinaka, Fiji Climate Change Division (n 54).

<sup>67</sup>Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60); Interview with Lebaiatelaite Gaunavinaka, Fiji Climate Change Division, 'Personal Communication' (6 July 2023).

<sup>68</sup>Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60).

recovery.<sup>69</sup> Those in the Government see the SOPs as key to attracting donations to the trust fund.<sup>70</sup>

Financial concerns were a key driver behind Fiji's establishment of the Climate Relocation and Displaced Peoples Trust Fund in 2019. Described as a mini loss and damage fund for Fiji,<sup>71</sup> it is financed partially through their Environment and Climate Adaptation Levy and partly through voluntary donations.<sup>72</sup> The fund's primary goal is to provide the necessary financial resources to relocate communities; however, these resources can also be re-purposed to provide emergency assistance in the case of acute-onset displacement events.<sup>73</sup> New Zealand was the first state to interact with the fund, pledging \$US2 million in 2020 as part of a broader \$150 million package of climate change assistance.<sup>74</sup> Interviews have shown that this pledge was conditional, with a fraction of this funding released to support the development of Fiji Standard Operating Procedures for the Planned Relocation Guidelines.<sup>75</sup> The rest of the funding is conditional on these procedures being approved by Fiji's Parliament. Additionally, no other state has committed to contributing to the fund, leading some government officials to express scepticism over whether the fund will be able to solve the financial barriers to policy implementation on its own. Other officials, however, have noted that regional actors like Australia are likely to donate once these

procedures are approved.<sup>76</sup> One interviewee stated that other traditional regional donors were following the lead of New Zealand. Once the new Parliament formally endorses the SOPs, it would increase the likelihood of more donations.<sup>77</sup>

As officials said in interviews, however, outcomes are generally better when the funding has fewer strings attached. This is one of the drivers behind the SOPs and the Trust Fund approach, as it is designed to reassure donors that Fiji is not looking for a 'blank check', but has 'a very advanced structure for using funding for loss and damage'.<sup>78</sup> Establishing good knowledge and trust between donors and those implementing the policies allows for a greater degree of agency and more context-specific solutions to be developed. This is key for any frameworks developed around international obligations on loss and damage and climate financing—states must be able to use the funds in ways that apply to their circumstances and will provide the most context-appropriate solutions. As Fiji shows, having competent governance and political will is sometimes not enough—financial and technical capacity is also vital to effectively implement policies at the required scale.

## B. Vanuatu

Fiji's Pacific Island neighbour Vanuatu is another state both living with the reality of climate change and taking world-leading steps to prepare for and manage climate mobilities. While Fiji has received international recognition for its policies and relocation practices, Vanuatu published its key climate mobilities policy some months before Fiji, in 2018.<sup>79</sup> Vanuatu's policy action on climate mobilities, in addition to their long campaign to compel higher polluting

<sup>69</sup>Climate Change Division [45].

<sup>70</sup>Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60).

<sup>71</sup>Ibid.

<sup>72</sup>Climate Relocation of Communities Trust Fund Act 2019 [21] Clause 12.

<sup>73</sup>Lund [46].

<sup>74</sup>Goering [47].

<sup>75</sup>Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60); Interview with Lebaialeite Gaunavinaka, Fiji Climate Change Division (n 54); Interview with Daniel Lund, Special Advisor to Government of Fiji, 'Interviewed by Liam Moore' (12 August 2022); Interview with Christine Fung (n 63).

<sup>76</sup>Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60).

<sup>77</sup>Interview with Interviewee 1, 'Interviewed by Liam Moore' (13 March 2023).

<sup>78</sup>Interview with Daniel Lund, Special Advisor to Government of Fiji (n 74).

<sup>79</sup>Vanuatu National Disaster Management Office [48], Ferris [49]; Wewerinke-Singh and Van Geelen [50].

states to pay for the loss and damage caused by climate change, leave them well placed to be a global leader on climate change and climate mobilities.

Vanuatu is consistently ranked the most hazard-prone state in the world by the World Risk Index.<sup>80</sup> In practice, this means that around half of the population of Vanuatu's 80 islands is impacted by extreme climate-related or geo-hazard events each year.<sup>81</sup> Constantly responding to common and recurring hazards stretches resources and limits the amount of risk reduction, preparation, and long-term focused work that can be carried out—authorities rarely have time to plan for the future because they are constantly responding to hazards.<sup>82</sup> As Minister of Foreign Affairs, International Cooperation, and External Trade, Ralph Regenvanu said at the COP24, the effects of climate change on top of existing hazards have pushed Vanuatu into a 'constant state of emergency'.<sup>83</sup>

One key example of the risks Vanuatu faces from major events was the impact of the Tropical Cyclone Pam in 2015. At the time, it was the most potent recorded cyclone to hit Vanuatu. Over 150,000 people are estimated to have been affected—over half the population—and eighty per cent of the national housing stock was damaged or destroyed.<sup>84</sup> This was a key trigger for developing the National Policy on Climate Change and Disaster-Induced Displacement (NPCCDID).<sup>85</sup> One expert noted specifically that the combined influence of Cyclone Pam and a volcanic eruption on the island of Ambrym, crystallised the need for a formal displacement policy and pushed policymakers into accelerating the development process.<sup>86</sup>

Developed with assistance from the International Organisation for Migration (IOM), the NPCCDID represents 'one of the world's most progressive policies on climate-driven displacement'.<sup>87</sup> The Minister of Climate Change Adaptation at the time, Ham Lini Vanuaroroa, said that due to the NPCCDID, Vanuatu could mitigate challenges and 'prepare, plan, and respond to the short term and long term needs of displacement'.<sup>88</sup> The IOM's Chief of Mission, Dr Lesikimakuata Korovavala noted during a 2017 consultation that 'Vanuatu is among the first countries in the world to prepare such a policy and is venturing into new territory with this initiative'.<sup>89</sup> Broadly, the policy:

Aims to help guide emergency and development planners to work together with the Government of Vanuatu to address the needs of all communities affected by displacement, including people at risk of displacement, displaced people, internal migrants, people living in informal settlements, and host communities.<sup>90</sup>

The policy plans to achieve this by working towards minimising the drivers of displacement, minimising the negative impacts of displacement when it does occur, striving for durable solutions for displaced populations, and ensuring displaced persons can make voluntary informed choices about their futures and participate in the planning for solutions; facilitate well-managed and safe migration; promote access to affordable, disaster-resilient housing; and integrate human mobilities concerns into key policy areas around climate, disaster, environment, health, education, land, housing, infrastructure, planning, food, and livelihoods security.<sup>91</sup>

<sup>80</sup> McDonnell [51].

<sup>81</sup> Ibid.

<sup>82</sup> Wewerinke-Singh and Van Geelen (n 79) 27.

<sup>83</sup> Wewerinke-Singh and Salili (n 33) 3.

<sup>84</sup> Bolo et al. [52].

<sup>85</sup> Vanuatu National Disaster Management Office (n 79).

<sup>86</sup> Vinke et al. [53]; Bolo and others (n 84) 8; Interview with Christopher Bartlett, Special Advisor to Government of Vanuatu, 'Interviewed by Liam Moore' (20 December 2022).

<sup>87</sup> Wewerinke-Singh and Van Geelen (n 79) 17.

<sup>88</sup> International Organisation for Migration, 'Vanuatu Launches National Policy on Climate Change and Disaster-Induced Displacement' (2018) Press Release. <https://www.iom.int/news/vanuatu-launches-national-policy-climate-change-and-disaster-induced-displacement>. Accessed 12 July 2022.

<sup>89</sup> Wewerinke-Singh and Van Geelen (n 78) 17.

<sup>90</sup> Vanuatu National Disaster Management Office (n 78) 7.

<sup>91</sup> Ibid., 18.

While the policy itself is well regarded, both internally and externally, implementation has lagged.<sup>92</sup> Interviewees stated that a lack of knowledge and awareness across government sectors and a lack of ownership from the implementing agency have meant that the implementation of this policy has slipped off the radar domestically.<sup>93</sup> Additionally, officers from the National Disaster Management Office have been quoted as noting the lack of adequate staffing, training, and expertise within Government ranks. They expressed their concern over the difficulties they faced in implementing these policies.<sup>94</sup> An academic summarised the situation by noting that while Vanuatu's legal and policy framework is 'very strong... there is limited capacity to implement laws and policies'.<sup>95</sup> Several others from government agencies and non-government organisations in Vanuatu have expressed similar concerns, with one government employee saying, 'what is written on the policy is very good, but we lack the resources to implement it'.<sup>96</sup> The NPCCDID itself notes that without 'adequate mobilisation of financial and technical resources', implementation will be constrained.<sup>97</sup>

There are two levels to this problem, according to Jane McAdam. On the one hand, states like Vanuatu, which contract out the development of their policies, are participating in quite a wasteful process. The tender process tends to result in a lot of duplication, is extremely expensive, and takes additional time. Secondly, bringing in foreigners to develop policies often means they approach things from an outside and top-down perspective. Trying to write the perfect policy without sufficient consideration can

result in policies that are too abstract to implement, 'where things become so high-level, they are almost meaningless... [and they are] completely disconnected with what is needed on the ground'.<sup>98</sup> These issues are widely recognised among those experienced in the space. Cosmin Corendea, the initial drafter of the Fijian Planned Relocation Guidelines, said that the goal must be for states 'to have a policy which is not sitting in a drawer or is just a nice policy on your website.... [but is] taken by the people on the ground and implemented'.<sup>99</sup>

Even within state-level institutions, however, there needs to be knowledge and ownership from those who will be implementing the policies. An interviewee working in the Vanuatu Department of Strategic Policy Planning and Aid Coordination, based out of the Prime Minister's Office, noted that there were significant implementation issues with the NPCCDID. During development, the policy was under the remit of the Ministry of Climate Change and Disaster Risk Reduction, however, it was decided that the Ministry of Internal Affairs would instead manage the implementation. Due to the lack of coordination here, as well as a lack of physical infrastructure, human resources, and finances, 'the implementation hasn't begun', the 'policy hasn't been functioning', and it is currently 'still sleeping'. Despite the attention this flagship policy has received at a regional and international level, the official stated that 'we haven't done much work on it, in terms of its implementation'.<sup>100</sup>

However, in spite of the difficulties in its implementation, the NPCCDID has been key to Vanuatu's campaign to attract funding and financial support. A government official described it as a useful tool 'to attract more funding in

<sup>92</sup>Vinke and others (n 85) 95; Yamamoto [54]; Bolo and others (n 83) 8; McDonnell (n 79) 286.

<sup>93</sup>Interview with Christine Fung (n 63); Interview with Zoe Ayong, National Disaster Management Office of Vanuatu, 'Interviewed by Liam Moore' (30 January 2023).

<sup>94</sup>Wewerinke-Singh and Van Geelen (n 78) 27.

<sup>95</sup>Vinke and others (n 85) 95.

<sup>96</sup>Ibid.

<sup>97</sup>Vanuatu National Disaster Management Office (n 78) 47.

<sup>98</sup>Interview with Jane McAdam, Academic and Consultant, 'Interviewed by Liam Moore' (28 September 2022).

<sup>99</sup>Interview with Cosmin Corendea, Academic and Consultant, 'Interviewed by Liam Moore' (27 October 2022).

<sup>100</sup>Interview with Zoe Ayong, National Disaster Management Office of Vanuatu (n 92).

terms of adaptation and mitigation'.<sup>101</sup> Much of Vanuatu's recent efforts in the climate finance space have been directed at garnering support for a loss and damage mechanism to compensate and support smaller developing states to adapt to and recover from the effects of climate change. Calls for an insurance mechanism, or a 'collective loss-sharing scheme to compensate victims of projected sea-level rise' have long been a key pillar of ni-Vanuatu foreign policy and the broader climate diplomacy of small island states.<sup>102</sup> It was Vanuatu in 1991 that tabled the proposal on behalf of the Association of Small Island States (AOSIS) to develop a climate funding mechanism.<sup>103</sup> This highlights how recent successes around loss and damage have not come out of the blue but were the culmination of decades-long advocacy from states like Vanuatu. The long-term focus from Vanuatu has been so strong that even when signing onto the Paris Agreement in 2015, a note was made that this in no way constituted a renunciation of any of Vanuatu's rights to claim compensation for loss and damage caused by larger polluting states and entities.<sup>104</sup>

<sup>101</sup> Ibid.

<sup>102</sup> Government of Nauru, 'Submission of Nauru on Behalf of the Alliance of Small Island States: Views and Information on Elements to Be Included in the Recommendations on Loss and Damage in Accordance with Decision 1/CP.16' (UN Framework Convention on Climate Change 2012) 4. [https://unfccc.int/sites/default/files/aosis\\_submission\\_on\\_loss\\_and\\_damage\\_submission\\_2\\_october\\_2012.pdf](https://unfccc.int/sites/default/files/aosis_submission_on_loss_and_damage_submission_2_october_2012.pdf). Accessed 16 July 2023.

<sup>103</sup> Government of Vanuatu, 'Elements for a Framework Convention on Climate Change: Proposed by Vanuatu on Behalf of States Members of the United Nations and of the Specialized Agencies That Are Members of the Alliance of Small Island States' (UN Framework Convention on Climate Change 1991) para 19. <https://aosischair.sharepoint.com/sites/aosiscontentpublishing/Published%20Documents/Forms/AllItems.aspx?id=%2Fsites%2Faosiscontentpublishing%2FPublished%20Documents%2F1991%2E6%2E4%20%2D%20Submission%20%2D%20Elements%20for%20a%20Framew%5FWebsite%20User%2Epdf&parent=%2Fsites%2Faosiscontentpublishing%2FPublished%20Documents&p=true&ga=1>. Accessed 16 July 2023.

<sup>104</sup> Wewerinke-Singh and Salili (n 34) 5.

Vanuatu recently put a specific price tag on the costs of climate adaptation and loss and damage domestically. In their Nationally Determined Contribution (NDC) to the UNFCCC, authorities outlined that they expected costs around loss and damage alone to run to over USD\$177.5 million by 2030, with the total cost of achieving their revised NDC at over USD\$1.2 billion. It is noted that Vanuatu's 'limited national resources and technical capacities for scaling up climate action' will need to be bolstered through financial, technological, and capacity-building support from global funds, bilateral and multilateral agencies, and development partners.<sup>105</sup>

In Vanuatu's case, while domestic implementation has lagged, it has been extremely clear to the international community about the support they believe should be provided to climate-affected states. Increased support would likely improve implementation. However, as this experience shows, the policies being implemented still need to be locally owned and specific to a state's particular context. Without ownership and the ability to fit within existing institutions and practices, ensuring that implementation will occur is harder. This is why assistance on its own may not suffice—whether technical or financial, it must be locally led and focused on the needs of affected communities. With this in mind, the following section examines the role the international community should play in helping states overcome barriers to implementing climate mobilities and adaptation policies.

#### 4 The Role of the International Community in Overcoming the Implementation Barriers

The COP27 showed that there is a widespread desire among the majority of the international community to establish some type of financial assistance and compensation mechanism. However, the declaration on the pathway

<sup>105</sup> Government of Vanuatu [55].



towards a loss and damage fund lacked specificity on how to implement this in practice.<sup>106</sup> Significant questions remain about the form the fund will take, the amount of funds required, who will pay into the fund, whether contributions will be voluntary or mandatory, who is entitled to claim compensation from the fund, and what even counts as loss and damage in this context.<sup>107</sup>

As Harris argues, the idea of the fund is ‘ripe with possibility’, but there is a real danger that larger states will stonewall or slow roll the process to avoid financial liabilities.<sup>108</sup> The final text of the COP27 agreement was careful to avoid using terms like liability or compensation—largely due to the campaigning of the United States.<sup>109</sup> The commitment to address loss and damage was furthered by an agreement on day one of COP28 in Dubai to operationalise the fund.<sup>110</sup> However, concerns remain. For one, against the wishes of the Alliance of Small Island States, the G77 and China group, and other developing countries, the fund will be administered by the World Bank and not a new independent entity. Secondly, financial contributions to the fund remain voluntary, there are no long-term commitments, and the pledges made are woefully inadequate considering the scale of the issue.<sup>111</sup> While recent progress is positive, there remains the chance this could turn into another ‘placebo fund’ that never eventuates at

the promised or required scale.<sup>112</sup> To avoid these dangers, policymakers, practitioners, academics, and other stakeholders in the development and humanitarian spheres need to ensure that states trying to implement climate mobilities policies are supported and assisted in the right ways. In most cases, responses can be strengthened by ensuring local needs and local leadership guide them.

### A. The Timing and Accessibility of Assistance

To improve how the international community works to assist states in preparing for and managing climate mobilities, the focus needs to be moved forward so support is available before a crisis response is needed. It is crucial for climate financing to be made available as early as possible so that anticipatory action can be taken to minimise or prevent harm from occurring. However, traditionally, humanitarian responses follow a pathway of immediate triage, assessing damage and needs, and only then searching for funding. There is a need to flip this for climate-related mitigation and adaptation—i.e. plans and actions must be focused not on impacts, but on risks.<sup>113</sup>

### B. Locally Led Assistance

In general, we can say that local knowledge of climate-related risks, vulnerabilities, and capacities will help construct better solutions. I note that defining ‘the local’ is often fraught and should not be essentialised as in opposition to the international or romanticised as the solution to fixing the deficiencies of international efforts.<sup>114</sup> However, borrowing from the post-development literature available, we can see that local and pluralist solutions that value connections to the place and the knowledge that comes with this, are crucial to developing approaches that provide better outcomes for

<sup>106</sup> ‘Funding Arrangements for Responding to Loss and Damage Associated with the Adverse Effects of Climate Change, Including a Focus on Addressing Loss and Damage’ (UN Framework Convention on Climate Change 2022) Decision-/COP.27-/CMA.4. [https://unfccc.int/sites/default/files/resource/cma4\\_auv\\_8f.pdf](https://unfccc.int/sites/default/files/resource/cma4_auv_8f.pdf). Accessed 16 July 2023.

<sup>107</sup> Harris (n 40); McDonald (n 39).

<sup>108</sup> Harris (n 40).

<sup>109</sup> Najam (n 44).

<sup>110</sup> ‘Operationalization of the new funding arrangements, including a fund, for responding to loss and damage referred to in paragraphs 2–3 of decisions 2/CP.27 and 2/CMA.4’ ((UN Framework Convention on Climate Change 2023) Draft decision-/CP.28-/CMA.5. <https://unfccc.int/event/cop-28?item=8%20g>. Accessed 21 January 2024.

<sup>111</sup> McDonland [56], Lakhani [57], Moore [58].

<sup>112</sup> Najam (n 44).

<sup>113</sup> Zommers [59].

<sup>114</sup> Roche et al. [60].

people, communities, and the comprehensive non-human environment.<sup>115</sup>

This is where the international community must step in to help overcome the barriers to support the implementation of solutions like those developed in Fiji and Vanuatu. I note that these are barriers, not limits—the difference is that limits imply thresholds, while barriers can be overcome.<sup>116</sup> In the context of climate mobilities, even where thresholds are reached for staying in a specific location, the barriers to finding appropriate, rights-based, locally led, durable solutions to the situations can be overcome. As Ayers and Forsyth argue, there is a professed obligation inherent in climate adaptation funding, that the developed Global North states that benefited from higher emissions must support those in the Global South to manage best the challenges posed by climate change.<sup>117</sup>

### C. Availability of Adequate Financial Resources

In reality, adaptation funding is minimal and current models have not been able to contribute significantly to the overall annual funding required for the range of mitigation, adaptation, and loss and damage costs incurred by climate-exposed and developing states.<sup>118</sup> Despite recent pledges of dedicated loss and damage funding from states like Scotland and Denmark, they fail to scratch the surface of the tens or hundreds of billions of dollars of estimated global costs of climate-related losses and damages.<sup>119</sup> In the 25 years that climate finance has been on the international agenda, there has been limited progress towards justice. Instead, we have seen a focus on voluntary actions, large states avoiding commitments to fault, liability, or responsibility, and a growing emphasis on private, market-based

strategies.<sup>120</sup> These shifts and the relative failures of previous collective international funding models mean that states may be forced away from relying on these large funds and towards more state-based solutions that rely on regional or bilateral agreements to fund adaptation projects to manage climate mobilities. As one representative of the Government of Vanuatu noted, they were now applying a ‘no stone unturned’ policy to finding funding and support for climate adaptation and mobilities programmes.<sup>121</sup> When told about how the ni-Vanuatu approach had been described, a Fijian official from the Climate Change Division noted that they were applying a similar type of logic to finding funding for their trust fund and relocation projects.<sup>122</sup>

Even when funding does exist, barriers persist. One of the critical problems identified has been the discrepancies between local needs and the priorities of donors and funders. For example, aid can often be given based on strategic foreign policy concerns,<sup>123</sup> or what donors see as priorities significantly differ from what the communities want to prioritise.<sup>124</sup> As the policies of Fiji and Vanuatu highlight, community consent, engagement, and active participation are vital to achieving durable solutions in cases of potential climate mobilities. This must also apply in cases where policies and projects are externally funded. Despite where the money comes from, following best practices here would ensure that projects are still locally led and tailored to the community's needs and what they have requested.

### D. Beyond Financial Assistance

In most cases, support must extend well beyond simple financial assistance. Technical support and expertise, knowledge and information, and skilled staffing resources can all assist states

<sup>115</sup> *Ibid.*, 143.

<sup>116</sup> Moser and Ekstrom [61], Piggott-McKellar et al. [62].

<sup>117</sup> Ayers and Forsyth [63]; Piggott-McKellar and others (n 116) 384.

<sup>118</sup> Chong [64].

<sup>119</sup> Harvey [65].

<sup>120</sup> Khan et al. [66].

<sup>121</sup> Interview with Christopher Bartlett, Special Advisor to Government of Vanuatu (n 86).

<sup>122</sup> Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60).

<sup>123</sup> Robinson and Dornan [67].

<sup>124</sup> Betzold [68].

like Fiji and Vanuatu. The timing of assistance is key here, as inadequate resources can limit the planning and implementation of adaptive programmes, leading to barriers becoming limits and options for in situ adaptation becoming more limited.<sup>125</sup> The complex application processes for international funding and assistance can hamstring implementation, making accessing funding difficult and time-consuming.<sup>126</sup> Opposite these acute time pressures, there are barriers around long-term timeframes. Donors can run a project for several years, but when it concludes and funding ends, the situation can revert to how things were before, and adaptive measures can be undone.<sup>127</sup>

Financial limitations are one set of barriers Fiji hopes to surmount with its Trust Fund and SOPs—it is expected that encouraging contributions towards this project will ensure donors and financial contributors are assured of where their money is going and that Fijian actors will be able to access funding promptly and use it as required for each local context.<sup>128</sup> In contrast, Vanuatu has had minimal success in implementing its flagship policy. While some of this is down to institutional issues, it can also be attributed to a lack of available resources—including financial resources, human resources, and existing infrastructure.<sup>129</sup>

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## 5 Lessons from the Pacific: What the International community Needs to do to Improve Assistance

To improve outcomes now and into the future, I suggest that international support and assistance should strive to be locally led and focused on the

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<sup>125</sup> Moser and Ekstrom [69].

<sup>126</sup> Robinson and Dornan (n 121) 1112–3; Weir et al. [70].

<sup>127</sup> Betzold (n 124) 486.

<sup>128</sup> Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60).

<sup>129</sup> Interview with Zoe Ayong, National Disaster Management Office of Vanuatu (n 92).

needs of local communities instead of donors. We can learn from the experiences of Fiji and Vanuatu to develop a more practical approach to international assistance in the context of climate mobilities—one that ensures rights are upheld, harms are minimised, and durable solutions to mobilities are found for those who do have to move. This approach would build upon that of the early adopters from the Pacific—borrowing the good, improving points of contention, and avoiding known problem areas.

While Fiji's Planned Relocation Guidelines were hailed as a world-leading project at their publication, those tasked with turning these ideas into practice faced many difficulties. While the authors of the policy conducted consultations, these meetings and the document that resulted from them have been criticised. The result was that when it came to developing the Standard Operating Procedures for the Guidelines, Fijian officials had to be brought on board to translate the broad ideas into something that could be implemented in the Fijian context.<sup>130</sup> It is hoped that the knowledge of local political structures, customs, and communities will help ensure that this policy can be effectively implemented to assist those in need.

### A. Improving Drafting Processes

Watching the example of the Solomon Islands will be an interesting comparison here, as both the Solomon Islands and Vanuatu have partnered with the International Organisation for Migration (IOM) and contracted external Australian legal academics to develop their policies. As we have seen with Vanuatu, the lack of local ownership of a foreign-designed policy and the limited resources to implement it can result in an idea that looks good on paper but fails in practice.<sup>131</sup> This issue was also present in the Fijian case, with an interviewee confirming that foreign-authored documents had to be

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<sup>130</sup> Interview with Interviewee 1 (n 77); Interview with Christine Fung (n 63).

<sup>131</sup> Interview with Zoe Ayong, National Disaster Management Office of Vanuatu (n 92).

significantly revised by local experts after they were handed over to the Fijian Government.<sup>132</sup> What can be said, though, is that when the policies themselves advocate for local participation and tailored solutions for at-risk communities, the policy development and implementation should also be predominantly locally led.

What allowed the policies to be locally led and tailored to Fijian needs, in this case, was a particularly context-specific solution from the Fijian and New Zealand governments. While New Zealand was unwilling to release its entire committed contribution to Fiji's Trust Fund based on the guidelines alone, they said they would be willing to do so once the SOPs were enacted. To facilitate this, New Zealand signed off on having a smaller portion of these funds released to support the development of these SOPs and to fund the team tasked with developing them in consultation with local, civil, and government partners.<sup>133</sup>

### B. Building Collaborative Partnerships

Additionally, the German Development Fund (GIZ) has been a key partner for over a decade in Fiji. This long-standing partnership has evolved into one with a level of mutual trust, where local authorities are largely trusted to implement projects in ways that are more likely to work in the Fijian or local context. It has not been smooth sailing, with an interviewee noting that significant difficulties were faced in the first relocation GIZ supported—however, this relationship has now evolved, and Fijian staff are now leading the agency's local offices and key projects with a great degree of autonomy. The assistance of GIZ has been invaluable in developing policy and implementing practices. However, this relationship took time to develop and has deepened over time. If key partners in Vanuatu, and other countries implementing similar policies, like the Solomon Islands, can adopt

similar perspectives, it could strengthen working relationships, encourage local ownership of policies and practices, and ultimately improve implementation and outcomes for affected communities.

In contrast, though, at the policy level in Vanuatu, the IOM has been criticised for its tight control over what policies should look like. This has meant that there is a distinct lack of ownership by the Government and little appetite or will to implement the policies once they are handed over. Rather than focusing narrowly on universalising language on climate mobilities in policies across different countries and contexts, international organisations like the IOM have to find a way to allow these principles to be localised in a way that makes them implementable and gives the people who will oversee and practice the policies, ownership of them.

### C. Recognising the Agency of Large Ocean States

Traditional boilerplate policies and humanitarian responses are ineffective here because they are not contextually specific or locally led, but they also fail to recognise the changing needs of island states in a warming climate. There needs to be recognition of the calls for assistance through campaigns for loss and damage, the ICJ advisory ruling, and the changing tenor of international discourse around these issues as signalled at the COP27.

A key part of how these approaches must change is how donors, development partners, and those providing assistance must critically consider and redress how they conceptualise and frame these states. As we have seen in the Pacific, there is a strong movement away from being termed as 'small island states'. Instead, these people prefer the term 'large ocean nations', as it better reflects their size and how they view themselves.<sup>134</sup> As Theys has argued, smallness in this sense is socially constructed—it is not solely dependent on material factors

<sup>132</sup> Interview with Christine Fung (n 63).

<sup>133</sup> Interview with Lebaiatelaite Gaunavinaka, Fiji Climate Change Division (n 54); Interview with Filimone Ralogaivau, Fiji Climate Change Division (n 60).

<sup>134</sup> Chan (n 48); Morgan (n 48).

but also on narratives, perceptions, and practices.<sup>135</sup> Fiji and Vanuatu have shown that they are not small states but global leaders in the climate space. The partners who work with them to implement climate mobilities protection policies should view them as such.

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## 6 Conclusion

As one Fijian official said in an interview, we know what the solutions are and ‘it would be a shame if we can’t do it’.<sup>136</sup> This highlights the unique position states like Fiji and Vanuatu are in right now. They have developed world-leading policies to address climate mobilities within their states. However, small states like these lack the outright resources to respond to these issues at the scale and speed required. In addition, their lack of contribution towards the drivers of climate change adds weight to the argument that the international community is obligated to assist them in implementing these policies and protecting the rights of those within their borders threatened by climate mobility-related harms.

This chapter has looked at the obligations the international community has to assist states in managing climate mobilities and what form this assistance should take. First, the existing international legal and normative protections of states and the international community were examined, with a specific focus on frameworks surrounding the international climate finance regime. Secondly, the two path-leading cases of Fiji and Vanuatu were explored. These cases looked not just at the innovative policies coming out of the small island states, but also how they have tried to implement these and the barriers they have faced. Next, the role of the international community in assisting states to overcome implementation barriers was outlined, focusing on the timing and accessibility of assistance, the need for these projects to be locally led, the

importance of adequate available financing, and requirements beyond the financial—such as technical support and human expertise. Finally, the chapter suggests three ways the international community and states can better work together to improve outcomes for those affected by climate mobilities. I argue that improving policy drafting processes so they are locally led, building long-term collaborative partnerships that value local knowledge and expertise, and a deeper recognition of the leadership and agency of large ocean states would significantly reorientate how the international community engages with and assists states around climate mobilities.

Problematically, there is a likelihood that larger developed states will not agree to contribute the required amounts of aid or provide support in the ways required. However, as COP27 showed, the attitudes of the broader international community are shifting. There is momentum behind the calls for a loss and damage mechanism and compensation for smaller states bearing the brunt of climate change. This momentum must be harnessed and used to ensure that international assistance around climate change—and particularly climate mobilities management—is not just increased, but that the support and assistance are provided in the right manner.

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<sup>135</sup>Theys [71].

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