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Sovereignty Submerged: The Transformation of International Law in the Climate Crisis

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ABSTRACT: This article investigates the transforming legal architectures of statehood and refugee protection in the era of climate crisis focusing on the jurisprudential and diplomatic developments between 2015 and 2025. It interrogates the central research question of how international legal personality can survive the loss of physical territory and whether human rights law provides a viable alternative to the exclusionary 1951 Refugee Convention. The analysis synthesizes recent landmark decisions including the Human Rights Committee ruling in Teitiota versus New Zealand and the seminal 2025 International Court of Justice Advisory Opinion on Climate Change, which cautiously observed that the loss of physical territory does not necessarily entail the cessation of statehood. It further examines the Australia Tuvalu Falepili Union Treaty as a novel bilateral model for mobility with dignity that creates functional integration while bypassing traditional asylum frameworks. This article advances an original normative and doctrinal proposition: that international law inherently accommodates a 'functional sovereignty' paradigm, actively decoupling State continuity from terrestrial constraints. This creates a legally enforceable portable identity for deterritorialized nations, compelling the international community to guarantee human mobility with dignity rather than relying on discretionary refugee regimes.

KEYWORDS: Climate Mobilities, Statehood, Refugeehood, Non-Refoulement, Falepili Union, International Law

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1. Introduction: Climate Mobilities and Legal Change

The Earth is approaching dangerous limits. For instance, scientific reports indicate that seven of the nine planetary boundaries have been crossed, with ocean acidification being officially assessed as the seventh transgressed boundary in a major scientific review released on September 24, 2025 (Planetary Boundaries Science). The IPCC similarly warns that overshooting 1.5°C of warming will produce catastrophic social and environmental effects (IPCC, 2023). The existing legal categories, which were originally shaped for a more stable world, are now at risk of breaking down.

Against this backdrop, the key question is posed, if lands vanish, how can sovereign statehood and refugee protection survive? Traditionally, sovereignty requires a defined territory, permanent population, government and capacity for international relations (Stancil, 2023). Citizenship and human rights are tied to that state-based model. But climate change is eroding this link (Sæten, 2025). Entire nations such as Kiribati or Tuvalu may become uninhabitable, which would leave their populations without physical territory (Nevitt, 2023). Existing asylum law offers no refuge in this situation, as the 1951 Refugee Convention protects persons fleeing persecution rather than climate harm (Platform on Disaster Displacement and UNHCR, 2023). Indeed, analysts note that "legally speaking, there is no such thing as a 'climate refugee'" under current law.

To explore potential solutions, this article surveys recent judicial rulings and significant policy innovations. Notably, two judicial developments provide a glimpse of change. First, in Ioane Teitiota v. New Zealand (2020), the UN Human Rights Committee held that returning someone to a homemade uninhabitable by climate change could violate the right to life. In effect, Teitiota invoked human rights (non-refoulement) as a partial refuge for climate victims (McAdam, 2020). On July 23, 2025, the International Court of Justice delivered its Advisory Opinion on the Obligations of States in Respect of Climate Change following the request made by the United Nations General Assembly in Resolution 77/276. The International Court of Justice took a cautious approach, observing that the loss of a constituent element such as land due to sea-level rise would not necessarily result in the cessation of statehood or legal personality (International Court of Justice, 2025). On the policy side, examples like the Australia–Tuvalu Falepili Union treaty (2023) are emerging. The Falepili Treaty explicitly states that the statehood and sovereignty of Tuvalu will continue and the rights and duties inherent thereto will be maintained notwithstanding the impact of climate change-related sea-level rise (Government of Australia and Government of Tuvalu, 2023).

Taken together, these signals support the article's core doctrinal thesis: international law is gradually accommodating a shift from strictly territorial to functional sovereignty, providing a legal mechanism through which a nation's legal personality and protective capacities can realistically survive the physical loss of its soil. New conceptual frameworks such as climate exiles, deterritorialized nations, and climate passports are currently being formulated within legal and policy discourses. International law is currently transitioning away from a rigid requirement of physical territory for statehood and is moving toward a presumption of continuity and protection for populations threatened by climate change. The stakes of this shift are profound for international law as climate-driven displacement necessitates a re-evaluation of established categories such as statehood, citizenship, refugeehood, and legal personhood. This introduction has set up those stakes. To provide a focused, rigorous analysis, the following sections examine the adaptation of legal doctrine by first securing state continuity despite inundation, integrating recent jurisprudence into a cohesive framework of functional sovereignty, and finally analyzing targeted bilateral innovations like the Falepili Union as primary vehicles for deterritorialized adaptation.

2. Territorial Sovereignty on Shaky Grounds

Under classic international law, territory is a core pillar of statehood. Article 1 of the Montevideo Convention 1933 codifies this, stipulating the need for a defined territory, a permanent population, an effective government, and the capacity for international relations. However, these criteria were originally designed to govern the emergence of new States and resolve inter-war border disputes, making their rigid, point-for-point application conceptually inadequate for assessing the involuntary, gradual territorial loss of firmly established States facing climate change (Crawford, 2006). The “defined territory” criterion is especially vulnerable to climate impacts. Rising seas are already eroding lands that Pacific and Indian Ocean nations depend on. If a state loses significant land area, can it still qualify as a state? The traditionalist perspective which suggests that a State ceases to exist upon the loss of its territory is currently being challenged by emerging legal interpretations (Caligiuri, 2022).

Recent developments show a new presumption in favor of continuity. In its 2025 Advisory Opinion on climate change, the International Court of Justice specifically addressed the challenges posed by the potential loss of state territory. The International Court of Justice noted that participating States argued that even the complete loss of a state's territory would not necessarily entail the loss of its statehood as a legal entity, summarising the robust legal claims advanced during the proceedings (International Court of Justice, 2025). While remaining completely neutral as to which specific constituent element is lost, the International Court of Justice cautiously stated only that "once a State is established, the disappearance of one of its constituent elements would not necessarily entail the loss of its statehood," maintaining consistency with orthodox doctrine where states survive the temporary loss of government but not necessarily the permanent loss of territory (International Court of Justice, 2025). While not a definitive departure from the requirement of territory for statehood maintenance, this cautious judicial framing introduces crucial flexibility into orthodox interpretations of State continuity. The linguistic caution of the Court in paragraph 363, specifically its conditional framing that constituent loss 'would not necessarily entail' state extinction, highlights the limitations of current doctrine. This ambiguity was explicitly critiqued in the Separate Opinions; Vice-President Sebutinde and Judge Aurescu observed that the Court could have been clearer in affirming a definitive presumption of state continuity, pointing to the need for more robust legal development to secure the future of sinking Small Island Developing States. Conversely, Judge Tomka's declaration expressed scepticism regarding whether the international community broadly accepts statehood completely devoid of territory (International Court of Justice, 2025).

The International Law Commission (ILC) has echoed the same line. The evolution of the ILC’s terminology reflects the complex crystallization of this norm: early debates considered a 'presumption of continuity' and a 'strong presumption,' before the Study Group cautiously coalesced around a 'principle of continuity' and, ultimately, documented 'strong support for continuity,' illustrating a deliberate shift from proposing a binding legal rule to empirically observing state consensus. In the 2025 final consolidated report on sea-level rise in relation to international law, the International Law Commission Study Group observed that there is "strong support" among states for the continuity of statehood and sovereignty (UN Doc A/80/10, Annex I, para 35). The Study Group rigorously distinguished this by noting "widespread support" from the broader international community regarding the positions taken in the 2023 PIF and 2024 AOSIS Declarations, affirming that leaders of island countries are insisting on protecting their people and institutions, and that states regard their legal personality as enduring (UN Doc A/80/10, Annex I, para 36). During the fifty-second Pacific Islands Forum in November 2023, leaders adopted the Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-related Sea-level Rise which affirms that international law supports the presumption of statehood continuity (Pacific Islands Forum, 2023). In practice, Pacific nations are already planning for sea-level rise without abandoning statehood. For example, Kiribati acquired land in Fiji (the “Migration with Dig-

nity" plan) to hold in reserve, and its constitution was amended to extend maritime zones even if islands submerge. Tuvalu's government has actively engaged in bilateral negotiations to preemptively secure formal recognition of its ongoing statehood from regional partners, a strategy explored comprehensively in Section 5 (Boshoff and Surbun, 2025; Green and Guilfoyle, 2024). This cautious judicial and institutional progress was subsequently operationalized by the United Nations General Assembly. On May 20, 2026, the UNGA adopted Resolution A/80/L.65 by 141 affirmative votes. Crucially, operative paragraph 7 of the Resolution explicitly recalls the ICJ's finding but advances State practice significantly by unequivocally affirming the continuity of statehood in the face of climate change-related sea-level rise, providing the strongest multilateral endorsement of deterritorialized sovereignty to date.

While some orthodox scholars insist that the territory criterion in the Montevideo Convention remains rigidly fixed (Sharon, 2019), this static interpretation fails to account for the teleological purpose of statehood and ignores contemporary state practice, necessitating a critical theoretical departure toward functional frameworks that prioritize the continuity of political communities. To analyze this shift, it is necessary to untangle core concepts: legal personality is the capacity to hold international rights and obligations; statehood is a specific objective legal status; and sovereignty comprises the bundle of entitlements held by States, which can be circumscribed without extinguishing statehood itself (Crawford, 2006; Green, 2024; Nicholson, 2019). Certain non-State international legal persons, such as the Sovereign Order of Malta and the European Union, enjoy legal personality without traditionally defined state territory, demonstrating that legal capacity is not exclusively bound to territorial control. Historical anomalies illustrate that territorial possession is not the sole determinant of international authority. These anomalies show that territory is neither strictly necessary nor alone sufficient for statehood. Building on this, some scholars propose notions like deterritorialized statehood where a dispersed population and government maintaining functionality from external locations can sustain the State.

Climate change is forcing a fundamental rethink of the territorial requirement. This article posits the distinctive normative and doctrinal claim that international law inherently accommodates a 'functional sovereignty' paradigm, wherein the teleological necessity of protecting populations mandates that sovereignty can and must become 'deterritorialized' to preserve continuous legal statehood. A state facing inundation would retain its legal personality, as its citizenship and obligations continue, its government can operate from elsewhere, and other states must still respect its status (Green and Wewerinke-Singh, 2025). This functional approach redefines sovereignty as a network of rights, duties, and institutions that can persist in exile rather than as a status tied solely to a fixed geographical location. The result is a new presumption in international law that a State does not die with its land. Normatively, maintaining this continuity is justified by the indispensable functions a deterritorialized State continues to perform for its populace—including safeguarding nationality, facilitating communal self-determination, and managing external resources—which necessitate its ongoing legal existence. This doctrine will be elaborated in the next section's discussion of 'functional sovereignty.'

3. Functional Sovereignty and Legal Personhood

If sovereignty detaches from territory, how does it attach to people and institutions? This section conceptualizes 'functional sovereignty' as the formal legal possibility and inevitability of State continuity notwithstanding the permanent loss of inhabitable land due to anthropogenic sea-level rise. It explores the deterritorialized nation, conceptually mirroring the 'ex-situ nation' (Burkett, 2011), as a sovereign community that retains its international legal personality, political agency, and protective capacities while its population lives in exile. Legal scholars have coined terms like ex-situ nationhood to describe it. The idea is that a State facing inundation might continue to exist as a legal entity through its government (even if relocated) and its people scattered

abroad. This necessitates a reconstructive approach to the principle of effectiveness; as contemporary scholarship theorizes, reconstructing 'effectiveness' beyond mere physical territorial control—such as viewing the State as a continuous locus of political community or a fiduciary for its citizens—ensures that the legal continuity of submerged Small Island Developing States remains eminently supportable (Green, 2024a; Green, 2024b). In 2011, Maxine Burkett introduced the concept of ex-situ nationhood, arguing that a state could persist in deterritorialized form and remain entitled to all the rights and benefits of sovereignty in perpetuity while being administered by a government-in-exile (Burkett, 2011). Historical analogies for this concept prominently include governments-in-exile during wartime. For instance, the Polish government-in-exile operated from London throughout the Second World War and maintained full international legal recognition and diplomatic agency long after the physical occupation of its territory, providing a robust historical precedent for governance completely detached from sovereign soil (Poddar, 2023).

Despite these functional justifications, maintaining statehood in the permanent absence of territory is not without severe critics. Opposing legal scholars warn against the proliferation of 'fictitious' or 'empty vessel' states, arguing that indefinite continuity without land severely strains the principle of effectiveness and risks creating legally recognised entities completely unmoored from the practical realities of governance and territorial accountability (Finucane, 2012; Green, 2024b).

However, an unprecedented doctrinal challenge arises when transposing this analogy to the climate context: unlike the temporary displacement experienced by wartime governments-in-exile, territorial loss resulting from anthropogenic sea-level rise is likely to be permanent. This absolute physical submersion presents a uniquely severe test for the long-term sustainability of continuity claims, demanding a permanent rather than provisional legal architecture for displaced statehood.

To fully realize functional sovereignty, the continued recognition of the State must be coupled with an affirmation of its ongoing capacity to act on the international plane. A deterritorialized State could potentially maintain diplomatic relations, enter into treaties, and participate in international organizations. Once this international legal personality is theoretically secured, a corollary objective of this emerging paradigm is the subsequent preservation of citizenship and legal identity for affected populations. Island states are exploring ways to keep their nationality intact. Kiribati's "Migration with Dignity" (2014) bought land in Fiji as a fallback, intending that relocating I-Kiribati would remain Kiribati nationals (Buechel, 2022). In 2022, Tuvalu launched the Te Ataeao Nei (Future Now) initiative, creating a virtual Tuvalu and arguing that even if physical land is lost, the state's identity, can persist online (Rothe et al., 2024). The UN-backed Nansen passport for stateless people, and newer proposals like a dedicated climate passport, also illustrate how a portable identity might be conceived (Nash, 2024).

Concrete bilateral models are now emerging. The Australia-Tuvalu Falepili Union Treaty signed in 2023 is a leading example and Article 2(2)(b) explicitly declares that the statehood and sovereignty of Tuvalu will continue and the rights and duties inherent thereto will be maintained notwithstanding the impact of climate change-related sea-level rise. Article 3 creates a special mobility with dignity scheme, as Australian residency and social services are guaranteed for Tuvalu citizens who relocate. In effect, Tuvalu has offloaded some of its population (at least temporarily) without forfeiting statehood (Green and Guilfoyle, 2024). New Zealand maintains the Pacific Access Category for Pacific nationals, although the annual quota for Tuvaluans remains limited to 75 places and is not a dedicated climate-specific visa (Amnesty International, 2025). These policies demonstrate how citizens of a state affected by flooding can be legally integrated into a host country while maintaining their membership in their original nation.

Nevertheless, questions of international legal personality remain. Can a State without territory still be a subject of international law? The emerging view is yes, by analogy to other cases. The Holy See and Malta Order have UN observer status (Sharon, 2019). A deterritorialized state could potentially maintain diplomatic

relations, enter into treaties, and participate in international organizations. Some scholars argue that dual nationality, remote voting rights, and diaspora networks could sustain a dispersed citizenry (Buckinx et al., 2021). In cases of complete loss, one might imagine the UN or a treaty conference creating a new legal status for affected peoples, akin to the way newly formed states have been recognized.

One of the gravest risks this paradigm seeks to avoid is statelessness. If a submerged state were deemed to cease existing, its citizens would become de jure stateless. Legal experts have warned that the current international legal framework is ill-equipped to address the complexities of climate-induced statelessness (Alexander and Simon, 2017). By affirming continuity of statehood, new approaches aim to prevent that outcome, as citizens of, say, Tuvalu would never lose their nationality even if they physically reside in Australia (Australian Government Department of Foreign Affairs and Trade, 2024). Human rights instruments (e.g. ICCPR, UN Charter) and creative domestic laws (climate visas, passports) are being leveraged to fill protection gaps. For instance, the right to identity and nationality might be reinterpreted to cover climate scenarios (UNHCR and Peter McMullin Centre on Statelessness, 2025).

4. Climate Refugees and Protection Gaps

The continuity of the State is deeply intertwined with the human rights of its displaced populace; however, the classic Refugee Convention simply does not accommodate people displaced by environmental disaster. By design, it covers only those fleeing persecution on narrow grounds like race, religion, politics or membership of a social group, exposing a critical gap in the international architecture required to protect deterritorialized citizens whose state continuity relies on functional mobility rights (Apap and Harju, 2023). The convention requires the identification of a human persecutor who targets the individual refugee based on specific protected grounds. Climate change lacks a specific human perpetrator in the context of the 1951 Convention. Events such as storm surges, rising sea levels, and the salinization of groundwater do not discriminate based on race or faith and do not involve a specific actor who can be held legally responsible under traditional refugee definitions. As a result, those fleeing environmental collapse typically cannot meet the Convention's criteria. These individuals frequently remain in legal limbo and are often categorized as economic migrants despite the environmental factors driving their movement (Morshed and Ferdousy, 2025). Indeed, one analysis observes that people who are forcibly displaced due to climate often struggle to meet the refugee definition set forth in the 1951 Convention. The existing gap in the refugee definition, which was originally formulated to address mid-twentieth-century human conflicts, leaves climate-displaced individuals essentially unprotected (Koskina et al., 2024).

This vacuum has forced cases into human-rights frameworks instead. The landmark HRC decision Teitiota v. New Zealand (2020) is illustrative. As examined comprehensively in Section 6's analysis of climate litigation, decisions such as the Human Rights Committee's Teitiota v. New Zealand (2020) illustrate how human rights frameworks are increasingly invoked to address displacement where traditional refugee paradigms fail.

The Teitiota Committee noted that both sudden disasters and slow-onset climate processes can drive cross-border movement and that if a state is threatened with total inundation the conditions of life may become incompatible with the right to life with dignity even before the risk is fully realized. Even the possibility of returning a person to a homeland made unlivable by climate could violate a state's duty not to expose anyone to torture or death under the ICCPR. This sliding-scale approach acknowledges that threats to life and dignity arising from environmental collapse could mean that human rights law prohibits the deportation of individuals to lands that have become unlivable. This finding suggested that protection may be required before the occurrence of a catastrophic event such as a tidal wave (McAdam, 2020).

Beyond individual cases, states and agencies have begun to grapple with the gap. The Nansen Initiative (2012–2015) was a state-led consultative process that produced a non-binding "Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change". It acknowledged that those displaced by disasters have no guaranteed refuge, and it sought best practices for when migration becomes necessary (The Nansen Initiative, 2015). In parallel, the UN system has shied away from calling these people "refugees." For example, the International Organization for Migration consistently utilizes terms such as environmental migrants and generally avoids classifying these individuals as refugees (Kocierz, 2024). UNHCR acknowledges climate's role in displacement but stresses that its mandate is limited; it has not interpreted the 1951 Convention to cover climate cases. Even the UN's 2018 Global Compact on Migration only "recognize[d] the link" between climate change and migration as a policy concern, urging adaptation and resilience measures to prevent forced displacement (Hall, 2020; United Nations, 2018). So far, no binding international instrument has been adopted specifically for climate-displaced people, though scholars and activists frequently urge a new treaty or protocol on climate refugees (European Parliamentary Research Service, 2023).

Other jurisdictions have started to apply existing rights and environmental law to climate migrants. For instance, domestic courts have used human-rights obligations to address climate risks (for example, the Netherlands' Urgenda case required emissions cuts to protect human life) (Office of the United Nations High Commissioner for Human Rights, 2021). In migration cases, Europe has seen some movement. In a significant decision issued on November 13, 2025, a UK First-tier Tribunal Judge allowed a human rights appeal for a Filipino national whose home had been destroyed by a typhoon and who suffered from climate-induced PTSD and depression (Basha, 2025). The court did not invoke refugee law, but it did accept that severe climate-related harms can engage family and private life rights. Other pending cases and appeals, in the UK and elsewhere, suggest climate arguments are seeping into asylum and human-rights litigation. Regional international judicial and quasi-judicial bodies are also considering the issue. On July 3, 2025, the Inter-American Court of Human Rights, functioning as an international judicial court, issued an Advisory Opinion on the Climate Emergency which declared that the climate crisis is a human rights emergency and that states have legal obligations to address its causes and consequences (Inter-American Court of Human Rights, 2025). The African human rights system is progressively expanding its jurisprudence, as in 2025 the African Commission, acting as a quasi-judicial regional body, adopted Resolution 628 calling for a study on a legal framework for climate displaced persons in Africa, and NGOs have formally requested an advisory opinion from the African Court on states' climate duties covering everything from greenhouse gases to gender impacts (Pan African Lawyers Union (PALU), 2025).

The concept of the "climate refugee" remains more activist slogan than legal category. Meanwhile, the human-rights treaties and non-refoulement principle are emerging as the only available lifeline. The terms "non-refoulement" and "climate migrant" have entered policy debates to stress that returning people to drowning homelands may itself violate fundamental rights. Yet even these tools are provisional. Courts and councils often demand proof of imminent harm or persecutory intent, standards hard to satisfy for slow-onset climate loss. Scholars continue to advocate for the development of new legal instruments such as a dedicated climate mobility protocol or an expanded asylum convention to address the growing protection gap (Caligiuri, 2025).

5. Mobility with Dignity: The Falepili Union and Other Innovations

An unprecedented response to this crisis came with the 2023 Australia–Tuvalu "Falepili Union" treaty. This bilateral agreement creates a special migration pathway explicitly tailored for climate-vulnerable citizens. Under Article 3, all Tuvaluan citizens "who wish to live, study or work in Australia" may do so on a permanent basis, with full access to Australian education, health care and social services. In effect, the Australia-Tuvalu

Falepili Union creates a special human mobility pathway that grants up to 280 Tuvaluan citizens permanent residency in Australia each year. Crucially, this is done outside the refugee and asylum framework, as no persecutor or asylum claim is needed, and Tuvaluans remain nationals of Tuvalu while living in Australia, which represents a model of human mobility with dignity that is promoted by both governments. The treaty even draws on the indigenous concept of falepili, meaning kinship and neighborliness, translated in the document as a duty of care among Pacific family (Green and Guilfoyle, 2024).

Perhaps most striking in the Falepili Treaty is its Article 2(2)(b). This provision explicitly assures that even if all Tuvalu's atolls become uninhabitable, Tuvalu remains legally a state. Scholars have highlighted that this is the first legally binding text to enshrine a disappearing state's ongoing existence. The implication is profound, as Tuvalu can lose physical territory without losing the identity and rights of nationhood. Article 2(2)(b) would mean that "were Tuvalu to become entirely uninhabitable, its statehood would nonetheless be secured" in relation to Australia (Green and Guilfoyle, 2024).

Other Pacific initiatives have experimented with preemptive mobility, though none matches Falepili's legal force. Kiribati's "Migration with Dignity" strategy, for example, involves buying land in Fiji for eventual relocation, but it is not a treaty and raises thorny questions of legal personality. New Zealand's Pacific Access Category (PAC) visa has long given limited quotas to citizens of some Pacific states (including Kiribati and Tuvalu), but only to young, healthy applicants with job offers (Farquhar, 2015). Critics have pointed out that the PAC rules (ages 18–45, must meet strict health standards, etc.) effectively exclude older, disabled or chronically ill islanders (Amnesty International, 2025). More ambitiously, Pacific leaders at COP28 launched a regional Pacific Mobility Framework (2023) to coordinate climate-linked migration responses. While details are still emerging, the Framework signals political will for collective action. Even beyond the Pacific, discussions continue about bespoke visas or labor programs for climate-affected communities (for example, remaking parts of the Marshall Islands-US migration arrangements through a climate lens) (United Nations, Asian Development Bank and United Nations Development Programme, 2024).

Doctrinally, the Falepili Union represents a radical departure. It bypasses traditional asylum law by granting an entire national community a right to relocate without invoking refugee status. All Tuvaluans can move on Australian soil as a matter of legal right, not humanitarian discretion. In effect, the treaty treats climate migration as a negotiated adaptation strategy rather than a burdensome exception. Tuvaluan citizens keep their nationality and are not "resettled" as refugees but join the Australian community while remaining Tuvaluan. This is a powerful model of "mobility as adaptation." As one analysis observed, the treaty establishes a legal pathway for human mobility with dignity for up to 280 people annually rather than relying on charitable discretion. Green and Guilfoyle, who authored a detailed legal study of the treaty, compare it to historic "treaties of protection," but stress that it does not fundamentally strip Tuvalu of independence. On the contrary, by guaranteeing state continuity it inverts the usual narrative of disappearing states (Green and Guilfoyle, 2024).

There are critics, however. Some point out that the Falepili deal comes with strings attached. Article 4(4) requires Tuvalu to "mutually agree with Australia" on any new defense or security partnerships. In practical terms, commentators warn, this gives Australia an effective veto over wide swaths of Tuvalu's foreign relations (Joint Standing Committee on Treaties, 2024). One analysis finds that Article 4(4) grants such broad powers to Australia that "it would become impossible to conclude that Tuvalu remains truly independent" if strictly enforced (Green and Guilfoyle, 2024). Supporters argue that Australia would never deploy a military base or dictate Tuvalu's alliances; they stress that Tuvalu remains "formally independent". But the security clause has clearly raised eyebrows, and the optics of a small country accepting a major power's oversight feed suspicions of neo-protectorate status (Green and Guilfoyle, 2024).

Still, at least in policy terms, Falepili is widely hailed as a forward-looking model. It signals that accepting climate-related mobility need not mean renouncing sovereignty or abandoning a nation. Tuvaluans are explicitly told they remain Tuvaluan even while living abroad, and Australia has pledged not to blame Tuvalu for climate change (Australian Government Department of Foreign Affairs and Trade, 2024).

6. Courts, Climate Litigation, and Human Rights Enforcement

Judicial and quasi-judicial bodies are increasingly called upon to interpret states' obligations in the climate crisis, with growing relevance to migration and displacement. In 2025 the International Court of Justice issued an Advisory Opinion on climate change obligations, which had major implications for statehood. The Court held that if a state has been properly constituted, the loss of territory, even total inundation, does not necessarily terminate its legal existence. In the Court's words, once statehood is established, the disappearance of one element (like territory) "would not necessarily entail the loss of its statehood". This effectively extends the Falepili notion to the multilateral sphere, as a nation can outlive its land. Although the ICJ did not directly address migration, its stance on continuity is a foundational guarantee for climate-displaced peoples seeking to maintain their nationality (International Court of Justice, 2025).

Meanwhile, UN treaty bodies and human-rights organs have begun weaving climate into rights doctrines. The Human Rights Committee's Teitiota decision (above) is the prime example under the ICCPR. The Committee on the Rights of the Child CRC has been explicit, as General Comment No. 26 2023 expressly recognizes that a clean, healthy and sustainable environment is both a human right itself and necessary for the full enjoyment of a broad range of children's rights. This establishes, for children at least, that environmental health underpins rights like life, survival and development (Committee on the Rights of the Child, 2023). Similarly, in 2022 the UN General Assembly formally proclaimed the "human right to a clean, healthy and sustainable environment" as a global norm. Other bodies, such as the Committee on Economic, Social and Cultural Rights (CESCR) and the Committee on the Elimination of Discrimination against Women (CEDAW), have issued reports and general comments linking climate change to obligations on housing, food, and gender equality. For instance, CEDAW's General Recommendation 37 (2018) acknowledged that climate-related disasters have disproportionate impacts on women (International Court of Justice, 2025).

National courts, too, are engaging with climate issues, sometimes with a bearing on migration. The Netherlands' Urgenda case (Hoge Raad, 2019) famously ordered the government to cut greenhouse gas emissions by at least 25% relative to 1990 levels, on the grounds that failing to protect citizens' rights to life and home (Articles 2 and 8 ECHR) from real climate threats would violate the ECHR (Leijten, 2019). Likewise, a flood of climate-rights litigation has occurred worldwide. One notable lawsuit was Pabai Pabai and Guy Paul Kubai v. Commonwealth of Australia, decided by the Federal Court of Australia in July 2025. Islanders sued for a "duty of care" to protect their land and culture from rising seas. In July 2025, however, the Federal Court of Australia ruled in Pabai v. Commonwealth that the Australian government owed no common law duty of care to the Torres Strait Islanders to set greenhouse gas targets. That outcome on appeal in 2025 shows both the reach and limits of domestic remedies, as courts are willing to entertain climate cases but still balk at imposing broad new obligations in the absence of a legislative mandate (Wigney J, 2025).

In the United Kingdom, a significant decision by the First-tier Tribunal in November 2025 allowed a Filipino national to remain on the basis of Article 8 of the European Convention on Human Rights due to climate-related trauma. There, Filipino nationals challenged their removal on the basis of Article 8 ECHR (private life), arguing that typhoon destruction of their home rendered return unjustified. In late 2025, a tribunal agreed that the extreme climate-linked harms were central to the case. It marked a breakthrough by treating climate

trauma itself as a factor in human-rights adjudication. Other examples abound, as courts in Colombia, Germany, and Canada have seen climate linked claims, though none has yet created a robust new right to cross border migration. Still, even rejected cases contribute to precedent on climate obligations, for example, U.S. courts have so far not recognized a constitutional right against climate harm, but a growing number of federal suits (e.g. youth climate cases) continue to press those arguments (Neri, 2025).

The European Court of Human Rights has not explicitly recognized climate-induced refugee status, but it has heard related cases (such as a 2022 complaint from Mr. Teitiota against Austria, involving family unity issues and climate risk). With Article 8 as a hook, the ECtHR may soon have the first opportunity to directly rule on climate-asylum claims (Neri, 2025). The Inter-American Court's 2025 advisory opinion, as noted, urges states to prioritize housing and indigenous land rights in displacement scenarios, these principles could be invoked by Latin American migrants in the future (Inter-American Court of Human Rights, 2025). In Africa, the African Charter (Art. 24) already guarantees a general right to a healthy environment, and now the Commission's 2025 Resolution (Res.628) explicitly acknowledges climate displacement as a human-rights issue. An advisory request filed by African NGOs asks the African Court to clarify states' duties to protect vulnerable groups and future generations from climate change (African Commission on Human and Peoples' Rights, 2025; Pan African Lawyers Union, 2025). Taken together, these regional developments signal that the world's human-rights regimes are beginning to grapple with climate migration.

Courts can leverage rights like the right to life, to family, and to housing to compel climate action or protection. In Urgenda, life and home were key. In Teitiota and Hockin, Article 6 ICCPR and Article 8 ECHR respectively served as proxies for climate harm. Judges may order governments to restrict emissions, or to allow asylum claims when return would violate core rights. They have also pointed out "structural" duties, for example, requiring states to develop evacuation and relocation plans for at-risk communities. On the other hand, courts often shy away from precisely quantifying climate policy or dictating resettlement schemes, citing separation of powers. Barriers such as demonstrating imminence of harm, tracing causation to defendants, and showing lack of alternatives limit judicial protection (Wewerinke-Singh, 2023). The principle of requiring concrete and imminent harm before a court will entertain a claim looms large as judges often avoid abstract or preventative rulings in climate litigation. Finally, access to justice can be hard for climate migrants, who may lack standing or representation.

Ideas range from creating specialized climate-change courts or tribunals to appointing international "climate guardians" with oversight powers. For example, the organization Lawyers for Climate Action New Zealand has engaged in strategic litigation to challenge governmental emissions reduction plans and ensure accountability for climate obligations (Hartwig, 2024). Whether or not such bodies emerge, it is clear that judges are already stretching existing tools. Human-rights instruments may eventually be interpreted to impose substantive climate duties (as some treaty bodies have already hinted). In any event, the growing trend is that courts will play a crucial role in plugging the protection gap, even if their answers remain uneven.

7. Conclusion and Future Legal Pathways

The analysis above underscores a profound shift in how law must treat the climate-displaced. Traditional sovereignty, tied to fixed borders, is giving way to a functional or people-centred concept. Courts and advocates now argue that a nation's identity and citizenry can endure even if its territory vanishes. The 2025 ICJ Climate Advisory Opinion, for instance, cautiously observed that a State's existence does not necessarily collapse upon the disappearance of one of its constituent elements, signalling an openness to continuity without explicitly codifying a blanket presumption. This marks a doctrinal leap, as statehood is no longer purely a function of holding territory. Nor is refugee protection limited to the 1951 Convention's Cold War paradigm.

Instead, dynamic frameworks are emerging, mobility treaties, special visas and regional accords, that pivot on human needs. The Australia Tuvalu Falepili Union is one example, as it is a bilateral pact that treats Tuvaluans' Australian residency as a pathway to preserving Tuvalu's future, effectively decoupling sovereignty from island territory. Similarly, scholars propose that present rights regimes (human rights, labour law, SDGs) be interpreted in ways that protect climate migrants.

One idea is a dedicated climate displacement treaty. Some scholars urge an instrument akin to a new Refugee Convention or Protocol for climate victims. Others envision a "climate passport", a global ID that guarantees basic protections for people whose homelands disappear. Indeed, Bangladesh has championed this concept, as its legal scholars argue that millions might need such passports when coasts drown (McAdam and Saul, 2010). In practice, some states are already pioneering new categories. Pakistan has even tabled a "Climate Refugees Rights and Protection Bill 2024" that, if passed, would formally define and support climate-displaced persons (internally) with services like temporary shelters and property restoration (Pirzada and Ahmed, 2024). Meanwhile, nations could expand existing laws, for example, amending asylum statutes to include climate-related harm or creating special humanitarian visas. Advocacy groups now call on New Zealand and others to offer visas specifically for Pacific Islanders fleeing rising seas. Each of these measures represents a baby step toward closing the legal vacuum.

Domestically, governments should craft climate responsive migration policies, as this includes new visas or safeguard mechanisms that allow at risk populations to relocate safely. For example, the treaty stream of the Australia-Tuvalu Falepili Union allows up to 280 Tuvaluans to obtain permanent residency annually without the requirement of a job offer. Other ideas include integrating climate risk into non-refoulement rules or granting temporary protected status to those from areas facing slow-onset catastrophe. Importantly, fulfilling these obligations must be part of broader international commitments. States should align migration law with climate pledges, as this includes financing adaptation and resettlement as part of their Paris Agreement duties and embedding migration in SDG 13 on climate action and SDG 10.7 on safe migration. Constitutional or statutory innovations can also help, for instance, some countries are considering enshrining the rights of future generations or explicitly linking climate resilience to human rights enforcement.

The existing pieces—statehood doctrine, human rights enforcement, and bilateral mobility pacts—must be combined into a rigorous, new legal architecture. Ultimately, this article demonstrates that international law is transitioning toward a framework of functional sovereignty, where State continuity is actively decoupled from permanent territorial control. By affirming that deterritorialized nations retain their legal personality, the international community can prevent de jure statelessness and mandate rights-based mobility pathways. Courts and lawmakers possess both the legal mandate and the doctrinal mechanisms to enforce these continuous sovereign obligations, ensuring that climate-induced displacement results in managed adaptation rather than the extinction of sovereign nations.

References

Achem, V. O. (2025) 'Rethinking women's economic empowerment in displacement: gender, land rights, and resilience', Frontiers of Socio-Legal Studies.

African Commission on Human and Peoples' Rights (2025) *Resolution on the need for a study on the development of a specific legal framework for the protection of forcibly displaced persons in Africa as a result of climate change - ACHPR/Res.628 (LXXXII) 2025*

Alexander, H. and Simon, J. (2017) 'No Port, No Passport: Why Submerged States Can Have No Nationals', *Washington International Law Journal*, 26(2), pp. 307–324. Available at: https://digitalcommons.law.uw.edu/wilj/vol26/iss2/6 (Accessed: 30 April 2026).

Amnesty International (2025) *Navigating injustice: climate displacement from the Pacific Islands of Tuvalu and Kiribati to Aotearoa New Zealand*. London: Amnesty International.

Apap, J. and Harju, S. J. (2023) *The concept of 'climate refugee': Towards a possible definition* (PE 698.753). Brussels: European Parliamentary Research Service.

Australian Government Department of Foreign Affairs and Trade (2024) *Explanatory memorandum - Falepili Union between Tuvalu and Australia*. Available at: https://www.dfat.gov.au/geo/tuvalu/australia-tuvalu-falepili-union-treaty/explanatory-memorandum-falepili-union-between-tuvalu-and-australia (Accessed: 30 April 2026).

Basha, G. (2025) 'A milestone in climate-related protection? A human rights appeal in the United Kingdom allowed on Article 8 ECHR grounds for climate change impacts', Qore Legal. Accessed 30 April 2026.

Bharadwaj, R., Chakravarti, D., Karthikeyan, N., Hazra, S., Daniel, U., Topno, J. and Abhilashi, R. (2022) *Climate change, migration and vulnerability to trafficking*. IIED Working Paper. London: International Institute for Environment and Development. Available at: https://www.iied.org/sites/default/files/pdfs/2022-05/20936IIED.pdf (Accessed: 30 April 2026).

Boshoff, K. and Surbun, V. (2025) 'A threat of state extinction: The plight of small island developing states amid a changing climate and sea-level rise', *Comparative and International Law Journal of Southern Africa*, 58(1), pp. 1–34. https://doi.org/10.25159/2522-3062/16371

Braham, M. (2018) 'Gender and climate-induced migration in the Mediterranean: from resilience to peace and human security', in *MediTERRA 2018*.

Buckinx, B., Edbrooke, M. and Ibrahem, R. (2021) *Self-determination and sea-level rise*. Princeton: Liechtenstein Institute on Self-Determination, Princeton School of Public and International Affairs.

Buechel, B. (2022) 'A typology of statelessness', *Statelessness & Citizenship Review*, 4(2), pp. 237–255. https://doi.org/10.35715/scr4002.1112.

Burkett, M. (2011) 'The nation ex-situ: On climate change, deterritorialized nationhood and the post-climate era', *Climate Law*, 2(3), pp. 345–374. doi:10.3233/CL-2011-040.

Caligiuri, A. (2022) 'Sinking states: the statehood dilemma in the face of sea-level rise', *Questions of International Law*, 91, pp. 23–37.

Caligiuri, A. (2025) 'Invisible in law: environmental and climate migrants and the gap in international protection', *QIL*, Zoom-out 111, pp. 1-6.

Committee on the Elimination of Discrimination against Women (2018) *General recommendation No. 37 (2018) on gender-related dimensions of disaster risk reduction in a changing climate*. CEDAW/C/GC/37. Available at: https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no37-2018-gender-related (Accessed: 30 April 2026).

Committee on the Rights of the Child (2023) General comment No. 26 (2023) on children's rights and the environment, with a special focus on climate change. Geneva: United Nations.

European Parliamentary Research Service (2023) *The concept of 'climate refugee': towards a possible definition*. Brussels: European Parliament.

Farquhar, H. (2015) '"Migration with Dignity": Towards a New Zealand response to climate change displacement in the Pacific', *Victoria University of Wellington Law Review*, 46(1), pp. 29–56. https://doi.org/10.26686/vuwlr.v46i1.4936

Florea, A. and Huang, R. (2025) 'Functional sovereignty in contested territories', *International Studies Quarterly*, 69(4), sqaf069. Available at: https://doi.org/10.1093/isq/sqaf069

Fruttero, A., Halim, D., Broccolini, C., Coelho, B., Gninafon, H. and Muller, N. (2023) *Gendered impacts of climate change: evidence from weather shocks*. Policy Research Working Paper 10442. Washington, DC: World Bank.

Ganguly, S. and Nikolova, E. (2023) 'The benefits of considering gender in economic development', in Drucza, K., Kaddour, A., Ganguly, S. and Sarea, A.M. (eds.) *Centering gender in the era of digital and green transition: intersectional perspectives*. Cham: Palgrave Macmillan, pp. 151–174. https://doi.org/10.1007/978-3-031-38211-6_11.

Government of Australia and Government of Tuvalu (2023) *Australia-Tuvalu Falepili Union treaty*. Canberra: Department of Foreign Affairs and Trade. Available at: https://www.dfat.gov.au/sites/default/files/australia-tuvalu-falepili-union-treaty.pdf (Accessed: 30 April 2026).

Green, A. and Guilfoyle, D. (2024) 'The Australia-Tuvalu Falepili Union Treaty: statehood and security in the face of anthropogenic climate change', *American Journal of International Law*, 118(4), pp. 684–703. doi:10.1017/ajil.2024.54.

Green, A. and Wewerinke-Singh, M. (2025) 'State continuity, self-determination and sea-level rise', *International & Comparative Law Quarterly*, 74(3), pp. 555–585. doi:10.1017/S0020589325100961.

Hall, N. (2020) 'Moving beyond its mandate? UNHCR and climate change displacement', *Journal of International Organizations Studies*, 7(3), pp. 93–108; United Nations (2018) *Global Compact for Safe, Orderly and Regular Migration*. New York: United Nations.

Hartwig, M.G. (2024) Climate guardians: navigating the future in the 2021 German climate verdict and constitutional landscape. *Politics and Governance*, 12, Article 7857. https://doi.org/10.17645/pag.7857

Inter-American Court of Human Rights (2025) *Advisory Opinion AO-32/25 of May 29, 2025, requested by the Republic of Chile and the Republic of Colombia: Climate emergency and human rights*. San José: Inter-American Court of Human Rights. Available at: https://www.blackstonechambers.com/documents/1681/seriea_32_en.pdf (Accessed: 30 April 2026).

Intergovernmental Panel on Climate Change (2023) *Climate change 2023: synthesis report*. Geneva: IPCC.

International Court of Justice (2025) *Advisory Opinion of 23 July 2025*. The Hague: ICJ. Available at: https://icj-web.leman.un-icc.cloud/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf (Accessed: 30 April 2026).

International Court of Justice (2025) *Obligations of States in respect of climate change (Advisory Opinion).* The Hague: International Court of Justice.

International Law Commission (2022) 'Chapter IX. Sea-level rise in relation to international law', in *Report of the International Law Commission on the work of its seventy-third session*. New York: United Nations, pp. 324–341.

International Law Commission (2025) *Final report of the Study Group on sea-level rise in relation to international law*. New York: United Nations. Available at: https://legal.un.org/ilc/texts/instruments/english/reports/8_9_2025.pdf (Accessed: 30 April 2026).

Joint Standing Committee on Treaties (2024) *Chapter 3 - Australia-Tuvalu Falepili Union*. Parliament of Australia. Available at: https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Treaties/AmendmentstoCITESAppen/Report/Chapter_3_-_Australia-Tuvalu_Falepili_Union (Accessed: 30 April 2026).

Kocierz, M. (2024) 'Adaptation to climate change: IOM and UNHCR approaches to communication on climate migration', *Media Business Culture*, 2(17), pp. 19-31. https://doi.org/10.4467/25442554.MBK.24.015.20889

Koskina, A., Georgantas, E. and Plionis, M. (2024) 'Climate crisis and human migration: the emergent socio-legal parameters of a science-based policymaking', *Frontiers in Political Science*, 6, Article 1468711. https://doi.org/10.3389/fpos.2024.1468711

Leijten, I. (2019) 'Human rights v. insufficient climate action: The Urgenda case', *Netherlands Quarterly of Human Rights*, 37(2), pp. 112–118. https://doi.org/10.1177/0924051919844375

McAdam, J. (2020) 'Current developments - protecting people displaced by the impacts of climate change: the UN Human Rights Committee and the principle of non-refoulement', *American Journal of International Law*, 114(4), pp. 708–725. doi:10.1017/ajil.2020.31.

McAdam, J. (2020) 'Protecting people displaced by the impacts of climate change: The UN Human Rights Committee and the principle of non-refoulement', *American Journal of International Law*, 114(4), pp. 708-725. doi:10.1017/ajil.2020.31.

McAdam, J. and Saul, B. (2010) 'Displacement with dignity: international law and policy responses to climate change migration and security in Bangladesh', *German Yearbook of International Law*, 53, pp. 233–287.

Morshed, M.T. and Ferdousy, M. (2025) 'Reconceptualising the principle of non-refoulement in the context of climate-induced migration: navigating through international obligations', *Dhaka University Law Journal*, 36(1), pp. 103–121. Available at: https://www.banglajol.info/index.php/DULJ/article/download/85144/56066/238566 (Accessed: 30 April 2026).

Nash, S. L. (2024) 'The perfect (shit)storm: Discourses around the proposal to introduce a 'climate passport' in Germany', *Environment and Planning C: Politics and Space*, 42(6), pp. 941–957. https://doi.org/10.1177/23996544231216015

Neri, K. (2025) 'Human rights and climate migrants. A comparison of the potential for legal protection in Europe and the Americas', *QIL, Zoom-in* 111, 7–19.

Nevitt, M. (2023) 'Climate change and the specter of statelessness', *Georgetown Environmental Law Review*, 35, pp. 331–356.

Office of the United Nations High Commissioner for Human Rights (2021) Frequently asked questions on human rights and climate change. Fact Sheet No. 38. Geneva: United Nations.

Pacific Islands Forum (2023) *2023 Declaration on the Continuity of Statehood and the Protection of Persons in the Face of Climate Change-Related Sea-Level Rise*. Annex A to Pacific Islands Forum Submission No. 5 in relation to statehood and the protection of persons affected by sea-level rise, 9 November. Available at: https://legal.un.org/ilc/sessions/75/pdfs/english/slr_pif.pdf (Accessed: 30 April 2026).

Pan African Lawyers Union (PALU) (2025) *Request for Advisory Opinion No. 001/2025 in the matter of a request by the Pan African Lawyers Union (PALU) for an Advisory Opinion on the obligations of States with respect to the climate change crisis*. Arusha: Pan African Lawyers Union. Available at: https://www.lawyersofafrica.org/wp-content/uploads/Advisory-Request-PALU_Climate-Change-EN.pdf (Accessed: 30 April 2026).

Papagioti, F. (2023) *Feminist Foreign Policy Index: A Qualitative Evaluation of Feminist Commitments*. Washington, DC: International Center for Research on Women.

Pelizzon, A. (2025) 'Rights of nature', in *Ecological Jurisprudence: Contemporary Environmental Law and Policy*. Cham: Springer, pp. 199–263. https://doi.org/10.1007/978-981-96-0173-8_6

Pirzada, M.M.A. and Ahmed, F. (2024) 'Climate for change', *The News International*, 29 October.

Planetary Boundaries Science (2025) *Planetary Health Check 2025*. Potsdam: Potsdam Institute for Climate Impact Research. doi:10.48485/pik.2025.017.

Platform on Disaster Displacement and United Nations High Commissioner for Refugees (2023) *Protection of Persons Displaced Across Borders in the Context of Disasters and the Adverse Effects of Climate Change: Good Practices to Support Implementation of the Global Compact on Refugees*. Geneva: Platform on Disaster Displacement and United Nations High Commissioner for Refugees. Available at: https://disasterdisplacement.org/wp-content/uploads/2023/12/PDD-UNHCR_GRF_Policy_Brief.pdf (Accessed: 30 April 2026).

Poddar, D. (2023) 'Characterizing the climate diaspora from small-island-states prone to sea-level-rise', *Environmental Law and Practice Review*, 8, pp. 1–30.

Rothe, D., Boas, I., Farbotko, C. and Kitara, T. (2024) 'Digital Tuvalu: state sovereignty in a world of climate loss', International Affairs, 100(4), pp. 1491–1509. https://doi.org/10.1093/ia/iiae060

Sæten, N. L. (2025) 'Gilroy's Black Atlantic diaspora: climate displacement and rights-bearing beyond the nation', *Nations and Nationalism*, 31(4), pp. 966–981. https://doi.org/10.1111/nana.13055

Salcedo-La Viña, C., Martinez, A. and Quijano Vallejos, P. (2025) 'How global climate initiatives can risk Indigenous women's land rights', *World Resources Institute*, 8 January.

Scott, J.W. (2015) 'Bordering, border politics and cross-border cooperation in Europe', in Celata, F. and Coletti, R. (eds.) *Neighbourhood Policy and the Construction of the European External Borders*. Cham: Springer, pp. 27–44. https://doi.org/10.1007/978-3-319-18452-4_2

Sharma, N.K. and Pathak, P. (2023) 'From Whanganui to Ganga: A study on environmental personhood', *HPNLU Law Journal*, 4, pp. 36–49. https://doi.org/10.70556/hpnlu-lj-v4-2023-02

Sharon, O. (2019) 'Tides of climate change: protecting the natural wealth rights of disappearing states', *Harvard International Law Journal*, 60(1), pp. 95–133.
Stancil, H. (2023) 'Buoying statehood: The impact of rising sea levels on statehood in international law', *North Carolina Journal of International Law*, 49, pp. 137–156.
Steenmans, K. and Cooper, A. (2020) 'Ioane Teitiota v New Zealand: A landmark ruling for climate refugees?', *Coventry Law Journal*, 25(2), pp. 23–32.
The Nansen Initiative (2015) Agenda for the protection of cross-border displaced persons in the context of disasters and climate change: Volume I. Geneva: The Nansen Initiative.
UNHCR and Peter McMullin Centre on Statelessness (2025) *Draft global recommendations on nationality and statelessness in the context of climate change*. Melbourne: University of Melbourne Law School.
UNICEF East Asia and Pacific Regional Office (2025) *Climate crisis and gender-based violence: intersecting risks, integrated solutions*. Bangkok: UNICEF East Asia and Pacific Regional Office. Available at: https://www.unicef.org/eap/media/20741/file/Gender%20Policy%20Brief%20-%20Gender-Based%20Violence%20and%20Climate%20Crisis.pdf.pdf (Accessed: 30 April 2026).
United Nations Environment Programme (2025) 'Goal 5: Gender Equality', *United Nations Environment Programme*, 25 March. Available at: https://www.unep.org/topics/sustainable-development-goals/why-do-sustainable-development-goals-matter/goal-5 (Accessed: 30 April 2026).
United Nations, Asian Development Bank and United Nations Development Programme (2024) *People and Planet: Addressing the Interlinked Challenges of Climate Change, Poverty and Hunger in Asia and the Pacific*. Bangkok, Thailand: United Nations. doi:10.22617/SPR240043-2
Wewerinke-Singh, M. (2023) 'The rising tide of rights: Addressing climate loss and damage through rights-based litigation', *Transnational Environmental Law*, 12(3), pp. 537–566. doi:10.1017/S2047102523000183
Wigney, M. A. (2025) *Pabai v Commonwealth of Australia (No 2) [2025] FCA 796*. Federal Court of Australia, 15 July 2025.

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