



**INTERNATIONAL COURT OF JUSTICE**

---

**OBLIGATIONS OF STATES IN RESPECT  
OF CLIMATE CHANGE  
(REQUEST FOR ADVISORY OPINION)**

---

**WRITTEN COMMENTS OF SOLOMON ISLANDS**

**15 AUGUST 2024**

## TABLE OF CONTENTS

<b>CHAPTER I. Introduction.....</b>	<b>2</b>
<b>CHAPTER II. Summary of written statement and comments.....</b>	<b>4</b>
<b>CHAPTER III. Law of the sea.....</b>	<b>6</b>
A. The law of the sea is relevant to regulating the effects of climate change resulting from anthropogenic greenhouse gas emissions.....	6
B. Rejection of <i>lex specialis</i> argument should be followed by this Court.....	6
C. Maritime entitlements should be preserved in the context of climate change induced sea-level rise.....	7
D. CBDR-RC should be interpreted harmoniously with UNCLOS.....	8
<b>CHAPTER IV. Climate displacement, migration and relocation.....</b>	<b>9</b>
A. States have obligations to provide technical and financial support to developing States facing internal and cross-border displacement, migration and relocation resulting from the effects of climate change.....	13
B. People displaced across borders should be protected under the 1951 Refugee Convention, regional instruments and complementary forms of international protection.....	18
<b>CHAPTER V. International human rights law.....</b>	<b>25</b>
A. Decision of the European Court of Human Rights in <i>KlimaSeniorinnen</i> .....	25
B. State carbon budgets must be calculated on a fair share basis.....	26
<b>CHAPTER VI. State responsibility.....</b>	<b>27</b>
A. State responsibility for harm to the climate system can be attributed as a matter of fact and law.....	27
B. States are responsible for internationally wrongful acts causing climate damage.....	29
<b>CHAPTER VII. Conclusion.....</b>	<b>30</b>
<b>ANNEXURES.....</b>	<b>33</b>

## CHAPTER I. INTRODUCTION

1. On 29 March 2023, Resolution 77/276 was adopted by consensus by the United Nations General Assembly (“UNGA”), requesting the International Court of Justice (“Court”) to render an advisory opinion on the obligations of States in respect of climate change, specifically:

*“Having particular regard to the Charter of the United Nations, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the United Nations Framework Convention on Climate Change, the Paris Agreement, the United Nations Convention on the Law of the Sea, the duty of due diligence, the rights recognized in the Universal Declaration of Human Rights, the principle of prevention of significant harm to the environment and the duty to protect and preserve the marine environment,*

- (a) *What are the obligations of States under international law to ensure the protection of the climate system and other parts of the environment from anthropogenic emissions of greenhouse gases for States and for present and future generations?*
- (b) *What are the legal consequences under these obligations for States where they, by their acts and omissions, have caused significant harm to the climate system and other parts of the environment, with respect to:*
  - (i) *States, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change?*
  - (ii) *Peoples and individuals of the present and future generations affected by the adverse effects of climate change?”<sup>1</sup> (“Request”).*

2. By letters dated 17 April 2023, the Deputy-Registrar gave notice of the Request to all States entitled to appear before the Court, pursuant to Article 66(1) of the Statute of the International Court of Justice (“Statute”).

3. In its Order of 20 April 2023, the Court decided that *“the United Nations and its Member States are considered likely to be able to furnish information on the questions*

---

<sup>1</sup> *Request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change, GA Res 77/276, UN Doc A/Res/77/276 (4 April 2023, adopted 29 March 2023) (“Request”).*

*submitted to the Court for an advisory opinion and may do so within the time-limits fixed in this Order”, and fixed 20 October 2023 as the time-limit within which written statements on the question could be presented to the Court.*

4. In its Order of 4 August 2023, the Court extended:
  - 4.1 to 22 January 2024 *“the time-limit within which all written statements on the questions may be presented to the Court in accordance with Article 66, paragraph 2, of the Statute”*; and
  - 4.2 to 22 April 2024 *“the time-limit within which States and organizations having presented written statements may submit written comments on the other written submission in accordance with Article 66, paragraph 4, of the Statute”*.
5. In its Order of 15 December 2023, the Court further extended:
  - 5.1 to 22 March 2024 *“the time-limit within which all written statements on the questions may be presented to the Court in accordance with Article 66, paragraph 2, of the Statute”*; and
  - 5.2 to 24 June 2024 *“the time-limit within which States and organizations having presented written statements may submit written comments on the other written statements in accordance with Article 66, paragraph 4, of the Statute”*.
6. In its Order of 30 May 2024, the Court further extended to 15 August 2024 *“the time-limit within which States and organizations having presented written statements may submit written comments on the other written statements, in accordance with Article 66, paragraph 4, of the Statute”*.
7. Pursuant to the Order of 30 May 2024, and having presented its written statement on 22 March 2024, Solomon Islands (“**Solomons**”) wishes to avail itself of the opportunity to furnish written comments on the other written statements received.

## CHAPTER II. SUMMARY OF WRITTEN STATEMENT AND COMMENTS

8. As outlined in detail in Solomons' written statement to the Court dated 22 March 2024, Solomons respectfully invites the court to provide an advisory opinion as follows:

8.1 in answer to the first Question (a), that States have obligations under international law to:

- (a) exercise due diligence in meeting relevant obligations as set out in the UNFCCC, the Paris Agreement, and other relevant sources of international law that must also represent progression over time;
- (b) adhere to the principle of common but differentiated responsibilities and respective capabilities, including by providing technical assistance, finance and capacity-building to developing States;
- (c) adhere to the duty to cooperate in implementing their obligations under international environmental law and the mitigation and adaptation measures under the UNFCCC and the Paris Agreement;
- (d) protect the climate system and the environment for the benefit of present and future generations;
- (e) adhere to the precautionary principle which relevantly requires States to protect the climate system and the environment under customary international law;
- (f) prevent transboundary harm from causing significant damage to the environment of another State;
- (g) respect, protect and fulfil the internationally recognised human rights of present and future generations, including the rights to life, private and family life, the rights of children and women, the right to live with dignity in a clean, healthy and sustainable environment, and the right to self-determination and related rights to health, water, food, housing and culture;

- (h) protect and preserve the marine environment from the adverse effects of climate change by preventing, reducing and controlling pollution from greenhouse gas emissions; and
- (i) recognise that people displaced by climate change are afforded protection under the 1951 Refugee Convention.

8.2 in answer to the second Question (b), that States have obligations under international law to:

- (a) provide full reparations, where a State has committed an internationally wrongful act against the climate system and other States;
- (b) provide full reparations to individuals and communities of present and future generations, where States have caused significant harm to the climate system and those parties; and
- (c) cease all internationally wrongful acts and guarantee non-repetition, where States commit internationally wrongful acts against the climate system and other States.

9. Further and in addition to those submissions, Solomons written comments proceed as follows:

- 9.1 **Chapter III** reiterates Solomons position on the law of the sea in relation to climate change in light of the International Tribunal for the Law of the Sea (“ITLOS” or “the Tribunal”) advisory opinion given in *Request for an Advisory Opinion Submitted by the Commission of Small Island States on Climate Change and International Law*;
- 9.2 **Chapter IV** analyses the international regime applicable to displacement and migration caused by climate change impacts;
- 9.3 **Chapter V** addresses the applicability of international human rights law to the climate change regime and the calculation of carbon budgets on a fair share basis;

9.4 **Chapter VI** addresses state responsibility and attribution for historical emissions;

9.5 **Chapter VII** briefly concludes.

### CHAPTER III. LAW OF THE SEA

10. On 21 May 2024, the International Tribunal for the Law of the Sea delivered its Advisory Opinion on the *Request submitted to the Tribunal by the Commission of Small Island States on Climate Change and International Law* (“**ITLOS Climate Change Advisory Opinion**”).<sup>2</sup>

**A. The law of the sea is relevant to regulating the effects of climate change resulting from anthropogenic greenhouse gas emissions**

11. Solomons considers the Tribunal’s findings a welcome step in the development of international law and protection of the marine environment and climate system from the adverse effects of climate change. Solomons reaffirms its submissions in relation to the law of the sea as expressed in its written statement at paragraphs 205 to 207, and notes the close alignment with the findings of the Tribunal in relation to the interpretation of Part XII of UNCLOS.

**B. Rejection of *lex specialis* argument should be followed by this Court**

12. Solomons welcomes ITLOS’ finding at paragraphs 222 to 224 that the UNFCCC and the Paris Agreement are not *lex specialis* to the UN Convention on the Law of the Sea (“**UNCLOS**”) and that the Paris Agreement does not modify or limit State obligations created under UNCLOS. While the Tribunal was considering the question of *lex specialis* in the context of UNCLOS, Solomons considers the Tribunal’s reasoning applies to other sources of law, such as international environmental law, human rights law, and general and customary international law.<sup>3</sup> The plain text of the UNFCCC and the Paris Agreement confirm that those treaties do not seek to replace or supplant other

---

<sup>2</sup> *Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law (Request for Advisory Opinion submitted to the Tribunal) (Advisory Opinion)* (International Tribunal for the Law of the Sea, Case No 31, 21 May 2024) (“**ITLOS Climate Change Advisory Opinion**”).

<sup>3</sup> Solomon Islands, ‘Written statement’, Submission in *Obligations of States in respect of Climate Change*, 22 March 2024 [55] to [58] (“**Solomons Written Statement**”).

international obligations relevant to climate change.<sup>4</sup> The Tribunal’s finding is highly persuasive to this Court and accordingly, Solomon respectfully requests that this Court also reject the argument that the UNFCCC and the Paris Agreement are *lex specialis*.<sup>5</sup>

**C. Maritime entitlements should be preserved in the context of climate change induced sea-level rise**

13. Solomons’ written statement at paragraphs 208 to 213 stresses the importance of the Court acknowledging that in the context of sea-level rise and climate change, a State’s maritime entitlements should be preserved. At paragraph 150 of the ITLOS Climate Change Advisory Opinion, the Tribunal declined to consider sea-level rise and States’ maritime entitlements in the context of climate change, as it was of the view that the Request was not directed to those questions. Solomons reaffirms the submissions made in its written statement, namely that States’ baselines and the outer limits of their maritime zones should be preserved. This position is supported by the International Law Association’s (“ILA”) Committee on International Law and Sea Level Rise. In the final report of the Committee, issued in June 2024, it is recommended that baselines and limits of maritime zones be maintained despite changes due to sea-level rise, even in the process of submergence.<sup>6</sup>

14. Solomons also considers that the nature of the Request before this Court is importantly different to the Request before ITLOS in that it refers, in Question (b)(i), specifically to questions of State responsibility in respect to “*States, including, in particular, small island developing States, which due to their geographical circumstances and level of development, are injured or specially affected by or are particularly vulnerable to the adverse effects of climate change*”. Impacts on maritime entitlements are of acute importance to SIDS, because their geographical circumstances mean that they are specially affected by the adverse effects of sea-level rise. As such, while it may have

---

<sup>4</sup> *United Nations Framework Convention on Climate Change*, opened for signature 9 May 1992, 1771 UNTS 107 (entered into force 21 March 1994), preamble (“UNFCCC”); *Paris Agreement*, opened for signature 22 April 2016, 1155 UNTS 146 (entered into force 4 November 2016), preamble (“*Paris Agreement*”); Responsibility of States for Internationally Wrongful Acts, GA Res 56/83, UN Doc A/RES/56/83 (28 January 2002, adopted 12 December 2001) annex, art 55(4) (“*ARSIWA*”).

<sup>5</sup> 24 States and intergovernmental organisations argued that the UNFCCC, the Kyoto Protocol and the Paris Agreement are *lex specialis*.

<sup>6</sup> International Law Association, ‘International Law and Sea Level Rise’ *Athens Conference* (Report, 2024) 45-47 (“*ILA Sea Level Rise Report 2024*”).



been proper for ITLOS to defer consideration of maritime entitlements, Solomons invites this Court to adopt a different course.<sup>7</sup>

**D. CBDR-RC should be interpreted harmoniously with UNCLOS**

15. Solomons welcomes the finding of the Tribunal which harmonises the standards established in Article 194(1) of UNCLOS and common but differentiated responsibilities and respective capabilities (“CBDR-RC”) under the Paris Agreement. The Tribunal held that Article 194(1) provides that States shall take necessary measures to prevent, reduce and control marine pollution, using for this purpose “the best practicable means at their disposal”, “in accordance with their capabilities”.<sup>8</sup> The scope and content of necessary measures may vary depending on the means available to States and their capabilities, such as their financial, technical, scientific and economic capabilities, which injects a “certain degree of flexibility” in discharging the obligation under Article 194(1).<sup>9</sup> After analysing CBDR-RC in the context of the Paris Agreement, the Tribunal noted that:

*“The Tribunal considers that while the obligation under article 194, paragraph 1, of the Convention does not refer to the principle of common but differentiated responsibilities and respective capabilities as such, it contains some elements common to this principle. Thus, the scope of the measures under this provision, in particular those measures to reduce anthropogenic GHG emissions causing marine pollution, may differ between developed States and developing States. At the same time, it is not only for developed States to take action, even if they should “continue taking the lead“. All States must make mitigation efforts.”*  
(Emphasis added).

16. This approach to the obligations created under Article 194(1) aligns with the interpretation put forward by Solomons in its written statement at paragraph 99, namely, that CBDR-RC is a dynamic standard which shifts in light of different national

---

<sup>7</sup> At least 25 States and intergovernmental organisations made submissions on this point, which indicates the importance of the topic in these proceedings.

<sup>8</sup> ITLOS Climate Change Advisory Opinion (n 2) [225].

<sup>9</sup> ITLOS Climate Change Advisory Opinion (n 2) [226].

circumstances and can become more stringent over time.<sup>10</sup> Solomons respectfully invites this Court to similarly interpret the distinct but complementary provisions in Article 194(1) as establishing a dynamic or flexible standard for CBDR-RC which can impose more stringent obligations on States as their financial, technical, scientific and economic capabilities change.

#### CHAPTER IV. CLIMATE DISPLACEMENT, MIGRATION AND RELOCATION

17. State obligations in the context of climate displacement, migration and relocation were rarely considered in detail by States and intergovernmental organisations in written statements provided to the Court.<sup>11</sup> Solomons respectfully invites the Court to analyse State obligations in the context of climate displacement, migration and relocation as an important part of answering Question (a) and, in the context of describing relevant forms of restitution, Question (b) of the General Assembly's Request.<sup>12</sup>
18. Before proceeding further, it is relevant to note that a range of terms are used by States to refer to issues of climate mobility. Solomons uses the umbrella term "climate mobility" to refer to different types of movement caused by climate change. There are three types of movement captured by this term: displacement, migration, and planned relocation.<sup>13</sup>
19. Displacement refers to the movement of persons who have been forced to leave their homes or places of habitual residence as a result of a climate-related disaster.<sup>14</sup> Climate migration is the temporary or permanent movement of people from their habitual place of residence predominantly for reasons of sudden or progressive change in the environment due to climate change.<sup>15</sup> This can occur within or across State borders, and exists on a continuum of more voluntary to more forced movement. Planned

---

<sup>10</sup> Solomons Written Statement (n 3) [90]-[100].

<sup>11</sup> The issue was addressed at least in part by: Albania, Antigua & Barbuda, Bahamas, Bangladesh, Bolivia, Burkina Faso, Dominican Republic, Egypt, El Salvador, France, Kiribati, Liechtenstein, Madagascar, Marshall Islands, Netherlands, Peru, Portugal, Seychelles, Solomon Islands, Tonga, Tuvalu, Vanuatu, COSIS, PIF, and FFA.

<sup>12</sup> See El Salvador, 'Written statement', Submission in *Obligations of States in respect of Climate Change*, 22 March 2024, [48] "*What obligations States owe to climate migrants, whether as a category of their own or under refugee protection law, needs to be addressed by the Court's opinion*" ('*El Salvador Written Statement*').

<sup>13</sup> International Organisation for Migration, "International Migration Law: Glossary on Migration" (2019). Retrieved from: <[https://publications.iom.int/system/files/pdf/iml\\_34\\_glossary.pdf](https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf)> 31, 51 and 157 ('*IDMC Glossary*').

<sup>14</sup> *Ibid*, 51.

<sup>15</sup> *Ibid*, 31.

relocation describes a planned process in which people move or are assisted to move away from their homes and settle in a new location because of the effects of climate change.<sup>16</sup> These different aspects of climate mobility correspond with discrete State obligations.

20. As Solomons noted in its written statement at paragraphs 218 to 227, climate mobility issues are of particular significance in Solomons and across SIDS more generally. Solomons draws the Court's attention to paragraphs 13 to 51 of its written statement, which sets out the extensive impacts of climate change as drivers of internal and cross-border climate displacement, migration and relocation within Solomons. Solomons also notes the impact statements of Alfred Didi, Daniel Duru, Gladys Habu, Ethel Loku and Melinda Tahola, attached to these Written Comments, which describe the severe impacts of climate change on their lives (*'Impact Statements'*). The persons who have provided the Impact Statements are permanent residents of the affected communities. The documents are not sworn, but have been compiled through interviews and telephone conversations between Solomon Islands government lawyers and the statement givers. Many of these communities are extremely remote and transport between these places and Honiara (where these submissions have been prepared) is expensive, infrequent and often unreliable. Similarly, many of these remote communities do not have reliable internet connection to allow for the statements to be sworn remotely. The Impact Statements provide first-hand effects of climate change in the Solomon Islands and have been included for this purpose in support of these submissions.
21. In brief, since 2008 planned and emergency relocation has contributed to the displacement of over 26,000 people – or around 5 per cent of Solomons' population.<sup>17</sup> Solomons has already lost five islands to total inundation, with further islands at risk. With sea-levels rising three times higher than the global average,<sup>18</sup> Solomons anticipates losing further islands to inundation or uninhabitability in the near future,

---

<sup>16</sup> Ibid, 157.

<sup>17</sup> Internal Displacement Monitoring Centre (IDMC) 'Sudden-Onset Hazards and the Risk of Future Displacement in the Solomon Islands' (Report, 2021) 9 (*'IDMC Risk Profile'*).

<sup>18</sup> Simon Albert et al. 'Interactions between sea-level rise and wave exposure on reef island dynamics in the Solomon Islands' (2016) 11(5) *Environmental Research Letters*.

potentially displacing over 4,000 people per year.<sup>19</sup> In a State where 80 per cent of land is under customary tenure,<sup>20</sup> displacement fuels land disputes, leads to a loss of traditional ways of life, and severely undermines local culture.<sup>21</sup>

22. These issues are vividly reflected in the Impact Statements attached to the Written Comments. Collectively the Statements describe dire threats to the right to life and connected rights to food and clean water, the right to self-determination, the right to a healthy environment, and the right to private and family life.<sup>22</sup> Gladys Habu, 28, describes the loss of her ancestral lands on Kale Island, which has been permanently submerged by rising sea levels, with the majority of territory lost over the course of a decade: *“The loss of Kale Island has had a profound impact on me, my tribe, and community. For me, it is the loss of our cultural heritage and a place very close to home. I now have a daughter who will never experience this part of our culture that I was fortunate to experience growing up.”*<sup>23</sup>

23. Daniel Duru, 64, from Kombe Village, describes some of the cultural and social challenges associated with forced relocation in an island context:

*“Only few of us remain by the seashore. The idea of relocation is not simple for us. We face a land dispute problem because the higher land further inland is owned by different tribes and families, so we are not allowed to settle on their lands unless we come to an agreement. Reaching agreement is not easy, so we have no place to relocate to and therefore we have no choice but to stay.”*<sup>24</sup>

24. Ethel Loku, 54, from Haleta Village, describes the impact of climate change on local culture and access to food:

---

<sup>19</sup> IDMC Risk Profile (n 17) 13.

<sup>20</sup> Marjorie Sullivan, ‘Recognition of Customary Land in the Solomon Islands: Status, Issues and Options’ (2007) Working Paper 66 *Resource Management in Asia-Pacific 7*; Anouk Ride, ‘Climate Change and Conflict in Solomon Islands’ *United States Institute of Peace* (2 November 2023).

<sup>21</sup> International Organisation for Migration (IOM), ‘Pacific Migration Common Country Analysis’ (Report, 2021) 21; United Nations Economic and Social Commission for Asia and the Pacific, ‘Climate Change and Migration Issues in the Pacific’ (Report, 2014) 22.

<sup>22</sup> See Solomon Islands Written Statement at [163]-[204].

<sup>23</sup> Gladys Habu Impact Statement (Annexure 3) [8].

<sup>24</sup> Daniel Duru Impact Statement (Annexure 2) [22].

*“In the past, our traditional knowledge taught us when to plant our gardens, when the ground was soft and when the weather was right for gardening. Today it is different. Our knowledge, skills and techniques are not workable anymore and I believe this is due to the changing weather patterns.”*<sup>25</sup>

25. Alfred Didi, from Ambu Village, similarly describes other threats to vital food systems and traditional fishing practices:

*“I am sad seeing how these changes have affected our livelihood on Ambu especially for us saltwater (coastal) people who rely heavily on marine resources for survival. We can no longer rely on our cultural knowledge for fishing ...”*<sup>26</sup>

Melinda Tahola, a teacher on Sikaiana Island, makes clear that despite the severe impacts associated with extreme weather events causing “*suffering for the Sikaiana Island community*”, there are significant efforts to resist displacement: “[W]e are trying to adapt so we can remain on our ancestral lands”.<sup>27</sup>

26. The experience in Solomons is largely typical of SIDS, who have been recognised by the Intergovernmental Panel on Climate Change (“IPCC”) as being uniquely vulnerable to climate displacement.<sup>28</sup> SIDS’ populations are more likely to relocate due to threats to marine and coastal agricultural food systems,<sup>29</sup> water scarcity,<sup>30</sup> sea-level rise and a loss of habitable land.<sup>31</sup> Beyond SIDS, climate displacement and migration is also a significant concern for States globally, although disproportionately in the Global South – the World Bank estimates that by 2050 climate change could lead to 216 million people becoming internally displaced across Latin America, Eastern Europe, Central Asia, North Africa, Sub-Saharan Africa, South Asia and East Asia and

---

<sup>25</sup> Ethel Loku Impact Statement (Annexure 4) [16].

<sup>26</sup> Alfred Didi Impact Statement (Annexure 1) [22].

<sup>27</sup> Melinda Tahola Impact Statement (Annexure 5) [9].

<sup>28</sup> Intergovernmental Panel on Climate Change, ‘Chapter 15: Small Islands’ in *Climate Change 2022: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press, 2023) 2045 (‘IPCC 2022 Chapter 15’).

<sup>29</sup> *Ibid.*, 2046, 2068.

<sup>30</sup> Esha Zaveri et al., ‘Ebb and Flow, Volume 1: Water, Migration and Development’ (Report, 2021) (World Bank, Washington DC) 17.

<sup>31</sup> IPCC 2022 Chapter 15 (n 28) 2046, 2076.

the Pacific.<sup>32</sup> With over 1 billion people projected to be living in low-elevation coastal areas by 2050, it is important for the Court to clearly identify State obligations in relation to climate displacement, migration and relocation.<sup>33</sup>

27. On this basis, Solomons will briefly address two key points:

27.1 States have obligations to provide technical and financial support to developing States facing internal and cross-border displacement, migration and relocation resulting from the effects of climate change; and

27.2 people displaced across borders by climate change should be subject to increased cooperation by States, and afforded protection under the Convention Relating to the Status of Refugees 1951 (“1951 Refugee Convention”),<sup>34</sup> regional instruments, international human rights law and complementary forms of international protection.

**A. States have obligations to provide technical and financial support to developing States facing internal and cross-border displacement, migration and relocation resulting from the effects of climate change**

28. As early as 1991, the IPCC warned that displacement would be the worst consequence of climate change.<sup>35</sup> Solomons recognises that most climate change induced displacement will be within borders. Each year, about three times as many people are displaced internally by disasters than by conflict – the vast majority in the Asia-Pacific region.<sup>36</sup> While internal displacement is larger in scale than cross-border displacement, it is important that States comply with their obligations under international law in respect of both, in addition to instances of climate migration and relocation. These

---

<sup>32</sup> Viviane Clement et al., ‘Groundswell Part 2: Acting on Internal Climate Migration’ (Report, 2021) (World Bank, Washington DC).

<sup>33</sup> Intergovernmental Panel on Climate Change, ‘Summary for Policymakers’ in *Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press, 2023) 32.

<sup>34</sup> Convention Relating to the Status of Refugees, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954) (*Refugee Convention*).

<sup>35</sup> Intergovernmental Panel on Climate Change, ‘Policymaker Summary of Working Group II (Potential Impacts of Climate Change)’ in *Climate Change: The IPCC 1990 and 1992 Assessments* (1992) 103 [5.0.10].

<sup>36</sup> Bruce Burson, ‘Displacement in a changing climate’ *International Federation of Red Cross and Red Crescent Societies* (Report, 2021) 4; see generally Internal Displacement Monitoring Centre (IDMC), ‘Global Report on Internal Displacement’ (2024) at: <<https://api.internal-displacement.org/sites/default/files/publications/documents/IDMC-GRID-2024-Global-Report-on-Internal-Displacement.pdf>> 6.

obligations derive from, *inter alia*, the Paris Agreement, international and regional human rights law, and, in the case of cross-border displacement, refugee law.

29. Solomons written statement comprehensively addresses State mitigation and adaptation obligations at paragraphs 59 to 227, which will not be repeated here. Of particular relevance are States' adaptation and loss and damage obligations, including those set out in Article 2(1)(b), Article 7 and Article 8 of the Paris Agreement. For example, Article 7(6) recognises the "*importance of support for and international cooperation on adaptation efforts and the importance of taking into account the needs of developing countries parties*",<sup>37</sup> while Article 8(4) underlines the need to cooperate in relation to early warning systems, emergency preparedness, slow onset events, events causing irreversible or permanent loss and damage, non-economic losses, and resilience of communities, livelihoods and ecosystems.<sup>38</sup> Consistent with the principle of CBDR-RC, Article 9 relevantly requires developed States to provide finance to assist developing States in meeting their mitigation and adaptation obligations under the Agreement.
30. All States therefore have both mitigation and adaptation obligations which are relevant for climate mobility. For example, States must take mitigation measures which will reduce greenhouse gas emissions and in turn prevent the extensive and irreversible damage which causes displacement, migration and relocation.<sup>39</sup> Developed States must provide technical and financial assistance to developing States and LDCs and SIDS to mitigate climate change,<sup>40</sup> and relevantly for climate mobility, adapt to climate change impacts and develop climate resilience.<sup>41</sup> This was reaffirmed by ITLOS, which held that the terms of the Paris Agreement requiring the provision of scientific, technical, educational and other assistance were also owed under Articles 202 and 203 of UNCLOS, and were a "means of addressing an inequitable situation".<sup>42</sup>

---

<sup>37</sup> Paris Agreement (n 4) art 7(6).

<sup>38</sup> Paris Agreement (n 4) art 8(4)(a)-(h).

<sup>39</sup> ITLOS Climate Change Advisory Opinion (n 2) [175], [276], [258], [243].

<sup>40</sup> UNFCCC (n 4) art 4(3); Daniel Bodansky et. al, *International Climate Change Law* (Oxford University Press, 2017), 139.

<sup>41</sup> UNFCCC (n 4) art 4(3); Bodansky (n 40) 139.

<sup>42</sup> ITLOS Climate Change Advisory Opinion (n 2) [327]-[329].

31. These obligations are also derived from international human rights law. A number of written statements to this Court are in agreement that displacement caused by sea-level rise and climate change impacts will prevent the realisation of human rights, such as the right to self-determination,<sup>43</sup> the right to be free from hunger,<sup>44</sup> the right to adequate housing,<sup>45</sup> the right to cultural identity,<sup>46</sup> and the right to an adequate standard of living.<sup>47</sup> Some written statements further noted that all States have an obligation to cooperate to ensure people who are forcibly displaced due to climate change impacts are safely accommodated, either domestically or elsewhere.<sup>48</sup>
32. States should therefore cooperate to implement instruments that allow them to discharge the obligations described above. For example, States should have regard for the work of the UNFCCC Task Force on Displacement.<sup>49</sup> Similarly, the Guiding Principles on Internal Displacement<sup>50</sup> and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa provide a framework for responding to internal displacement in the context of disasters, including those linked to climate change.<sup>51</sup> Similarly, the Global Compact for Safe, Orderly and

<sup>43</sup> Kiribati, 'Written statement', Submission in *Obligations of States in respect of Climate Change*, 22 March 2024, [138].

<sup>44</sup> See for example the written statements of the following States and international organisations in *Obligations of States in respect of Climate Change*: Bahamas [229]; Tonga [262].

<sup>45</sup> See for example the written statements of the following States and international organisations in *Obligations of States in respect of Climate Change*: Bahamas [229]; Liechtenstein [43]; Tonga [262].

<sup>46</sup> Vanuatu 'Written statement', Submission in *Obligations of States in respect of Climate Change*, 22 March 2024, [301] ('*Vanuatu Written Statement*').

<sup>47</sup> See for example the written statements of the following States and international organisations in *Obligations of States in respect of Climate Change*: Bahamas [229]; Liechtenstein [63]; Tonga [262].

<sup>48</sup> See for example the written statements of the following States and international organisations in *Obligations of States in respect of Climate Change*: Kingdom of the Netherlands [5.44]; Portugal [148].

<sup>49</sup> As adopted by 195 States at COP 21.

<sup>50</sup> UN Human Rights Commission, *Addendum: Guiding Principles on Internal Displacement*, 54<sup>th</sup> sess, UN Doc E/CN.4/1998/53/Add.2 (17 July 1998).

<sup>51</sup> UNHCR, 'Summary of Deliberations on Climate Change and Displacement' from *Expert Meeting on Climate Change and Displacement*, 22-25 February 2011 (Bellagio, Italy) [19] ('*Bellagio Deliberations*'), Chairperson's Summary 'Nansen Conference: Climate Change and Displacement in the 21<sup>st</sup> Century' (5-7 June 2011) [19]; 'Both the Guiding Principles on Internal Displacement and the African Union's 2009 Kampala Convention for the Protection and Assistance of Internally Displaced Persons (IDPs) in Africa cover internal displacement resulting from natural disasters, including those linked to climate change'.



Regular Migration (“Global Compact on Migration”),<sup>52</sup> which Solomons endorsed in 2018, considers climate change related displacement,<sup>53</sup> and in that context, encourages States to:

- 32.1 strengthen joint analysis and sharing of information to better map, understand, predict and address migration movements, such as those that may result from sudden-onset and slow-onset natural disasters, the adverse effects of climate change, and environmental degradation;<sup>54</sup>
- 32.2 develop adaptation and resilience strategies to sudden-onset and slow-onset natural disasters, the adverse effects of climate change and environmental degradation, taking into account the potential implications for migration, while recognising that adaptation in the country of origin is a priority;<sup>55</sup>
- 32.3 harmonise and develop approaches and mechanisms at the subregional and regional levels to address the vulnerabilities of persons affected by sudden-onset and slow-onset natural disasters, by ensuring that they have access to humanitarian assistance that meets their essential needs with full respect for their rights wherever they are, taking into account the capacities of all countries involved;<sup>56</sup>
- 32.4 develop coherent approaches to address the challenges of migration movements in the context of sudden-onset and slow-onset natural disasters, including by

<sup>52</sup> *Global Compact for Safe, Orderly and Regular Migration*, GA Res 73/195, UN Doc A/RES/73/195 (11 January 2019, adopted 19 December 2018) (“*Global Compact on Migration*”). 166 States voted in favour, Albania, Andorra, Angola, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Canada, Central African Republic, Chad, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Eswatini, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iran, Iraq, Ireland, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People’s Democratic Republic, Lebanon, Lesotho, Liberia, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Palau, Papua New Guinea, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Slovenia, Solomon Islands, South Africa, South Sudan, Spain, Sri Lanka, Sudan, Suriname, Sweden, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Tuvalu, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

<sup>53</sup> *Global Compact on Migration* (n 52) [18].

<sup>54</sup> *Global Compact on Migration* (n 52) [18](h).

<sup>55</sup> *Global Compact on Migration* (n 52) [18](i).

<sup>56</sup> *Global Compact on Migration* (n 52) [18](k).

taking into consideration relevant recommendations from State-led consultative processes, such as the Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change, and the Platform on Disaster Displacement.<sup>57</sup>

33. The Global Compact on Migration usefully presents a framework for States to establish standards of migration governance and cooperation, with a particular focus on the unique needs of LDCs and SIDS.<sup>58</sup> Consistent with the principles set out above, ITLOS recognised that States have specific obligations to harmonise climate policies,<sup>59</sup> and support developing States with scientific, technical, educational, and financial assistance in the context of climate change.<sup>60</sup>
34. The UN Human Rights Council also relevantly suggested a number of measures that States could cooperatively take, including:
  - 34.1 to promote and expand safe, regular, dignified and accessible pathways for human mobility that respect and protect the rights of persons affected by climate change, including through specific protection mechanisms;
  - 34.2 to refrain from returning migrants to territories affected by climate change that can no longer sustain them and steadfastly uphold the fundamental principle of non-refoulement and other international human rights law obligations, to provide protection for persons who are unable to return to their homes as a result of climate change; and
  - 34.3 to facilitate the integration of climate change-related migrants in host communities, the regularisation of their legal status and their access to labour markets.<sup>61</sup>

---

<sup>57</sup> Global Compact on Migration (n 52) [18](l).

<sup>58</sup> Global Compact on Migration (n 52) [39]; see also *Report of the United Nations High Commissioner for Refugees: Part II Global compact on refugees, A/73/12 (Part II)* (2 August 2018) as adopted by GA Res 73/151, UN Doc A/RES/73/151 (17 December 2018) [8].

<sup>59</sup> ITLOS Climate Change Advisory Opinion (n 2) [243].

<sup>60</sup> ITLOS Climate Change Advisory Opinion (n 2 [Error! Bookmark not defined.](#)) [327]-[329].

<sup>61</sup> UN Human Rights Council, *Addressing Human Rights Protection Gaps in the Context of Migration and Displacement of Persons across International Borders Resulting from the Adverse Effects of Climate Change and Supporting the Adaptation and Mitigation Plans of Developing Countries to Bridge the Protection Gaps* UN Doc A/HRC/38/21 (23 April 2018) [66] (c), (d) and (h).

35. Where States fail to discharge their mitigation and adaptation obligations, and the adverse effects of climate change lead to displacement, migration and relocation, States will be internationally responsible for reparations in the form of non-monetary restitution to address human mobility.<sup>62</sup> While the form of redress will be similar to those primary obligations set out above, they are legally distinct as reparations are backward-looking in nature.
36. In summary, Solomons notes and welcomes the Written Statements of other parties stating that all States have an obligation to cooperate to ensure people who move due to climate change are safely accommodated,<sup>63</sup> and that States should be entitled to compensation for expenses incurred in receiving and supporting displaced persons.<sup>64</sup> All States owe mitigation and adaptation obligations under, *inter alia*, the Paris Agreement and international human rights law to address climate mobility. In line with CBDR-RC, developed States must provide technical and financial support to developing States, in particular SIDS and LDCs, facing internal and cross-border displacement, migration and relocation resulting from the effects of climate change.
- B. People displaced across borders should be protected under the 1951 Refugee Convention, regional instruments and complementary forms of international protection**
37. Solomons addressed State obligations towards people displaced beyond borders due to climate change in its written statement at paragraphs 226 to 227. This noted that individuals should be considered for protection under not only the 1951 Refugee Convention and the Protocol Relating to the Status of Refugees 1967,<sup>65</sup> but also regional refugee instruments such as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa<sup>66</sup> and the 1984 Cartagena Declaration,<sup>67</sup> and the

<sup>62</sup> See Solomon Islands Written Statement [229]-[248].

<sup>63</sup> See for example the written statements of the following States in *Obligations of States in respect of Climate Change*: Kingdom of the Netherlands [5.44]; Portugal [148].

<sup>64</sup> See for example the written statements of the following States in *Obligations of States in respect of Climate Change*: Madagascar [87]; Vanuatu [487].

<sup>65</sup> Protocol Relating to the Status of Refugees, opened for signature 31 January 1967, 606 UNTS 267 (entered into force 4 October 1967) ('*Refugee Protocol*').

<sup>66</sup> Organisation 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).

<sup>67</sup> *Cartagena Declaration on Refugees*, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama (22 November 1984) ('*Cartagena Declaration*').

complementary protection non-refoulement obligations established under international human rights law.

*Protection under the 1951 Refugee Convention or regional instruments*

38. The need for international protection arises where a person is outside their own country and is unable to return due to a well-founded fear of persecution or serious human rights violations, which the State cannot or will not protect them from.<sup>68</sup> The slow-onset, irreversible impacts of sea-level rise have seen people move across borders as they are living in unsafe conditions or are no longer capable of sustaining livelihoods.<sup>69</sup> This is particularly the case where “*internally displaced persons fail to find safety and security in their own country, leading to significant numbers of cross-border movements within and beyond the region.*”<sup>70</sup> In 2020, UNHCR issued guidance on protection claims in the context of climate change, clarifying that people compelled to cross international borders in the context of disasters or events linked to climate change can fall within the international legal definition of a refugee under the 1951 Refugee Convention.<sup>71</sup>
39. UNHCR has noted that refugee status determination processes by national asylum authorities should consider the impacts of climate change events broadly, including impacts upon human rights, social and political security, and government responses to climate change impacts:

*“[i]f a narrow view is taken of the effects of climate change and disasters, there is a risk that decision-makers may decide that refugee law is inapplicable and deny access to refugee status determination”.*<sup>72</sup>

<sup>68</sup> UNHCR, ‘Climate change impacts and cross-border displacement: International refugee law and UNHCR’s mandate’ (12 December 2023).

<sup>69</sup> See Sanjula Weerasinghe, ‘In Harm’s Way: International Protection in the Context of Nexus Dynamics Between Conflict or Violence and Disaster or Climate Change’, UNHCR, PPLA/2018/05 (2018).

<sup>70</sup> Internal Displacement Monitoring Centre (IDMC), Global Report on Internal Displacement (2019) <<https://www.internal-displacement.org/global-report/grid2019/>>. 41.

<sup>71</sup> UNHCR, *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters* (1 October 2020) <[www.refworld.org/docid/5f75f2734.html](http://www.refworld.org/docid/5f75f2734.html)> [6]; UNHCR, ‘Climate change impacts and cross-border displacement: International refugee law and UNHCR’s mandate’ (12 December 2023).

<sup>72</sup> Ibid [5].

40. Consideration of these factors may satisfy the existing framework for protection under Article 1A(2) of the Refugee Convention, which is:

*“... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country; or who, not having a nationality and being outside the country of [their] former habitual residence, is unable or, owing to such fear, is unwilling to return to it.”*  
(emphasis added)

41. Persecution in the context of this framework requires proof of a targeted threat against an individual on the basis of their identity. As set out above, climate change impacts may lead to an individual or group being exposed to a risk of human rights violations amounting to persecution under Article 1A(2).<sup>73</sup> Further, the impact of climate change events on security, government support for communities and political stability may exacerbate risks to individuals or groups, rendering them persecuted “for reasons of” a particular trait. For people belonging to particular groups which are already marginalised and vulnerable, and therefore disproportionately affected by climate change, a risk of persecution may arise.<sup>74</sup> Consistent with this interpretation, UNHCR has provided three examples that may satisfy the definition under the 1951 Refugee Convention:

- 41.1 people fleeing conflict or violence which may be caused or exacerbated by the effects of climate change, thereby rendering the State unable or unwilling to protect the victims and leaving them at risk of persecution.<sup>75</sup> For example,

<sup>73</sup> For example, the right to life, physical integrity, an adequate standard of living, health, water, sanitation, and self-determination or development; UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, HCR/1P/4/ENG/REV.4 (April 2019) [51]-[55].

<sup>74</sup> See *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland*, no. 53600/20, judgment (European Court of Human Rights, Grand Chamber) (9 April 2024) (‘*KlimaSeniorinnen*’); UNHCR, ‘Climate change impacts and cross-border displacement: International refugee law and UNHCR’s mandate’ (12 December 2023).

<sup>75</sup> UNHCR, ‘Climate change impacts and cross-border displacement: International refugee law and UNHCR’s mandate’ (12 December 2023) [1.1.1].

conflict over arable land and control of resources in Sudan and South Sudan in 2019;<sup>76</sup>

41.2 environmental defenders, activists or journalists targeted and persecuted for defending, conserving or reporting on ecosystems or government responses to climate change, which may be considered a political stance. For example, violence against environmental defenders in Northern Central America resisting natural resource extraction, reported by the Inter-American Commission on Human Rights;<sup>77</sup> and

41.3 vulnerable groups such as women, children, and the elderly, who suffer from the greatest impacts of climate change, which compounds existing discrimination, gender-based violence, human trafficking and instances of child marriage. Minority groups and indigenous people are similarly vulnerable as they are already marginalised, and may be denied access to resources or excluded from disaster risk reduction strategies.<sup>78</sup>

42. Contrary to the submission of some States,<sup>79</sup> the 1951 Refugee Convention, despite not being originally designed with climate change in mind, is clearly capable of providing protection in a range of climate-related displacement contexts. The interpretation of the 1951 Refugee Convention is supplemented by UNHCR's approach to protection under regional instruments such as Conclusion III(3) of 1984 Cartagena Declaration on Refugees<sup>80</sup> and Article I(2) of the 1969 OAU Convention on Specific Aspects of Refugee Problems in Africa, which recognise as refugees persons who have:

---

<sup>76</sup> UNHCR, 'Climate change impacts and cross-border displacement: International refugee law and UNHCR's mandate' (12 December 2023) [1.1.1(a)].

<sup>77</sup> UNHCR, 'Climate change impacts and cross-border displacement: International refugee law and UNHCR's mandate' (12 December 2023) [1.1.1(b)]; for example, Inter-American Commission on Human Rights (IACHR), *Report on the Situation of Environmental Human Rights Defenders in the Northern Central American Countries*, OEA/Ser.L/V/II, Doc. 40/022, 16 December 2022.

<sup>78</sup> UNHCR, 'Climate change impacts and cross-border displacement: International refugee law and UNHCR's mandate' (12 December 2023) [1.1.1(c)].

<sup>79</sup> Kingdom of the Netherlands, 'Written statement', Submission in *Obligations of States in respect of climate change*, 22 March 2024, [5.42]. The Netherlands did not oppose an expansive interpretation as such, but rather noted that the Convention "would not seem applicable in the context of climate change as it was not designed to protect climate-related displaced persons".

<sup>80</sup> While it is not a treaty, the definition of 'refugee' in the Cartagena Declaration (n 61) has attained important standing in the Americas through entrenchment in domestic laws. Across the Americas, States have recognised its value through regional instruments such as the 1994 San Jose Declaration on Refugees and Displaced Persons, the 2004 Mexico Declaration and Plan of Action to Strengthen International Protection of Refugees in Latin America, the 2011 Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas, the 2014 Brazil Declaration and Plan of Action and the 2018 100 Points of Brasilia.

*“fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflict, massive violation of human rights or other circumstances which have seriously disturbed public order”.*<sup>81</sup>

43. While the Cartagena Declaration does not provide a legal definition of “seriously disturbed public order”, UNHCR considers that it is sufficiently broad to encompass climate-related impacts.<sup>82</sup> The concept of “public order” refers to the prevailing level of administrative, social, political and moral order as assessed according to the effective functioning of the State and based on respect for the rule of law and human dignity such that the life, security and freedom of people are protected.<sup>83</sup> Disturbances can stem from human or other causes, and as such climate change impacts – whether they are defined as being anthropogenic in nature or not – are capable of being events that “seriously disturb public order”.<sup>84</sup> In relation to internal flight or relocation alternatives, both the 1969 OAU Convention and the 1984 Cartagena Declaration definitions of refugees include persons who flee situations that affect either “part” or “the whole” of the territory of their country of origin.<sup>85</sup> Therefore if a person is displaced due to a serious disturbance to the public order as a result of a climate impact, there is no requirement that the impact extends throughout the State’s territory in order for the applicant to receive protection.
44. In terms of the status of the 1984 Cartagena Declaration, while it is not a treaty, the Inter-American Court of Human Rights has established that there is state practice consistent with its expanded definition to include circumstances which have seriously disturbed public order:

*“Additionally, the Court notes that the developments produced in refugee law in recent decades have led to state practices, which have consisted in granting*

<sup>81</sup> Cartagena Declaration (n 61), Conclusion III(3).

<sup>82</sup> UNHCR, *Legal considerations regarding claims for international protection made in the context of the adverse effects of climate change and disasters* (1 October 2020) <[www.refworld.org/docid/5f75e2734.html](http://www.refworld.org/docid/5f75e2734.html)> [15]-[16].

<sup>83</sup> Ibid, [16].

<sup>84</sup> Tamara Wood, ‘Who is a Refugee in Africa? A Principled Framework for Interpreting and Applying Africa’s Expanded Refugee Definition’, (2019)31 *International Journal of Refugee Law* 311-313, 307.

<sup>85</sup> UNHCR, *Guidelines on International Protection No. 4: “Internal Flight or Relocation Alternative” Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, UN Doc HCR/GIP/03/04 (23 July 2003).

*international protection as refugees to persons fleeing their country of origin due to generalized violence, foreign aggression, internal conflicts, massive violations of human rights, or other circumstances which have seriously disturbed public order. Bearing in mind the progressive development of international law, the Court considers that the obligations under the right to seek and receive asylum are operative with respect to those persons who meet the components of the expanded definition of the Cartagena Declaration.”<sup>86</sup>* (Emphasis added).

45. Solomons therefore considers the expanded definition contained in the 1984 Cartagena Declaration and 1969 OAU Convention to be an evolving norm of international law that acknowledges the humanitarian impact of climate change and supports broader protection frameworks for those affected. Beyond the 1984 Cartagena Declaration, and the 1969 OAU Convention, other regional instruments<sup>87</sup> such as the African Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers (“**African Guiding Principles**”),<sup>88</sup> also provide the basis for protection in the context of climate change, with Principle 21(2) stating:

*“Every climate migrant has the right to seek and to obtain asylum in other countries in accordance with laws of those countries, regional, and international conventions.”<sup>89</sup>*

46. The African Guiding Principles also stipulate the need for states to mitigate climate change, recognising that it is the effects of climate change that drive migration.<sup>90</sup> Consistent with the Global Compact, the African Guiding Principles ask States to develop adaptation strategies to address the impacts of climate change, reduce

---

<sup>86</sup> *Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection (Advisory Opinion)* (Inter-American Court of Human Rights, Series A No 21, 19 August 2014) [79].

<sup>87</sup> *Brazil Declaration, A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean* (3 December 2014); *African Union Convention for the protection and assistance of internally displaced persons in Africa*, opened for signature 23 October 2009, 3014 UNTS 3 (entered into force 6 December 2012).

<sup>88</sup> African Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers are proposed for consideration and adoption by the African Commission on Human Rights during its 75th ordinary session in Addis Ababa (3-23 May 2023).

<sup>89</sup> African Commission on Human and Peoples’ Rights African Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers (Principle 21(2)) (emphasis added).

<sup>90</sup> African Commission on Human and Peoples’ Rights African Guiding Principles on the Human Rights of All Migrants, Refugees and Asylum Seekers (Principle 32)



vulnerability and to create pathways for migration. Outside of the 1951 Refugee Convention and regional frameworks, protection is also available in climate change contexts under international human rights law.

Complementary protection under international human rights law

47. Beyond international refugee law treaties and frameworks, States owe obligations to people displaced across borders in a climate change context under international human rights law. In particular, the principle of non-refoulement applies, which is an established norm of customary international law and international human rights law.<sup>91</sup> It is binding on all States, regardless of whether they have acceded to the 1951 Refugee Convention or its 1967 Protocol. As set out in *Teitiota*,<sup>92</sup> States must act swiftly to curb the effects of climate change, to prevent individuals and groups from being exposed to violations of human rights, particularly Articles 6 (right to life) and 7 (prohibition of torture and cruel, inhuman or degrading treatment or punishment) of the International Covenant on Civil and Political Rights (“ICCPR”),<sup>93</sup> which trigger non-refoulement obligations.<sup>94</sup> Solomons considers that a State would be in breach of their non-refoulement obligations if they return a person displaced by sea-level rise or other climate change impacts and do not consider potential threats to the right to life, given difficulties obtaining habitable land, securing water resources and accessing food.<sup>95</sup>

<sup>91</sup> See New York Declaration for Refugees and Migrants, para 67, *Rights and Guarantees of Children in the Context of Migration and/or in Need of International Protection*, Advisory Opinion OC-21/14, Inter-American Court of Human Rights Series A No 21 (19 August 2014) para 211; Nigel S Rodley and Matt Pollard, *The Treatment of Prisoners under International Law* (3rd edn, OUP 2009). *The Institution of Asylum and its Recognition as a Human Right in the Inter-American System of Protection (Interpretation and Scope of Articles 4, 22.7 and 22.8 in relation to Article 1(1) of the American Convention on Human Rights)*, Advisory Opinion OC-25/18, Inter-American Court of Human Rights Series A No 24 (30 May 2018) (only available in Spanish, unofficial English translation available at Inter-American Court of Human Rights, ‘Advisory Opinion OC-25/18 of 30 May 2018 Requested by the Republic of Ecuador’ para 181.

<sup>92</sup> Human Rights Committee, *Views: Communication No 2728/2016*, UN Doc CCPR/C/127/D/2728/2016 (24 October 2019) ¶ [9.9] (*‘Teitiota v Australia’*) [9.11].

<sup>93</sup> International Convention on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) (*‘ICCPR’*) arts 6 and 7; Human Rights Committee, *General comment No. 36 Article 6: right to life*, 124<sup>th</sup> sess, UN Doc CCPR/C/GC/35 (3 September 2019); Human Rights Committee, *General Comment No. 20: Article 7 (Prohibition of Torture, or Other Cruel, Inhuman or Degrading Treatment or Punishment)*, 44<sup>th</sup> sess, UN Doc HRI/GEN/1/Rev.9 (Vol. I) p.200 (10 March 1992).

<sup>94</sup> Kenzie Poole ‘Climate Migrants: Who are They and What Legal Protections Do They Have?’ (2021) *Immigration and Human Rights Law Review*; Lucia Rose, ‘The World After Teitiota: What the HRC Decision Means for the Future of Climate Migration’ (2021)12 *San Diego Journal of Climate and Energy Law* 41, 55.

<sup>95</sup> *Teitiota v Australia* (n 92) [9.12] (noting that the Committee found the right to life would not be breached as Kiribati was still 10-15 years away from uninhabitability).

48. In summary, Solomons, along with other States,<sup>96</sup> invites the Court to recognise that States owe obligations to protect persons displaced across borders under the 1951 Refugee Convention, regional instruments and complementary forms of international protection. States should proactively cooperate, in line with frameworks such as the Pacific Regional Framework on Climate Mobility,<sup>97</sup> to ensure persons displaced in the context of climate change at the regional and sub-regional level are afforded international protection.<sup>98</sup> Solomons considers that recent developments in the region, such as the *Falepili Union* between Australia and Tuvalu<sup>99</sup> – the first agreement of its kind – indicate a significant step towards cooperation in the context of climate relocation and migration in the region. Further cooperation should be undertaken on an equitable basis and in line with CBDR-RC.

## CHAPTER V. INTERNATIONAL HUMAN RIGHTS LAW

### A. Decision of the European Court of Human Rights in *KlimaSeniorinnen*

49. Solomons welcomes the decision of the European Court of Human Rights (“ECtHR”) on 9 April 2024 in *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* (“*KlimaSeniorinnen*”).<sup>100</sup> The decision supports Solomons written statement by establishing the following:

- 49.1 States must adopt, and apply in practice, regulations and measures capable of mitigating effects of climate change and the increase of GHG concentrations in the Earth’s atmosphere;<sup>101</sup>
- 49.2 States have positive obligations under international human rights law to mitigate the adverse impacts of climate change on human health, well-being and quality of life;<sup>102</sup>

---

<sup>96</sup> El Salvador Written Statement (n 12) [48].

<sup>97</sup> Pacific Climate Change Migration and Human Security Programme, *Pacific Regional Framework on Climate Mobility* (Pacific Islands Forum Meeting, 6-10 November 2023).

<sup>98</sup> Ibid [40].

<sup>99</sup> *Falepili Union (Australia/Tuvalu)*, opened for signature 9 November 2023 (due to enter into force in late 2024).

<sup>100</sup> *KlimaSeniorinnen* (n 74).

<sup>101</sup> Ibid [545]-[547].

<sup>102</sup> Ibid [544].

49.3 in order to respect, protect and fulfil human rights obligations, States must fulfil their positive obligations to establish a regulatory framework to reach carbon neutrality;<sup>103</sup> and

49.4 States must take immediate action to safeguard human rights from climate impacts, or risk a disproportionate burden on future generations.<sup>104</sup>

## **B. State carbon budgets must be calculated on a fair share basis**

50. An important aspect of the *KlimaSeniorinnen* decision was its finding that States must identify their overall remaining carbon budget (or another equivalent method of quantifying future GHG emissions).<sup>105</sup> Switzerland was found to have failed to comply with this obligation.<sup>106</sup> Solomons welcomes this finding from the ECtHR, but would note that no methodology was explicitly established by the Court for setting carbon budgets. Recalling paragraph 98 of its written statement, Solomons considers that States are required to adopt emissions reduction targets consistent with their “fair share”, calculated in line with CBDR-RC in light of different national circumstances.<sup>107</sup> Carbon budgets should therefore be set in accordance with a States’ fair share of emissions reductions. While the ECtHR did not adopt a specific approach, it did recognise the importance of CBDR-RC in determining national carbon budgets.<sup>108</sup> Solomons considers that it would therefore be consistent with the reasoning of the ECtHR to clarify that CBDR-RC requires a fair-share approach to mitigation targets, and in turn the setting of fair-share carbon budgets.

---

<sup>103</sup> Ibid [547]-[548]

<sup>104</sup> Ibid [549].

<sup>105</sup> Ibid [550(a)].

<sup>106</sup> Ibid [570]-[572].

<sup>107</sup> Lavanya Rajamani et al., ‘National ‘fair shares’ in reducing greenhouse gas emissions within the principled framework of international environmental law’ (2021) 21(8) *Climate Policy* 983.

<sup>108</sup> *KlimaSeniorinnen* [571]: “In this regard the Court cannot but note that the IPCC has stressed the importance of carbon budgets and policies for net-zero emissions (see paragraph 116 above), which can hardly be compensated for by reliance on the State’s NDCs under the Paris Agreement, as the Government seemed to suggest. The Court also finds convincing the reasoning of the GFCC, which rejected the argument that it was impossible to determine the national carbon budget, pointing to, *inter alia*, the principle of common but differentiated responsibilities under the UNFCCC and the Paris Agreement (see Neubauer and Others, cited in paragraph 254 above, paragraphs 215-29). This principle requires the States to act on the basis of equity and in accordance with their own respective capabilities.”

## CHAPTER VI. STATE RESPONSIBILITY

- A. State responsibility for harm to the climate system can be attributed as a matter of fact and law**
51. Over 40 States and intergovernmental organisations considered the question of whether it is legally and factually possible to establish attribution or causation regarding a State's emissions and the adverse impacts of climate change. While Solomons did not address this topic in its written statement, it presents its views here without prejudice to further expansion in its oral submissions.
52. Despite developments in attribution science in recent years, some parties challenged whether it was possible to attribute the actions of States to adverse climate impacts. It was asserted that there was no single agreed scientific methodology to attribute climate change to the GHG emissions of any individual State,<sup>109</sup> and that attribution of specific harm to a group or individual is “impossible”.<sup>110</sup> Similarly, doubts were raised about the feasibility of establishing a causal link between breach and the allegedly injured party.<sup>111</sup> This line of reasoning was contested, with it being suggested that any difficulties with attribution science do not remove state responsibility, as concurrent causes of climate change cannot preclude an award of compensation for the damage against the responsible State.<sup>112</sup> Solomons also notes the observation that source and event attribution make it possible to conclude that a particular climate event was caused by a specific anthropogenic source.<sup>113</sup>
53. On the question of attribution science, Solomons considers that a causal link exists between State conduct and alleged violations and consequent damages. For some years it has been well established that attribution science is capable of quantifying the contribution of States and other individual emitters to extreme weather events and climate-related hazards.<sup>114</sup> While methodological choices can affect the calculation of

---

<sup>109</sup> United Kingdom, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [137.4.3].

<sup>110</sup> Organisation of the Petroleum Exporting Countries, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [93].

<sup>111</sup> South Korea, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [46].

<sup>112</sup> Sierra Leone, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [3.145].

<sup>113</sup> Sri Lanka, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [28].

<sup>114</sup> Friederike Otto et al, ‘Assigning historic responsibility for extreme weather events’ (2017) 7 *Nature Climate Change* 757.

historical emissions of individual emitters, these choices do not undermine the capacity of courts to determine States' relative contribution to climate change harms as a matter of fact. The best available science should be used to determine these questions of fact. This in turn provides the basis for State responsibility for harm.

54. Turning to the basis for attributing State responsibility, a significant number of States do not see any barrier to establishing international responsibility.<sup>115</sup> Article 47 of the Draft Articles on Responsibility of States for Wrongful Acts (“ARSIWA”) supports the position that States do not escape individual responsibility for damage caused on the grounds that other States have also jointly contributed to the same damage.<sup>116</sup> For claimant States, Article 47 holds that where several States are responsible for the same act, the responsibility of each State may be invoked in relation to that act, without prejudice to any right of recourse against the other responsible States.<sup>117</sup> Additionally, Solomons agrees with other States that a claim may be brought by a non-injured State on the basis of *erga omnes* obligations,<sup>118</sup> and that cumulative historical emissions should be calculated with emissions during colonial periods being attributed to colonial powers.<sup>119</sup>
55. Some States have asked the Court to take a “forward-looking” approach, not aimed at assessment of any historic acts or omissions.<sup>120</sup> However, the concept of “historical responsibility” forms the basis on which the UNFCCC, the Paris Agreement and the climate negotiations are built.<sup>121</sup> Those forums have called “*for the acceptance of accountability for the full consequences of an industrialization that relied on fossil fuels*

---

<sup>115</sup> See for example the written statements of the following States and international organisations in *Obligations of States in respect of Climate Change*: African Union, Antigua & Barbuda, Bangladesh, Barbados, Brazil, Burkina Faso, Costa Rica, Dominican Republic, Egypt, India, Kenya, Latvia, Madagascar, Micronesia, Namibia, Netherlands, Palau, Peru, Philippines, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sierra Leone, Sri Lanka, Vanuatu, Viet Nam, International Union for Conservation of Nature, Melanesian Spearhead Group.

<sup>116</sup> Democratic Republic of the Congo, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [295].

<sup>117</sup> Democratic Republic of the Congo, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [301].

<sup>118</sup> Antigua and Barbuda, ‘Written statement’, Submission in *Obligations of States in respect of climate change*, 22 March 2024, [566]-[571].

<sup>119</sup> *Ibid* [591].

<sup>120</sup> See for example the written statements of the following and intergovernmental organisations in *Obligations of States in respect of Climate Change*: Germany [79]-[81], Japan [27], Kuwait [122]-[123], Nordic Countries [98] and United States of America [3.26].

<sup>121</sup> See for example, UNFCCC (n 4) preamble, arts 3(1), 4(1); *Paris Agreement* (n 4) preamble, arts 2(2), 4(3), 4(4), 4(19), 9(3); see for example the written statements of the following and intergovernmental organisations in *Obligations of States in respect of Climate Change*: Colombia [3.55], Egypt [61]-[62], Kiribati [100]-[101], Saint Lucia [65], Saudi Arabia [5.3], Singapore [3.33], and United Arab Emirates [155].

[...] and carbon energy”.<sup>122</sup> These States’ industrialisation relied on fossil fuels and they benefitted greatly because they did not bear the costs of the problem thereby created, being excessive greenhouse gas emissions and climate change.

**B. States are responsible for internationally wrongful acts causing climate damage**

56. Solomons considers that, as set out in its Written Statement,<sup>123</sup> the relevant obligations of States derive from a number of sources of law that go beyond the UNFCCC, Kyoto Protocol and the Paris Agreement. In light of ITLOS’ rejection of the *lex specialis* argument made in its advisory proceedings,<sup>124</sup> and the common submission of States that *lex specialis* does not apply,<sup>125</sup> it is difficult to sustain the argument that no relevant legal obligations are in force beyond the UNFCCC framework in 1992.

57. It is important that this Court establishes a durable framework for settling State responsibility and calculating reparations, in particular compensation. States are responsible for breaching these obligations stemming from varied sources of law beyond the UNFCCC framework, including due diligence obligations, international environmental law, international human rights law, the law of the sea, and general and customary international law.<sup>126</sup> Solomons agrees with the observations of States and intergovernmental organisations that internationally wrongful acts breaching these varied state obligations were continuing in nature or a composite act, often under Articles 14(3) and 15 of the ARSIWA,<sup>127</sup> which draws a connection between historical conduct and current responsibility.

---

<sup>122</sup> Henry Shue, ‘Historical Responsibility, Harm Prohibition, and Preservation Requirement: Core Practical Convergence on Climate Change’ (2015) 2(1) *Moral Philosophy and Politics* 7, 12-13.

<sup>123</sup> Solomon Islands Written Statement (n 3) [54]-[204].

<sup>124</sup> ITLOS Advisory Opinion on Climate Change (n 2) [222]-[224].

<sup>125</sup> See for example the written statements of the following States and intergovernmental organisations in *Obligations of States in respect of Climate Change*: Albania [129], Antigua and Barbuda [533], Burkina Faso [97], Colombia [3.9], Cook Islands [135], Egypt [73], El Salvador [27]-[28], Kenya [2.8], Peru [69]-[74], Samoa [85], Spain [5]-[7], Swiss Confederation [68], Uruguay [81]-[87], Vanuatu [244], African Union [45], IUCN [551], OACPS [63].

<sup>126</sup> Solomon Islands Written Statement (n 3) [54]-[204].

<sup>127</sup> See for example the written statements of the following States and intergovernmental organisations in *Obligations of States in respect of Climate Change*: Sierra Leone [3.137], Melanesian Spearhead Group [299], Egypt [323], Democratic Republic of the Congo [254], Colombia [4.2].

## CHAPTER VII. CONCLUSION

58. For the reasons set out above, the Solomons respectfully invites the court to provide an advisory opinion as follows:

58.1 In answer to the first Question (a), that States have obligations under international law to:

- (a) exercise due diligence in meeting relevant obligations under international law;
- (b) adhere to the principle of CBDR-RC, including by providing technical assistance, finance and capacity-building to developing States;
- (c) adhere to the duty to cooperate in implementing their obligations under international environmental law and the mitigation and adaptation measures under the UNFCCC and the Paris Agreement;
- (d) protect the climate system and the environment for the benefit of present and future generations;
- (e) adhere to the precautionary principle which relevantly requires States to protect the climate system and the environment under customary international law;
- (f) prevent transboundary harm from causing significant damage to the environment of another State;
- (g) respect, protect and fulfil the internationally recognised human rights of present and future generations, including the rights to life, private and family life, the rights of children and women, the right to live with dignity in a clean, healthy and sustainably environment, and the right to self-determination and its related rights to health, water, food, housing and culture;

- (h) protect and preserve the marine environment from the adverse effects of climate change by preventing, reducing and controlling pollution from greenhouse gas emissions;
- (i) preserve States' baselines and the outer limits of their maritime zones in the event of loss of territory due to sea-level rise;
- (j) recognise the continuing statehood and sovereignty of States who experience complete loss of territory due to sea-level rise; and
- (k) recognise that people displaced by climate change are afforded protection under the 1951 Refugee Convention, amongst other instruments and complementary forms of protection.

58.2 In answer to the second Question (b), that States have obligations under international law to:

- (a) provide full reparations, where a State has committed an internationally wrongful act against the climate system and other States;
- (b) provide full reparations to individuals and communities of present and future generations, where States have caused significant harm to the climate system and those parties; and
- (c) cease all internationally wrongful acts and guarantee non-repetition, where States commit internationally wrongful acts against the climate system and other States.



Honiara, Solomon Islands, 15 August 2024

Respectfully submitted



.....  
The Government of the Solomon Islands

Mr John Muria Jnr

Attorney General

---



## **Annexures**

<b>Number</b>	<b>Impact Statements</b>	<b>Page</b>
1	Alfred Didi	1-4
2	Daniel Duru	5-8
3	Gladys Habu	9-10
4	Ethel Loku	11-15
5	Melinda Tahola	16-17

## **IMPACT STATEMENT OF ALFRED DIDI**

### **BACKGROUND**

1. My name is Alfred Didi and I live in the village of Ambu on the western coast of Malita province in Solomon Islands.
2. I grew up on Savo Island and am married to a woman who is also from there. My wife and I moved to Ambu in 2007 and have 3 children – two boys and one girl.
3. I do not have a job and my children support our family by catching and selling fish.
4. My family and I live together in a house 3 metres from the stone wall that we built to protect our house from the impacts of high tides.
5. Since moving to Ambu 16 years ago, I have observed many changes to the environment which is impacting our community in different ways. These are described below.

### **INCREASE IN HIGH TIDES**

6. When I first arrived in Ambu, high tides happened usually two or three times a year. The tides would reach just below the stone walls that we had built to protect our village from these events.
7. Now with the weather changes, we are unable to predict the high tides. When the high tides come, they are now so large that the water flows over the stone walls and damages our village. I have never seen tides like this before.
8. When there is a high tide, it usually takes three days to come through and into our village. On the first day, I can see the tide come close to our shores. On the second day, the tide will move closer to outside the front of our house. On the third day, the water will cover the whole village, increasing in volume towards the evening. After the third day, the water recedes back to the ocean.
9. During these high tides when the water flows over the stone walls, I have observed that the water brings lots of dirt and plastic waste into the village. This rubbish and debris are difficult to clear away after the tide recedes.
10. These high tides are very unsafe for our villagers as many of our houses are just a meter away from the sea including my own house. I fear that the high tides will completely destroy our house and I usually do not sleep well because I worry about the high tides flowing into our village during the night.

11. The high tides have been increasing since I moved to Ambu in 2007. Over the past 5 years, the high tides have been the worst I have ever seen, reaching more than 3 metres above the stone walls that we built, inundating our village with water and rubbish.

#### **CHANGE IN WEATHER PATTERNS**

12. I have observed that the weather patterns in Ambu have significantly changed.
13. When I first moved to Ambu, we had the *Koburu* season which is the cyclone season between January and June and the *Ara* season which is the humid and hot weather season between July to September.
14. Now we no longer experience the seasons in that way. The cyclone season starts in January but continues until later in the year, around September. I have also noticed that there is significantly more rainfall than in previous years. Throughout the year we now feel both *Koburu* and *Ara* seasons and experience huge rainfalls and high heat.
15. This change in weather pattern has been confusing and I can no longer distinguish between *Konburu* and *Ara* season as I used to do.
16. Due to these drastic changes in weather, I have noticed that our soil is no longer fertile to grow root crops for our families. This has meant that our community depends more on manufactured foods which has affected our diets and we spend more on rice and tuna.
17. The high rainfall and humidity have also affected our gardens and harvests meaning we eat less local fresh produce. This means our women now need to work extra hard to plant and grow food to sustain our families for our daily survival.

#### **REDUCTION IN FISHING**

18. I have observed that our fishing catch is much less than what it used to be. When my sons started fishing in Ambu, they would usually catch about 15 good sized fish after diving for 4 hours. Now when they go diving they may only catch 3-5 good sized fish over the same time period.
19. My children and I are the only family in Ambu that dives so my sons are very experienced divers and will be out fishing almost every day. Recently I noticed that the increased hot weather has affected the breeding grounds for the schools of fish that live in the mangrove close to the village. Those fish have now left the mangrove so there is no longer any breeding happening there - this has significantly impacted the fish that we would normally catch here.

20. As I explained above at paragraphs 13-15, the changing weather patterns has affected my ability to differentiate between the *Konburu* (west winds) and *Ara* (east winds) seasons. These seasons helped our local fisherman work out the currents and therefore the best fishing grounds on nearby reefs. Without these distinct seasons and wind patterns, it has become difficult for those same fishermen to predict where those fishing grounds are.
21. The unpredictable rainfall and heat have also meant our villagers cannot plan how and where we should fish like we used to. The weather patterns have changed the currents and tides that the fish usually follow to breed. I have also noticed that villagers are fearful when they go out to fish as the weather can change so quickly and place them in danger.
22. I am sad seeing how these changes have affected our livelihood on Ambu especially for us saltwater (coastal) people who rely heavily on marine resources for survival. We can no longer rely on our cultural knowledge for fishing and have much less certainty around catch size.

#### **IMPACTS ON INFRASTRUCTURE**

23. The roads on Ambu are in poor condition which has only been made worse by the changing weather conditions. This has impacted our community's ability to use and travel on these roads in a range of ways.
24. Due to the fact that our villagers are unable to grow the same produce from their gardens, many women are now baking buns and local bread to sell in the main market in Auki as a means of supporting their families. To sell those goods, the women must walk 2-3 kms carrying their large containers of baked bread. When it is raining, the potholes fill with muddy water, making the roads particularly slippery and increasing the risk of people slipping or having accidents with vehicles. I have noticed that in some areas, the roads are in such poor condition and so uneven that those roads cannot be used. Our women must then wait for boats to transport them from Ambu to Auki.
25. The increased rainfall in Ambu has also contributed to landslides which have further narrowed our roads and made it dangerous for people walking along them with vehicles passing. The fear of these accidents is particularly acute for parents whose children walk along these narrow roads to and from school each day.
26. The increased potholes in our roads are not only a risk for people walking along them but they also damage our vehicles when driving.

27. It is a sad reality that our women and children are most impacted by the poor conditions of the roads in Ambu, placing them at much higher risk of injury or even death.
28. Finally, I have observed that the changing rainfalls and frequent sun and high humidity have impacted the housing of our community. Some of our community in Ambu have built homes using bush materials and therefore their homes do not have permanent iron roofing. It is difficult for these people to maintain their homes to withstand the weather changes. This is a particular concern when our community experiences cyclones because their homes are destroyed by the strong winds, leaving those families homeless and unsafe.

## **IMPACT STATEMENT OF DANIEL DURU**

### **BACKGROUND**

1. My name is Daniel Duru and I am 64 years old. I was born on 20 November 1959 in Kombe Village, North East Ngella Islands which is known as ward 7. This is in Central Province, one of the provinces in Solomon Islands.
2. There are 7 people in my family and I am the fourth child. I am a retired nurse and currently I am self-employed in my community. I have coconut, cocoa and betelnut plantations which I run as a source of income. I am a fulltime village person and have spent almost all my life in Kombe.

### **SEA LEVEL RISE**

3. Growing up in Kombe, I remember our grandparents' house was built on the mainland which was far from the shoreline. I remember that the line between our long white sandy beaches and the seawater was around 10m. Over the years I have observed that the seawater was rising, slowly increasing up to the higher ground. Our grandparents' house which was next to the coastline was eventually destroyed due to this rising sea water, and I fear that it will also reach our house if it continues at this fast rate. What was once our long white sandy beach that stretched for miles has been shortened and covered by seawater with the shoreline moving inward towards mainland.
4. In 2015, I observed that people in my community started to move and relocate their homes further inland to avoid being damaged by the rising sea level, strong winds, and king tides that were edging up the shoreline.
5. Fortunately there is a drain that runs through our village so that during high tides, especially in November, the drain fills up with sea water and prevents flooding in surrounding areas, including our houses and kitchen which used to greatly impact our daily food preparation. This drainage system helps us as it serves as a channel to control and protect our homes from the rising sea water and floods during heavy rain.
6. Root crops such as cassava, potato, banana and pawpaw are our cultural food source. I have observed that 10 years ago we used to grow cassava, potato, banana, and pawpaw near our homes but now with the frequent high tides happening twice every month, our root crops and plants are dying. I believe this is because these plants do not grow well in areas which have been affected by salt water – they can no longer get the good nutrients in the soil. This had negatively impacted our daily food supply, food preparation, enjoyment of our food and its management. Unlike other

- islands, in Kombe we depend on our home-grown foods like cassava, potato, banana, and pawpaw to survive.
7. Due to increasing sea level, we now plant our crops further up in the bushes far from our homes where we live. We also have to walk further inland to plant our root crops because the area where we used to garden is no longer good for growing. In my experience, the problem is that the soil becomes saturated with salt water so our food crop cannot survive and, as a result, we do not produce enough food for our families. I have noticed this has added stress to our community because our villagers now need to walk further distances for our gardening activities. For the young, strong and active family members, this is not such an issue. However for us elderly, children, and women, walking such long distances is tiring and requires great energy and time to garden on a daily basis.
  8. I have also observed that the low tide today we experience on Kombe is not how it was before. Today when the tide goes out, it recedes to such a low point that all the corals and reefs are totally exposed to sunlight. The tide then remains at that low level for the whole day and I have noticed that the corals and reefs are damaged from this sun exposure. Unfortunately, the corals eventually die and are washed away with the damaged reefs. As a result, fish and shellfish do not have place to live and I see them in much deeper waters than where they used to be found.
  9. During my childhood in Kombe, we used to fish along the coastline. With the damaged corals and reefs, I now need to go much further out to the deep water to catch fish.

#### **SEA WALLS / WATER SOURCE**

10. One of the solutions proposed by my community is the building of seawalls to protect our community during high swells, king tides, and floods. In 2019 we tried to build a temporary sea wall with stones, corals, and other local materials but it wasn't strong enough to be effective. It was simply destroyed by big waves, king tides, and bad weather such as cyclones.
11. In Kombe, there are two sources of water: there is a stream located approximately 200m behind our village and at the west end of the village is a creek. Only 3 months ago, there was such heavy rain that it caused big pools of water in our village. I believe this was mostly due to insufficient drainage which cannot withstand the increased amount of heavy rain and redirect the flow of water. Rainfall is more frequent than it used to be, and because of the frequency it often results in flooding in our community. The flooded water runs into our homes, causing damage to our properties. After the flood, our homes are left filled with debris and mud which can lead diseases such as diarrhea and malaria.



12. I have also noticed a change in the water pressure in our village. Our water source is at a nearby village which used to have high water pressure that flowed to our village's water taps. Now the water pressure is low and our community will be left without water supply for some days. When this happens, we have to dig water wells and boreholes for our water but this water is not safe for drinking - it can only be used for washing or swimming. For drinking water, we have to walk several miles to the other village to fill our water bottles. This is stressful and particularly impacts the children, women, girls and older people in my community who have to walk a mile every day to get clean drinking water.

### **IMPACT ON OUR FOOD SOURCE**

13. I have observed that there is change in weather patterns on Kombe. Now there are frequent, unpredictable and long rainfalls, strong winds, swollen waves and king tides. I believe that these changes are the main cause of the low yield we are experiencing in our harvest. When I was younger, our crops such as taro and cassava used to grow up to 3ft high. But today during harvest, the size of yam might be a ½ foot and they are not of good quality. We no longer can yield enough to feed everyone in our families.
14. When I was young and growing up in Kombe, our parents used to bring big yams and taros for us during school lunch. Today we can only bring bananas for our children because there are not enough yams and taros to feed them. I believe that this is due to the changing weather patterns which is causing bad soil quality. We are no longer able to carry out our traditional planting practices as we used to.
15. In 1972 when I was in school, Cyclone Ida carried big boulders of coral stones from the reefs into our village, damaging our homes and the coastline. The damage from the storm made it more difficult to fish along the shorelines. Even since then, we have had to go out to the deep seas to find types of fish that we eat like 'Sweetlips'.
16. I am an older man. I am not strong enough to paddle further out into the deep sea to fish, so it is harder for me to eat good fish like 'Sweetlips' these days.

### **DAMAGE TO INFRASTRUCTURE**

17. When I was a child, I used to walk to school during high tides because shoreline was far from the road. Today, the high tides cause the road to flood with sea water as the shoreline has now moved further inland. Children from our village now have to use canoes to paddle to and from the school every day.

18. Flooding water from heavy rainfall runs downhill and damages our village. I observed that such flooding damaged one of our school classrooms by coming into the building and spoiling the resources in the classrooms that our children use to learn. This impacted our children's education. The same has happened to our health center buildings which have been flooded by the downhill flow of water. I am worried because these are all new events that I have never seen before, and I can see that they are only increasing in frequency and will continue if we do nothing.

### **INCREASE IN MALARIA**

19. As I explained at paragraph 11 above, the frequent rainfall has led to an increase in the number of people contracting malaria in Kombe. Now malaria has become the main illness in our community. The water from the rainfall and flooding gets trapped in empty tins of food, together with debris and mud, which serves as a good breeding ground for mosquitos carrying malaria. I believe this is the cause of the recent high malaria cases in our community which has affected everybody in the community, especially the children, the elderly, and those with special needs.
20. Fortunately, we have a clinic at a nearby community where we can access medical services when needed. However when we have malaria outbreak and there are high numbers of patients admitted, it is common for the clinic to experience a shortage in medicine which, in some cases, leads to loss of life.
21. Perhaps if we did not have as many food tins, there would be fewer outbreaks of malaria after floods. When I was young, we certainly did not have as many tins and I do not recall there being frequent outbreaks of malaria. However in recent years, our community in Kombe has had to change its eating habits and now we rely more on processed, tinned food. We have to eat more store-bought food because we are unable to grow the same amount of fresh food in our gardens due to the unpredictable weather.

### **RELOCATION**

22. There has been gradual increase in the sea level in Kombe over many years and, by 2000, I noticed that people started moving to the high lands. Only few of us remain by the seashore. The idea of relocation is not simple for us. We face a land dispute problem because the higher land further inland is owned by different tribes and families, so we are not allowed to settle on their lands unless we come to an agreement. Reaching agreement is not easy, so we have no place to relate to and therefore we have no choice but to stay.
23. So for now we can only move a small distance inland so we are on safe ground, however it is not the relocation that we really need - that would be to move to a much higher ground.

## IMPACT STATEMENT OF GLADYS HABU

1. My name is Gladys Salirade Bartlett, née Habu. I am 28 years of age.
2. I was born in Papua New Guinea on 18 July 1995 but I was raised for most of my life in the Solomon Islands, where I have paternal ties with Kia Village, in Isabel Province. We belong to the Makara clan.
3. I make this statement in regard to my grandfather's tribal land in Isabel Province, Kale Island. Sadly, as of today, Kale Island is completely underwater.
4. Kale Island has a cultural significance to my family as it is where my grandparents, and some of my father's extended family members lived for some time. It is an island that provided and sustained my family's livelihood through fishing and growing crops. I have been told that there was a coconut plantation on the island, and there were mangroves surrounding the coastline which were home to mud clams, crabs, turtles, and other marine species. Megapode birds, among others, nested on Kale island, and I recall seeing a few of their nesting grounds when I visited as a child.
5. My father's family did not live on Kale permanently and they later relocated to the mainland, to Kia Village. Nonetheless, our familial ties with Kale remained and we maintained a close connection through regular visits to the island.
6. As a child during our annual visits to Kale Island, I recall needing my parents' guidance to navigate the thick forest as it was dense enough for me to get lost. I remember the island being populated with wildlife and I used to play with my siblings and cousins on its beautiful white sandy beach.
7. My observations of the disappearance of Kale Island began in December 2009 at the age of 14 when I returned there on holiday to Isabel Province. When we visited Kale that year, I noted a drastic difference in the size of the island, and I took a photo of it. Where there used to be heavy vegetation and abundant wildlife, there was now only a few small trees and almost no wildlife. The sea had risen so far inland that the island was half the size from what I remembered as a child.
8. In December 2014 my family and I once again attempted to visit Kale Island however it was completely submerged underwater. There was only a few old trunks and branches sticking out of the sea. It was shocking to us that the island had disappeared in less than a decade.
9. The loss of Kale Island has had a profound impact on me, my tribe, and community. For me, it is the loss of our cultural heritage and a place very close to home. I now have a daughter who will never experience this part of our culture that I was fortunate to experience growing up. Like many in Solomon Islands, our genealogies are tied to our customary lands, and the loss of Kale Island is

indeed a loss of part of our tribal identity and cultural practices. For my community, it is a harsh realisation of the impacts of sea level rise, and its implications for our future.

10. The villagers in Kia village are resilient in their efforts to prevent sea level rise through the building of sea walls, and houses on higher stilts with semi-permanent materials, but these efforts have their limitations. Many villagers who have had their houses damaged from increasing sea level are displaced. The moving of houses further inland and the need to reoccupy new land is also difficult – it heightens the risk for social conflict among the community because of disputes, where traditional lineage is affected.
11. It saddens me that my country which has contributed so little to the acceleration of global warming through greenhouse gas emission, is most vulnerable to the adverse effects of it. I have witnessed the real, and visible impact of climate change and sea level rise through the loss of our Kale Island, and the negative impacts this loss has had on my community. It is almost a decade since Kale's complete disappearance, and already there are so many of those younger than me, who only hear of Kale as a story passed down through the generations. What was once a significant part of our upbringing, now is just a distant memory.

## **IMPACT STATEMENT OF ETHEL LOKU**

### **BACKGROUND**

1. My name is Ethel Loku and I am from Haleta village in Ngella Central Province, Solomon Islands. My husband works in Tulaghi which is why I reside here, but I travel between Tulaghi and my village Haleta frequently.
2. I am 54 years old and I have one child. I have lived in my community of Haleta for more than 40 years – it was my home throughout my childhood and youth.
3. I only reached grade 4 at school but through my engagement in my community and church related programs (advocacy, awareness, and literacy), I have learnt to read and write common and simple words. We use our native dialect as our main language of communication as well as some Tok-pigin (broken English).
4. Haleta is one of the many communities in Central Islands where we have a great view of a white sandy beach, situated at the edge of our islands. When you come to Tulaghi, you see the beautiful white sandy beach and local made houses with lovely people. I am proud of my village and I will do whatever it takes to protect my village because it is not only my home, but the home of my children and my grandchildren.
5. I have noticed many changes in my village of Haleta which I have described below.

### **SEA LEVEL RISE**

6. When I was a little girl growing up in the 1970s, the sea was far from where the coconuts and plants were located. The sea provides our everyday basic needs and our animals and pets (local chickens, pigs, and dogs) also use the sea for their survival. Our homes are built just adjacent to the coastline. Our people planted local fruit trees next to their houses as the land was fertile. We had a healthy environment and good space in our community.
7. Now I observe that the sea has moved inland. The sea now reaches beyond the coconut trees, pandanus trees, and other plants trees and fruits. This has caused destruction and death of those trees and plants, and damaged the houses of our people that were built next to the coastline.
8. The rising sea level has forced our people to move and rebuild their houses 10 to 20 meters further inland to avoid their home being washed away and damaged by seawater.
9. Since the early 2000's I have noticed the impacts of the rising sea level on Haleta. The evidence of this is all there to see today - the remains of trees and coconut trunks, and damaged homes on the shoreline.

## **INCREASED RAINFALL**

10. Today in our village today when there is heavy rain, the rainwater will rise and flood the whole village, so we need to use canoes to travel from house to house. This flooding happens during rainy season but also outside this season on a normal day where there is heavy rain. I started noticing the increased rainfall levels from around the early 2000's.
11. When the flooding happens, the floors of our low-built houses are damaged as well as key buildings like our local school, Marvin Primary School, where the classrooms fill with water. Marvin Primary School was built by our villagers and accommodates almost all the primary school aged children in our community, about 90 students. The flooding of the primary school impacts our children and their learning environment. Fortunately, we as teachers have learnt to adapt to this challenge so that we can still accommodate the children in the wet classrooms and teach them as best we can, even during these floods.
12. The flooding however also impacts the homes of our local teachers. In some cases, the flooding means that the teachers themselves are unable to attend school and their families unable to cook meals. Without teachers, our students cannot learn.
13. When the heavy rain falls, we now experience landslides in Haleta. We are lucky that so far no lives have been lost even though the landslides have caused major property damage. These landslides scare our community and place our local villagers, especially the children, the elderly, and those with special needs, in danger.
14. When we experience prolonged rainfall for 2 to 3 days in Haleta, I notice that people in our community are on high alert, looking for ground falling from nearby cliffs which may lead to a major landslide. Although the possibility of a landslide is low, people are still afraid as they have seen first-hand the damage it causes. I am sad that our community has to live with this fear for their safety and the safety of their loved ones.
15. Heavy and frequent rainfalls also damage our food crops. This is because there is too much water in the soil. The sun is also so hot that it heats and burns our food crops. Our traditional knowledge has taught me that plants need sun to grow but when the sun shines after a rain, it will be too hot and will kill our garden. As a result of this, we now get a much lower harvest from our gardens, leaving us without enough healthy local food to eat.
16. In the past, our traditional knowledge taught us when to plant our gardens, when the ground was soft and when the weather was right for gardening. Today it is different. Our knowledge, skills and techniques are not workable anymore and I believe this is due to the changing weather patterns.

17. I have noticed that the heavy rainfalls also cause soil erosion to flow to the sea which I believe has damaged the coral reefs where our fish used to live and breed. This is because during and after a heavy rainfall event, I can visibly see soil and inland materials covering the coastline and the coral reefs. I have observed that after a while, the corals and reefs become small and eventually disappear.
18. This continuous, unpredictable, and changing rainfall is also affecting the health of our people and I have observed that malaria and diarrhea are now common diseases in our community.
19. After heavy rainfall and flood, the areas surrounding the village become wet and cold which I understand is a good breeding ground for mosquitoes that carry malaria. Further, due to the fact our people are now consuming more canned food from the local shop, there are more tins and cans lying around. These tins and cans are also good sites for malaria-carrying mosquitoes to breed in and then infect our community.
20. I believe that the changes in diet and food preferences of our community are not only a result of outside influence (namely processed food), but also because there is not enough fresh garden produce and fish due to the changes in weather patterns.
21. I have also noticed that our community's water sources and surrounding environment have become dirty which results in our people experiencing more cases of diarrhea. Compared to when I was a child growing up in Haleta, we never had such frequent cases of diarrhea and malaria like we do today.

#### **FISHING**

22. In the past we used to fish near our islands, just off the coastlines. These catches would bring us enough seafood for the family. We would also collect seashells and always had enough to leave some for the next day (a local sustainability practice).
23. This is not the case anymore. I have observed that our villagers must now paddle further out into the deep water to fish. I believe this is because our shoreline corals and reefs have been damaged by sea level rise and flooding of rivers and soil into the sea. Only the strong and fit members of our community can go and fish in the deeper sea - for me and other elderly people, we cannot go out that far. This is so different to my youth when everybody including the elderly would enjoy going out to the shoreline to fish for our daily meal. Unfortunately, this is a new reality for our Haleta community.

#### **SEAWALLS**

24. With the current and continuous rise in sea level, I believed seawalls are one way to protect our community during storms, winds, and king tides. However building a strong seawall requires

expertise, time and money. Our people have built seawalls before – in our village of Haleta, we had built a local seawall to protect our homes near the shoreline. We used traditional materials such as stones, corals, and bush-sticks but the seawall was not strong enough to withstand the strong waves and flooding that we are now experiencing.

25. I strongly believe that if we had a more effective and skilled team of people, we could - and indeed would - build better and stronger seawalls that would protect our affected community.

#### **TRADITIONAL KNOWLEDGE OF PLANTING SEASONS**

26. I have observed that changes in the weather patterns in Haleta have caused our gardening season to shift from the normal planting and harvesting time.
27. Growing up with traditional knowledge, my grandparents and parents taught me the different gardening seasons in a year (dry season and wet season), when to begin the gardening process, when to plant, and when to harvest. For this reason, we always begun the gardening process in June as that meant the plants would produce the highest harvest.
28. Today however, that practice has changed and is no longer possible. During the month of June, we experience heavy rain which makes it impossible for me and my family to go to the garden. This means we now begin the gardening process in around September each year. Based on our local calendar, this is usually the end of the harvest season so when we start the harvest, I already know that I will not collect as much produce as when we harvested when I was a child.
29. These new weather patterns have affected our traditional way of gardening and the resulting produce which has been a daily livelihood for our community.

#### **RELOCATION DUE TO SEA LEVEL RISE**

30. I am afraid for when the sea level rise will be so high that water will completely cover our community and leaders will need to step in to assist our community to relocate.
31. However, relocation is easy to say but harder to do. Our community's lives and livelihoods are in Haleta and we have strong cultural connections because it is the place where many generations of our families have lived before us.

#### **CONCLUSION**

32. When I see the impacts of climate change on my community, I ask myself "What has happened? What is going on? What will the future of my children and grandchildren hold? What hardships will they face in future?" I feel sad when I think about these things – our young people are beginning



their life journeys facing enormous challenges. This is something I never had to think about when I was their age.

33. We must teach our children to respect, use and pass on our important and culturally rich traditional knowledge and skills. I fear that these practices will be lost in the same way that we are losing our traditional ways of fishing and gardening due to changes in weather patterns and sea level rise.
34. I want to share a message with the world. My community in Haleta is in dire need of help. With the devastating sea level rise and changing weather patterns, our people are at grave risk and we cannot wait any longer for real action on combatting climate change.

## IMPACT STATEMENT OF MELINDA TAHOLA

### BACKGROUND

1. My name is Melinda Tahola and I live on Sikaiana Island, which is one of the outer islands in Malaita province. I work here as a teacher.
2. Climate change has been impacting Sikaiana Island for many years and affected many generations of our ancestors.
3. Since I have lived on Sikaiana Island, I have observed that the sea level has been rising steadily. Rising sea level brings with it coastal erosion, saltwater intrusion, and destruction by powerful waves. I have witnessed the impacts of these events on our community and it has caused people to leave the islands and relocate to other areas.
4. On Sikaiana Island, sea level rise has caused saltwater intrusion in our community's gardens, causing crops to wilt and die. For example there is a place called 'Kaleia' which is a swamp patch that has been infected with salt water. For at least the last a few decades, no crops can be grown in the area. There are other places like 'Moaleva<sup>1</sup>' and 'Lotohenua<sup>2</sup>' which were once home to a plant we call 'swamp taro'. Both these areas have been affected by saltwater intrusion and no more swamp taro will grow there. Moaleva, in particular, has been unable to grow produce since the 1990s.
5. Saltwater also contaminates our drinking wells. Such contamination used to occur only at high tide but I have noticed that now, even when the tide is low, our wells are contaminated by sea water.
6. Coastal erosion is another challenge on Sikaiana Island and our shorelines have been washed away by increasingly high tides. Over the past decade, I have observed that the beach sand of the shoreline has washed inland. For example, I recall that at 'Teala Ote Haitamana<sup>3</sup>', coconut palm trees would grow together with other greeneries. People would gather dry coconuts and group them together in a sort of nursery and leave them to germinate. We call this 'hakatupuna' and it is a normal staple food of the atoll community. High tides and waves have destroyed these coconut plants. In particular in 2014, I recall that the area was so badly affected by erosion that it caused the old road to wash away and new roads needed to be built.
7. Recently on 22nd January 2024, high tides and waves reached areas as far as 10 metres inland. This is much further inland than the high tides on Sikaiana Island reached a decade ago. These tides and waves damaged 13 houses and the surrounding gardens and our wells were filled with seawater and dirt.

---

<sup>1</sup> Another Kakake swampy patch

<sup>2</sup> A footpath in the inner land of the island community.

<sup>3</sup> A farmland at the most eastern coastal part of the island uses for gardening and feeding pigs by the tribesmen.

8. Time and time again, cyclones and extreme weather events cause high tides and waves that wash away the shoreline and cause suffering for the Sikaiana Island community.
9. As a community, we are trying to adapt so we can remain on our ancestral lands. For example since 2014, we have tried new techniques to grow our crops. That year an Agricultural team visited Sikaiana Island to introduce new agricultural techniques such as growing crops in bags, raising the beds and planting other root crops such as yam and panna. In 2018, seventeen tanks were delivered to Sikaiana Island through a climate change project. These tanks improve the water sanitation systems even if the well is contaminated by saltwater, however more tanks are still needed to support our community and address the impacts of sea level rise.

