



CLUSTERS AND HUBS: TOWARD A REGIONAL ARCHITECTURE FOR VOLUNTARY ADAPTIVE MIGRATION IN THE PACIFIC

TECHNICAL PAPER

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SOME KEY TERMS

To avoid confusion about terminology, the following definitions should be borne in mind when reading the text of this report.

Voluntary adaptive migration	Cross-border movement of persons undertaken primarily as an expression of personal choice between available options as a means of adapting to or avoiding recurring natural disasters, or adapting to existing and anticipated changes in the physical environment. Such movement may be temporary, circular or permanent.
Forced displacement	Movement away from established homes and communities compelled by reductions in food and water availability or quality, infrastructure and habitat loss, and increased exposure to ill-health, injury and even death arising from natural disasters or changes in the physical environment in situations where return is not possible.
Planned relocation	The act of moving people at risk of exposure to hazard, both natural and human-induced. Relocation may be of a temporary or permanent nature.
Cluster	A grouping of states united by some past historical association or other shared characteristic in which privileged rights of entry and stay are mutually, but not necessarily co-extensively, conferred.
Hub	A state within a cluster, which by reason of its historical roles and responsibilities or some other factor, acts as a mobility pivot and exerts considerable influence on mobility patterns within a cluster.

EXECUTIVE SUMMARY

Introduction

Pacific peoples have had to contend with and adapt to a multiplicity of disruptive and destructive geological and extreme weather events for centuries. While temporary internal migration and displacement have featured as a response to the events in many instances, the current concern about the effects of climate change in the region has generated discussion about the extent to which future disasters or slow-onset environmental degradation will lead to increased cross-border mobility or displacement.

This research was commissioned to follow up on recommendations from the Nansen Initiative's Pacific Regional Consultation held in May 2013 which concluded that, while having to leave one's country was the least preferred option for Pacific peoples, cross-border mobility in the context of natural disasters and environmental degradation was a reality in the Pacific region which demanded that states begin to plan for movement now. It was recognized that voluntary migration abroad was only one way, within a set of broader policy options, to prevent future displacement and adapt to climate change.

Discussions on cross-border mobility tend to focus on permanent migration from Pacific Island countries and territories (PICTs) to the Pacific Rim. Much less attention has focused on the migration options among the PICTs themselves. Thus, this report broadens the focus by examining how the region's existing national migration-related laws and regulations may allow for:

- voluntary adaptive international migration of a temporary nature from which, potentially, remittances generated while on temporary work permits could be utilised to enhance community resilience and reduce risk of future displacement; and,
- transitions to residence in another country to facilitate, over time, the relocation of at-risk households and communities away from vulnerable locations.

As there is no single comprehensive database of migration laws, regulations and policies for Pacific countries, this study is based on material from published literature, open-source websites and correspondence with officials and colleagues in the Pacific.

In this report, we identify sub-regional clusters of states in which one state may, but not always, act as a mobility 'hub'. The report examines the extent to which this architecture, as currently expressed through immigration law and the regulation of employing migrant labour, allows or impedes the undertaking of voluntary adaptive migration or planned relocation as a means to reduce the risk of forced displacement in the future. It considers three main issues:

- To what extent do Pacific states grant visa free or visa-on-arrival entry rights to citizens of other Pacific countries?
- How easy is it for Pacific visitors to other Pacific countries to obtain, or transition to, short-term work visas/permits without having to leave the country they are visiting?
- What pathways to residence exist? If long-term or permanent stay becomes necessary or unavoidable, what scope for residency exists under current policies in the region?

Pacific populations in 2013: key features

The most recent available population data for the three sub-regions of the Pacific - Melanesia, Micronesia and Polynesia - reveal a number of features of critical importance in understanding existing and future potential patterns of cross-border mobility in the context of natural disasters and climate change.

First, all of the “big” PICTs are in Melanesia (98% of the total land area and 89% of the total population of all PICTs in 2013), while the small countries are concentrated in Micronesia (7 states and territories with 0.6% of the region's total land area, and 4.7% of its population) and Polynesia (10 states and territories with 1.5% of the land area and 5.9% of the population).

Second, there are wide disparities across the region in the extent to which PICTs have significant immigrant populations or diaspora. The western Melanesian countries of Papua New Guinea, Solomon Islands and Vanuatu, three of the largest countries and populations, have very low percentages of immigrants and emigrants. International migration contributed very little to overall population change in this sub-region in 2013. In Polynesia, on the other hand, the net loss of people through international migration (10,400) was almost as large as the contribution made by natural increase (11,170).

Third, the largest population growth over the coming decades is expected in Melanesia. According to recent projections, Melanesia's population could double by 2050 (from 9,848,100 in 2013, to 18,726,600 in 2050). By comparison, Micronesia's population is projected to increase by around 38% over the same period (from 515,300 to 711,300), while Polynesia's population may only increase by 20% (from 649,500 in 2010 to 782,700 in 2050). Ninety-six percent of the projected population increase of 9.2 million in the Pacific between 2013 and 2050 is likely to be found in Melanesia.

Towards a regional architecture of clusters and hubs

By the late 19th century, all islands in region had come under the influence of European powers but, despite the emergence of colonial administrations in most island groups, movement between islands was largely unregulated until the early 20th century. Both the colonisation process in the Pacific and the mandate and trusteeship systems developed by the League of Nations and United Nations in the aftermath of World Wars One and Two had a profound effect on regional mobility. As the population data relating to current immigrant and emigrant populations shows, mobility became unevenly distributed during the second half of the 20th century. The decolonisation of the Pacific from the early 1960s has produced a wide variety of outcomes for indigenous Pacific peoples as far as their opportunities for movement to countries on the Pacific Rim are concerned.

The twin processes of colonisation and trusteeship have provided the foundation for sub-regional ‘clusters’ of states within which the cluster members have varying levels of privileged access to temporary or permanent residence in the former (New Zealand and the United States of America) or continuing (France) colonial, mandate or trustee state which acts as a cluster ‘hub’. Over time, more clusters, such as the Melanesian Spearhead Group, have emerged as developments of, or counterpoints to, these colonial clusters. The clustering process continues, and arguably new clusters are emerging centred on Australia and the Pacific Labour Sending (PAILS) Forum.

The effect of clustering has been to greatly enhance the capacity for cross-border mobility overall, albeit in different ways. In the colonial clusters, multi-tiered structures exist. In these clusters, the degree to which mobility is enhanced depends on which tier in which structure the Pacific island citizen exists. Further, regional variability derives from different bundles of privileged rights of admission and stay conferred. The range of rights include the granting of unfettered right of entry and stay by way of an entitlement to hub-state citizenship (New Zealand and the United States); the preferential entitlement to residence by targeted quotas (New Zealand); privileged access to the hub-state labour market (the United States) and temporary work in certain sectors of the hub-state economy (New Zealand). In contrast, the Melanesian Spearhead Group has a flatter structure in which no state acts as a central hub. Consequently, the effect of cluster membership is more homogenous, relating to privileged rights of entry as visitors and temporary access to selected occupations within the labour markets of cluster member states.

These regional clusters also overlap with a number of PICTs included in more than one cluster. Clustering provides for considerable variation in opportunities for international migration in the three major sub-regions of Melanesia, Micronesia and Polynesia. While clustering has the potential to greatly increase regional mobility, the net effect of clustering under current national immigration policy settings in the region is more uncertain. Although important gains have been made, notably with New Zealand's Recognised Seasonal Employer (RSE) work policy, both the Australian Seasonal Work Program (SWP) and the Melanesian Spearhead Group Skills Movement Scheme provide only limited mobility gains. Also, a number of policy interventions at the hub-state level have had a negative effect on regional mobility, in particular by closing or narrowing existing pathways to residence.

Cross-border population movement: the current visa situation

Visa free/ visa-on-arrival

The review revealed that, between PICTs, there is a large degree of mutual privileging in terms of granting visa waivers or visa-on-arrival for visitors or tourism purposes. In contrast, Pacific Rim countries do not generally grant waivers or visa-on-arrival status to citizens of Pacific countries unless they also happen to have hub-state citizenship conferred on them by reason of their status within the relevant cluster. This may have important consequences for individuals or households wishing to respond to climate change or other disasters by moving across regional borders. At a base level, and putting all other considerations aside, current immigration laws in the Pacific mean this is far more likely to be actualized by travelling to another island country than to the Pacific Rim countries even if this means transiting through Australia or New Zealand to get to a preferred Pacific destination.

Work permits

Entry into a country is only the first step. In both the context of voluntary adaptive migration and planned relocation, the ability of migrants to find work will be an integral component of any durable solution. The picture as regarding transition from visitor to work visas is mixed; there is no dominant practice that is common throughout the region.

For individuals with professional or trade skills, existing bilateral and regional agreements related to skilled migrants already create opportunity to move abroad. At a broader level, however, there are a number of features of the present legal frameworks regulating the employment of non-resident labour in the region which are potentially limiting. Legal frameworks in PICTs generally privilege the right of host-state citizens and residents to employment. In many instances, the employer must obtain prior authority to recruit non-resident workers.

It is not uncommon for there to be highly prescriptive requirements for gaining approval. When granted, access to employment in Pacific countries is often highly regulated and controlled. Visas are typically granted for work with a specific employer. Many countries in the region have binding legal repatriation provisions. These features, common in many regions, may impact the ability of national immigration systems to respond to disasters by facilitating cross-border migration in a timely or sustained fashion. Further, several countries have a list of reserved occupations, or specify a fixed quota or percentage of non-citizens or non-residents who may work for an employer, with the remainder of the workforce positions reserved for citizens or permanent residents.

These features of national employment regulations in the region are designed to provide the maximum employment opportunities for rapidly growing citizen populations. Consequently they present obstacles to the employment of persons who do move across international borders but who are not granted host-state residence or citizenship in the destination state. This issue will need to be factored into discussions around both voluntary adaptive migration and planned relocation along with more familiar issues such as land tenure and access to land by non-citizens.

Residence

Immigration frameworks in the region contain a range of pathways to residence. Reflecting historical immigration policy settings, as well as concerns over land ownership, a common pathway to residence is provided for spouses and dependent children of host-state citizens. In host-states with established diaspora, spousal residence will be a useful policy mechanism for facilitating voluntary adaptive migration over time. That said, sponsorship criteria surrounding minimum sponsor income levels, or a specified minimum duration of the marriage, may limit the potential for this pathway to be leveraged.

Although family life throughout the Pacific typically involves extended family networks spanning closely-knit communities or villages, most immigration policies in the region have no specific provisions aimed at facilitating the migration of the wider family group. Australia and New Zealand have parent residence categories but they are closely controlled and current policy settings in both countries limit this as a viable pathway to residence for many Pacific families. The closure of the adult sibling category in New Zealand in 2012 further limits the possibility for the chain migration of family members as a means of facilitating the voluntary adaptive migration or relocation of communities over time. A further limiting feature of current policies is that a number of PICTs have caps on the total number of permanent residence visas that can be granted to persons who do not qualify under pathways arising from marriage to a citizen or other privileged categories of migrants.

Conclusions

In the Pacific region, immigration laws sit within and reflect a multiplicity of partially overlapping and evolving sub-regional clusters of states, giving rise to a highly-textured migration landscape. The variability, both between and within clusters, provides a multiplicity of policy nodes around which regional state interests could converge and translate into future action in addressing the potential for cross-border movement in the context of natural disasters and slow-onset processes linked with climate change.

Special account needs to be taken of the variable patterns of population change in the region, especially in Melanesia where the great majority of the region's population live but who, in relative terms, possess the narrowest range of opportunities for undertaking cross-border movement as a means of adapting to environmental stressors under current policy settings. The small diasporas of Papua New Guineans, Solomon Islanders and Ni-Vanuatu have significant secondary consequences for mobility in that there are very small proportions of people overseas with the familial links to provide either the necessary sponsorship and/or financial support to enable migration under family reunion categories, where they exist, or as visitors. Yet, it is these countries where the largest population growth is expected to occur in coming decades.

At a base-level, there exists a high degree of mobility between Pacific Island states under the extensive visa free or visa-on-arrival privileges that are mutually extended to citizens of Pacific countries. Avenues for leveraging this basic form of freedom of movement need further attention. The employer-led nature of the work permit regime in many countries is a potentially limiting feature of migration laws in the region in the context of voluntary adaptive migration or planned relocation, and regulations surrounding the employment of non-citizen labour will need to be factored into future discussions. A fundamental determinant of the responsiveness of immigration policy to the challenges of voluntary adaptive migration and planned relocation is the extent to which chain migration of members of the wider family group, such as parents and siblings (and their families), is allowed. Again, here, the responsiveness of current policy settings in the region is limited.

The importance of diaspora communities in facilitating the provision of durable solutions, both as regards voluntary adaptive migration and planned relocation, needs acknowledging. Not only do diaspora communities provide housing and support, but a large established diaspora that is sufficiently embedded in the host-state economy will also be better placed to leverage transitions to work visas for kin, or to facilitate their entry as holders of work visas. Policies aimed at promoting the chain migration of communities and enabling their full integration into the host-state economy will be crucial over the coming decades.

In the post-disaster setting, states should be encouraged to develop humanitarian policies which expressly allow for the temporary entry or, at the very least, the non-expulsion of non-nationals affected by natural disaster. However, current policy mechanisms are amenable to adjustment in ways which would allow people affected by natural disasters, including those linked with climate change, to make voluntary choices about moving from places where environmental change is severely compromising long-term residence. Existing immigration laws, regulations and policies should be revisited with reference to:

- Making allowance for the in-country change of immigration status and, in particular, to allow for the transition from visitor to worker status.
- Providing a pathway to residence based on a specified period of lawful presence and stay in the host countries.
- Reviewing requirements for sponsorship for residence in cases where the applicant is from a community at risk to adverse effects of natural disasters and slow-onset processes linked to climate change.
- Making allowance for the entry and stay of parents and other close family members of residents originating from at-risk communities.
- Increasing the flexibility of policies and capacity of quotas under existing bilateral special relationships which confer privileged rights of entry and stay (such as the Pacific Access Category in New Zealand).

> 1. INTRODUCTION

The latest Global Assessment Report on Disaster Risk Reduction, *From Shared Risk to Shared Value: The Business Case for Disaster Risk Reduction*, suggests that “SIDS [Small Island Developing States] are probably the group of countries where investments in disaster risk reduction and climate change adaptation are likely to reap the greatest benefits.” (UNISDR, 2013, 106). The report observes: “Most of the countries with a large proportion of their total produced capital at risk to earthquakes, cyclonic wind damage and tsunamis are SIDS.” UNISDR lists five Pacific countries in its top 15 at risk to disasters in the world: Fiji, Vanuatu, Tonga, Papua New Guinea, Solomon Islands (Pacific Island Reports, 11 October, 2012). Pacific SIDS regularly feature within the top 10 countries for expected annual and probable maximum losses from earthquakes (Solomon Islands, Vanuatu, Tonga, Papua New Guinea), cyclonic winds (Tonga, Samoa, Fiji), tsunami (Solomon Islands, New Caledonia, Papua New Guinea, Vanuatu, French Polynesia, Fiji, Palau) (UNISDR, 2013, 107-108) (Figure 1).

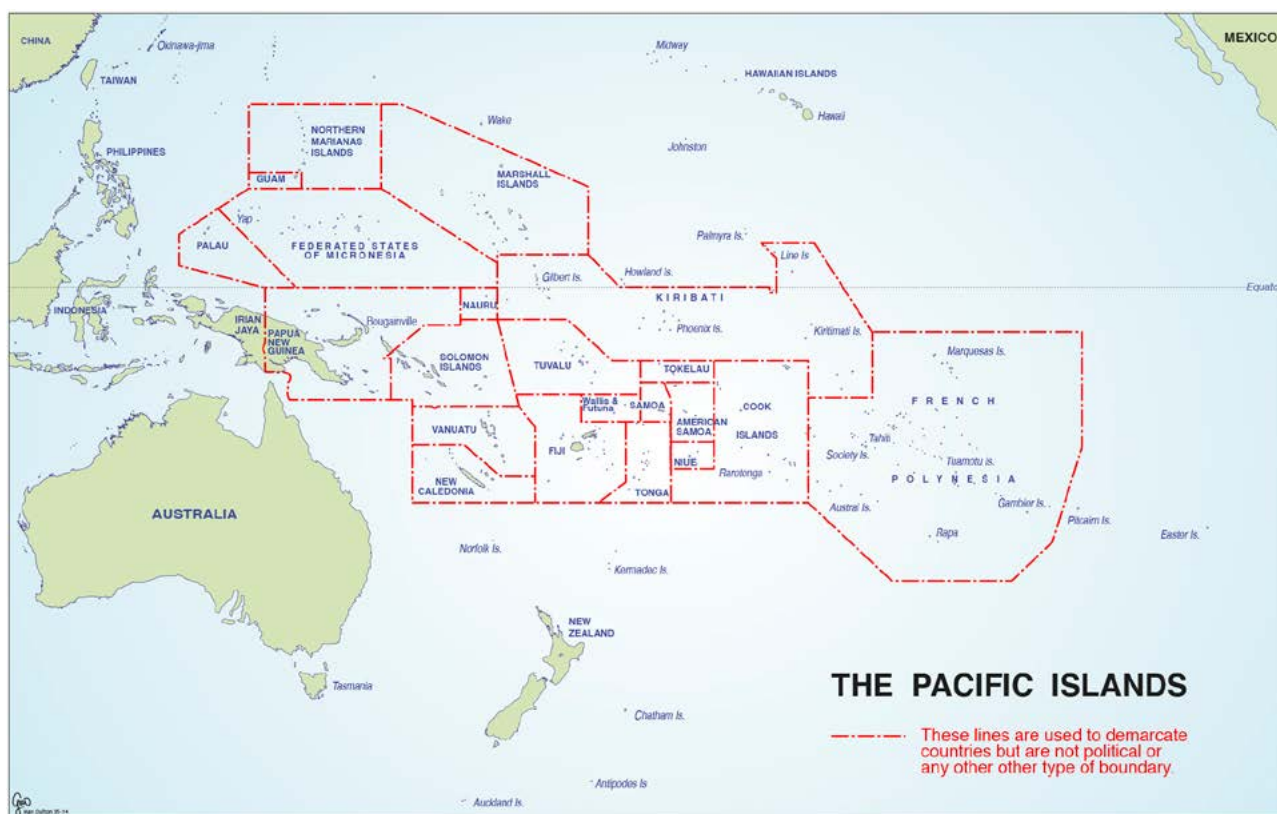


Figure 1: Island States and Territories in the Pacific

An estimated 318,000 people in Oceania have been displaced by sudden-onset disasters over the past five years and, in 2012, Samoa and Fiji were among the ten countries worldwide with the highest per capita levels of displacement (Petz, 2013). Yet, Pacific peoples have had to contend with and adapt to a multiplicity of disruptive and destructive geological and extreme weather events for centuries.¹ The thousands of inhabited coral atolls, volcanic and continental islands are surrounded by a volcanic 'ring of fire', and occupy a vast oceanic space in which tsunamis, tropical cyclones and associated storm surges, flooding and periodic droughts have featured in their lives since the islands began to be settled by humans more than 30,000 years ago. It is therefore unsurprising that the Pacific Islands and their inhabitants feature prominently in discussions at international meetings and in an extensive academic literature² about population movement within and between islands in response to natural disasters.

In many instances, particularly in the wake of tropical cyclones, temporary internal migration has occurred³. The current concern about the effect of anthropogenically-influenced climate change on the region has generated discussion about likely patterns of future migration, especially the extent to which this will necessitate increased cross-border migration of affected individuals, households, communities, and indeed, whole populations.

Contemporary cross-border migration is dominated by three major flows: migration from Pacific island countries and territories (PICTs) to countries on the Pacific Rim (especially New Zealand, Australia and the United States of America); trans-Tasman migration between New Zealand and Australia; and intra-regional migration between the PICTs. Discussion surrounding cross-border migration in the context of the impacts of climate change in the Pacific has tended focus on the first of these flows, and then on the issue of whether these migrants ought to be given some form of permanent status under immigration law. These are undoubtedly valid questions to pose, and the right of states under international law to control entry into their territory, as an integral component of sovereignty (Brownlie, 2008; Opekin et al., 2011), means it is always open to states to introduce new policies aimed at facilitating the migration of those affected by natural disasters⁴. This report broadens the focus by examining how the region's existing national migration laws and regulations may allow

for voluntary adaptive migration of a temporary nature and, over time, facilitate transitions to residence in another country. Potentially, remittances generated while on temporary work permits could be utilised to enhance community resilience and reduce risk for future displacement, while transitions to residence may facilitate the relocation of at-risk households and communities away from vulnerable locations.

As a manifestation of the nation-state, the modern border is as much a legal construct as a physical one, especially in a region of islands where most borders are lines on a map through spaces occupied by ocean. Through a review of available immigration and non-resident employment laws and regulations, this report charts the extent to which there is freedom of movement between the different island states as well as to countries on the Pacific Rim. We identify a multiplicity of sub-regional clusters of states in which privileged rights of entry, stay and labour market access are conferred. The current legal and regulatory frameworks are examined to assess their impact upon the ability of Pacific peoples to move not just to the Pacific Rim, but also between island countries on a temporary and permanent basis, as a means of adapting or responding to natural disasters.

This study is based on material that we have been able to locate in published literature and on open-source websites. There is no single comprehensive database of migration law, regulations and policies in the Pacific region. The website for the Pacific Legal Information Institute, a facility provided by the Faculty of Law at the University of the South Pacific, has the most comprehensive collection but it is far from complete. Similarly, the website of the Pacific Immigration Directors Conference, a forum established in 1996 for the official immigration agencies of the Pacific Region, also contains only a partial list of relevant legislation and regulations⁵.

For population data, we have made extensive use of information that can be obtained from the Secretariat of the Pacific Community's website (www.spc.int/sdd/). The time-series maintained by the United Nations Department of Economic and Social Development has also been consulted, along with the UN's (2013) compendium of Government views and policies concerning population and development for 195 countries. These sources contain useful contextual information but do not provide details of specific laws, regulations or policies.

¹ Recent, non-meteorological events, include the 2013 earthquake and tsunami in the Santa Cruz Islands in the Solomon Islands, the 2010 volcanic eruption of Mt Garete in Vanuatu, and the 2009 tsunami in Samoa.

² See, for example, the bibliographies contained within Barnett and Campbell (2010) and Campbell and Bedford (2013).

³ See, for example, Campbell (1984).

⁴ There are many examples of this internationally. In the Pacific region, the government of Fiji has stated on a number of occasions that it would consider the needs of its neighbours, especially Kiribati and Tuvalu, if their islands became progressively uninhabitable because of slow-onset environmental change (Bedford and Bedford, 2010, 90). The recent purchase of land in Fiji by the Kiribati government may be a precursor to such a step being taken at some point in the future.

⁵ www.pidcsec.org/index/ (accessed, 11 October 2013).



2. MIGRATION VERSUS DISPLACEMENT: DEFINITIONS AND CONCERNS

It is now well acknowledged that population movement exists along a spectrum ranging from ‘voluntary’ at one end to ‘forced’ at the other with a substantial zone of transition in the middle. It is simply not possible to draw a clean line between voluntary and forced movement in the context of both sudden-onset hazards as well as gradual, slow-onset impacts of climate change. Migration which appears ‘voluntary’ on the surface may have ‘forced’ or involuntary components to it. Nevertheless, for the purposes of this report, we distinguish between voluntary adaptive migration and forced displacement. We take the former to occur when cross-border movement is undertaken primarily as an expression of personal choice between available options as a means of adapting to or avoiding recurring natural disasters, or adapting to existing and anticipated changes in the physical environment (Kälin, 2013). Forced displacement occurs when reductions in food and water availability or quality, infrastructure and habitat loss, and increased exposure to ill-health, injury and even death compel people to leave established homes and communities in situations where return is not possible. Forced displacement can arise from both sudden-onset events and slow-onset processes, without here implying a direct or mono-causality.

⁶ It was increasing population pressure on small atolls and reef islands exposed to frequent drought, for example, that led the colonial government in what is today Kiribati and Tuvalu to relocate I-Kiribati initially on uninhabited islands in the Phoenix Islands (within the colony) and later in the Solomon Islands (Maude, 1952; Knudsen, 1977).

We conceptualise voluntary migration to be a means of preventing or avoiding displacement or, at the very least, allowing at-risk communities to remain living in their homes on their ancestral islands for as long as possible. Given the anticipated increases in the regional population, which we detail below, it can reasonably be expected that disaster-induced displacement in the region will increase although we cannot say by how much. Improvement in early warning systems means a greater proportion of affected communities may survive the disasters even if their homes and assets are destroyed. Furthermore, there is little that people living on low-lying islands can do to change or reduce their exposure to storm surges, tsunamis, or sea-level-rise. Population increases on these islands can lead to increased disaster risks including risk of displacement⁶.

2.1 SOME CONCERNS ADDRESSED

Concern has been raised that discussion about migration in the context of climate change can be both counter-productive, focusing attention away from mitigation and adaptation, and premature in that the impacts of climate change upon the Pacific islands are not yet fully understood (Montreau and Barnett 2009; Barnett and Webber, 2009; Barnett and O'Neill, 2012). However, the lived experiences of Pacific islanders and scientific data incre-

asingly highlight the reality of a more climate-affected region. Failing to plan for migration may lock Pacific communities into prolonged disadvantage, economic loss, or physical suffering as climate change effects accumulate through time (Campbell and Bedford, 2013).

A further concern is that, at certain levels, migration may also decrease community viability by hollowing out the productive age groups in the population, or otherwise reducing overall population levels to below a minimum required to sustain community life (Barnett, 2012). While a valid concern, we conceptualise migration as encompassing more than unidirectional, permanent flows out of the country. Where there are existing patterns of extensive circular mobility, rooted in a constitutional relationship or some other sufficiently privileged relationship (e.g. the Compact of Free Association states vis-à-vis the United States and, perhaps, under schemes such as New Zealand's Recognised Seasonal Employer (RSE) work policy), it may be more instructive to speak of 'effective populations' (Bedford, 2008, 178-179)⁷. From this perspective, voluntary adaptive migration means any form of cross-border movement occurring at the individual or household level, whether temporary or permanent, seasonal or circular, undertaken for the purposes of adapting to, or helping others to adapt to, the adverse effects of natural disasters so as to reduce the risk of being displaced in the future.

⁷ The concept of "effective population" has been suggested as a useful concept for capturing the essential fluidity of Pacific populations that comprise both island-based and large overseas-based diaspora, such as Cook Islanders, Niueans, Tokelauans, Tongans and Samoans. The effective population of a place is the population at any one time that draws on the place's basic services and facilities (water, sewerage, commercial enterprises, accommodation, health services, employment and so on) (Bedford et al., 2006). Where there are high levels of circulation between places, the 'effective' population includes a share of those who move in and out of a place on a temporary basis, as well as those who usually live there. In the Polynesian context, it is a population that captures a part of the diaspora of the group under consideration and includes these people in the island-based population because there is always some movement through the island of kin as visitors and tourists, placing demands on island-based services and facilities and being an essential part of the community through the year (Bedford, 2008, 279).



3. MOBILITY IN THE PACIFIC REGION: AN OVERVIEW

In order to better understand how the relevant legislative and regulatory frameworks affect contemporary patterns of and frame future opportunities for migration in the context of natural disasters, it is important to place population movement and its regulation in their historical setting.

3.1 HISTORICAL PATTERNS

Before the region was colonised by European powers, and the national borders that define the contemporary states were imposed as imaginary lines on the ocean, a vibrant and interconnected network of communities co-existed and flourished in the Pacific. Tongan anthropologist, Epli Hau'ofa (1993; 8), eloquently captured the essence of highly mobile pre-colonial communities in many parts of what he termed a 'sea of islands' when he observed:

The world of our ancestors was a large sea full of places to explore, to make homes in, to breed generations of seafarers like themselves... Theirs was a large world in which peoples and cultures moved and mingled unhindered by boundaries of the kind erected much later by imperial powers. From one island to another they sailed to trade and to marry, thereby expanding social networks for greater flow of wealth. They travelled to visit relatives in a wide variety of natural and cultural surroundings, to quench their thirst for adventure, and even to flight and dominate.

By the late 19th century, all islands in region had come under the influence of European powers, principally

England and France, but also to a lesser extent Germany, Spain and the United States of America. Despite the emergence of colonial administrations in most island groups, movement between islands was largely unregulated until the early 20th century. In Fiji, the Gilbert and Ellice Island Colony and the Solomon Islands Protectorate, which were under the Western Pacific High Commission's mandate, Chinese traders, Indian indentured labour (Fiji), and other Pacific Islanders (usually via marriage) made their way into islands and their local communities without great difficulty (Scarr, 1967; Brookfield, 1972; Howe, 1984). In the late 19th and early 20th centuries, Solomon Islanders were taken to other colonies in Samoa (German) and Fiji (British) to work on plantations; I-Kiribati and Tuvaluans were working on phosphate islands in the central Pacific and in French Polynesia; Ni-Vanuatu, Solomon Islanders and Papua New Guineans were recruited in large numbers to work in Australia's sugar industry in Queensland (Moore, Leckie and Munro, 1990; Munro, 1990). Before the Second World War, Indo-Chinese were recruited as indentured labour to work in the French territories, especially in New Caledonia's nickel mines. Their descendants, like those of the indentured Indian labour in Fiji, have become prominent components of the contemporary populations of these countries.⁸

⁸ There is an extensive literature on indentured labour in the Pacific. Useful short reviews can be found in Moore et al. (1990). See, for example, Leckie (1990) on workers in colonial Fiji from 1870-1970, Winslow (1990) on workers in colonial New Caledonia to 1945, Wilson et al. (1990) on Asian workers in the Pacific, Adams (1990) and Connell (1990) on Pacific workers in New Caledonia and Vanuatu, Moore (1990) on Pacific Islanders in 19th century Queensland and Munro (1990) for a statistical summary of labour in the Pacific between the 1860s and the 1940s.

Most of the international flows of labour declined during the first half of the 20th century as colonial administrations sought to make their territories economically self-sufficient through extraction of minerals and production of agricultural produce for export. Local labour was required to support both commercial as well as village-based production of cash crops to generate revenue for the colonial state. As Hau'ofa (1993, 10) observed:

Nineteenth century imperialism erected boundaries that led to the contraction of Oceania, transforming the once boundless world into the Pacific Island states and territories that we know today. People were confined to their tiny spaces, isolated from each other. No longer could they travel freely to do what they had done for centuries. They were cut off from their relatives abroad, from their far-flung sources of wealth and cultural enrichment.

The process of containment was exacerbated in some island groups (e.g. Fiji) by restrictions placed on long-distance travel in ocean-going canoes (Sahlins, 1962; Bayliss-Smith et al., 1988). This ability to move between communities and islands was essential for responses and adjustments to natural hazards and an important means of fostering resilience to such events. As Campbell (1984, 63-64) notes, with reference to Fiji:

Rarely was a community under stress from storms or drought (or indeed at any time) totally dependent on its own resources. Inter-village and inter-island trade flourished in pre-European Fiji and in some areas well into the twentieth century. Numerous social bonds facilitated the exchange of goods in widespread but well-integrated economic systems... Such inter-island trade was most notably conducted in the form of ceremonial exchange or solevu... Less formal exchanges, also based on inter-island kinship [which could extend beyond the colonial boundaries to Tonga in places like eastern Fiji] were probably even more important in the alleviation of post-disaster food scarcity than solevu, which took several months to organize.

Another development during the early years of colonial rule was the progressive movement of people from inland locations to settlements along the coast, especially in the larger continental islands of the western Pacific (Melanesia) and the volcanic islands fringed by coral reefs in the eastern (Polynesia) and northern (Micronesia) Pacific (Connell, 1987; Bayliss-Smith et al., 1988; Bedford, 2004) (Figure. 2). This internal migration of people who had access to land in coastal locations was a response to a mix of push and pull factors asso-

ciated with the development of trade and commerce, the establishment of mission stations and the desire by colonial administrations to have ready access to local communities. An unanticipated consequence of this coastward movement of people was an increase in their vulnerability to certain hazards, especially storm surges associated with cyclones and flooding during major storms.

A final dimension of population movement during the colonial era that needs acknowledgement was the gradual development of towns, mainly in coastal locations, especially after the Second World War⁹. Levels of urbanisation in the Pacific vary considerably, as can be seen in Table 1, and in parts of the region, especially the countries comprising western Melanesia (Papua New Guinea, Solomon Islands and Vanuatu), the great majority of people (75-80 percent) still live in rural communities (Connell, 2011). These are also countries with some of the largest populations in the region. The dispersed nature of their rural populations is both an advantage and a disadvantage in the context of exposure to the risk of harm and damage caused by natural disasters. It is an advantage in that large populations are not concentrated in particular coastal locations that may be adversely affected by floods or storm surges. However, widely dispersed, often isolated, small populations are not easily assisted in times of natural disaster as has been witnessed recently in the Solomon Islands following an earthquake and associated tsunami in the Santa Cruz islands on the southern periphery of the country's island chain (Marau, 2013).

3.2 PACIFIC POPULATIONS IN 2013: A SUMMARY

Several indices of Pacific places and peoples that are relevant for understanding an Oceanic region of diverse island groups are captured in Table 1: the land areas of the different countries that comprise Melanesia, Micronesia and Polynesia; their estimated populations in June 2013 which have been obtained from the Secretariat of the Pacific Community's latest "Population Data Sheet 2013" for all PICTs (<http://www.spc.int/sdd>), and estimates of their shares of immigrants and emigrants which have been obtained from the 2013 edition of the UN Population Division's "Trends in International Migration" database which was prepared for the UN High-Level Dialogue on Migration and Development that was held in New York 2-4 October 2013¹⁰. The percentages for immigrants refer to the share of the estimated population that was born overseas (i.e. the life-time

⁹ Connell and Lea (1993, 1995, 1998, 2002) have produced useful reviews of urbanization in the three major sub-regions of the Pacific.

¹⁰ These data can be accessed at <http://esa.un.org/unmigration/migrantstocks2013.htm?msdo>. The figures should be treated with caution just as the UN Population Division suggests – they are estimates for 2013 based on data compiled from a range of sources. Some of the estimates of people resident in Pacific countries who were born overseas seem on the high side, by comparison with recent census data.

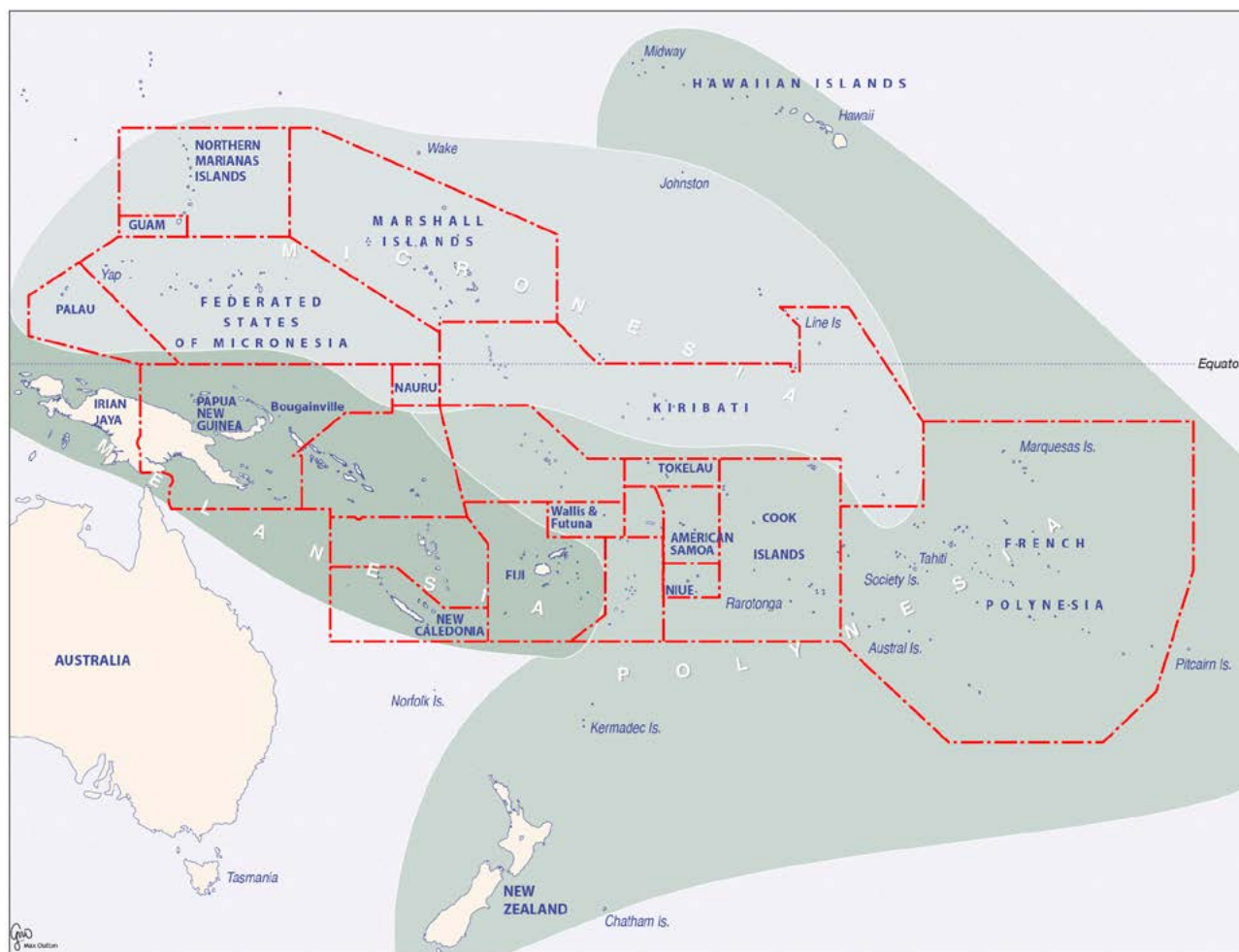


Figure 2: Major Sub-regions in the Pacific

immigrant population) while in the case of emigrants the estimated total numbers of people born in each of the PICTs, who were living overseas in 2013, are expressed as percentages of the estimated total populations in Pacific countries (life-time emigrant population). These are narrow definitions of immigrants and emigrants, by comparison with the flows captured by the concept of “effective populations” discussed earlier, but they are the standard stocks of international migrants referred to in the reports of the United Nations.

It is very clear from Table 1 that all of the “big” countries in the Pacific are in Melanesia (98 percent of the total land area and 89 percent of the total population of all PICTs in 2013) while the small ones are concentrated in Micronesia (7 states and territories with 0.6 percent of the region’s total land area, and 4.7 percent of its population) and Polynesia (10 states and territories (including Pitcairn Island not shown in Table 1) with 1.5 percent of the land area and 5.9 percent of the population). It is also obvious from Table 1 that three of the largest countries (and populations) have very low levels of urbanisation

(Papua New Guinea, Solomon Islands and Vanuatu) and very low percentages of immigrants and emigrants. These three countries tend to stand out on a number of socio-demographic indices in the Pacific, especially Papua New Guinea which alone has 84 percent of the region’s land area and 71 percent of its estimated population of just over 11 million in 2013.

It is also very obvious from Table 1 that there are wide disparities across the region in the extent to which PICTs have significant immigrant populations (New Caledonia in Melanesia; Guam, Northern Mariana Islands, Palau and Nauru in Micronesia; American Samoa, Niue, Tokelau, Cook Islands and Wallis and Futuna in Polynesia) or significant diaspora (Fiji in Melanesia; Palau, Federated States of Micronesia in Micronesia, and Cook Islands, Niue, Samoa, Tokelau, Tonga, Tuvalu and Wallis and Futuna in Polynesia)¹¹. These differences are very important for migration as an adaption strategy in the context of natural disaster and climate-related environmental change, as we discuss further below.

¹¹ With regard to the percentages of immigrants in the resident populations, it needs to be kept in mind that these include people from these countries who happened to be born overseas, either because of the location of suitable hospitals (e.g. some I-Kiribati and Tuvaluan mothers go to Fiji’s main hospital for child birth, especially if there are complications with the birth), or because there are large resident populations (diaspora) of these islanders in countries like New Zealand, Australia or the United States of America. Thus, for example, the overseas-born immigrant population on Niue includes NZ-born Niueans, as does the Cook Island and Tokelau immigrant overseas-born. The large overseas-born population in American Samoa includes many people born in neighbouring Samoa.

Sub-region/country	Land area	Population	Percentages of population		
	(km ²)	(SPC, 2013)	Urban	Immigrant	Emigrant
Melanesia	540,030	9,848,100	20	1.2	2.5
Fiji	18,330	859,200	50	2.7	22.3
New Caledonia	18,580	259,000	67	23.2	2.5
Papua New Guinea	462,840	7,854,400	13	0.3	0.5
Solomon Islands	28,000	610,800	20	0.5	0.7
Vanuatu	12,280	264,700	24	1.2	3.3
Micronesia	3,150	515,300	67	23.3	13.9
Federated States (FSM)	700	102,800	22	2.5	28.5
Guam	540	174,900	94	46.2	3.7
Kiribati	810	103,100	54	2.8	4.7
Marshall Islands	180	53,100	74	3.2	18.6
Nauru	20	10,100	100	20.8	14.9
Ntherrn Mariana Islands	460	53,900	90	44.9	18.6
Palau	440	17,400	77	32.2	55.7
Polynesia	8,090	649,500	62	14.1	35.9
American Samoa	200	56,500	50	74.0	6.9
Cook Islands	240	15,200	74	21.1	167.8
French Polynesia	3,520	261,300	51	13.3	1.7
Niue	260	1,500	0	33.3	473.3
Samoa	2,940	187,400	20	3.0	68.9
Tokelau	15	1,200	0	25.0	233.3
Tonga	750	103,300	23	5.2	58.4
Tuvalu	25	11,000	47	1.4	36.4
Wallis and Futuna	140	12,100	0	23.1	71.1
Pacific Islands	551,270	11,012,900	23	3.0	5.0

Table 1: Populations and Percentages Urban, Immigrant and Emigrant, 2013

Note: Immigrants are defined as people born overseas living in Pacific countries.
Emigrants are defined as people born in Pacific countries living overseas.
The population's estimates were prepared by the Secretariat of the Pacific Community.

Data sources:

- 1) Population and percentages urban, SPC Population Data Sheet, 2013 <http://www.spc.int/sdd/>
- 2) Immigrant and emigrant estimates, UN Population Division, Trends in International Migrant Stock, 2013, <http://esa.un.org/unmigration/migrantstocks2013.htm?msdo>

3.3 CONTEMPORARY MOBILITY PATTERNS

Notwithstanding a long history of population movement within and between islands and island groups in the region, this mobility became unevenly distributed during the second half of the 20th century. The decolonisation of the Pacific from the early 1960s produced a wide variety of outcomes for indigenous Pacific peoples as far as their opportunities for movement to countries on the Pacific Rim were concerned. In the early 21st century there are considerable variations in these opportunities for international migration in the three major sub-regions of Melanesia, Micronesia and Polynesia.

As we show below with reference to particular clusters of countries, islands north of the equator (the former Micronesian Trust Territory of the Pacific Islands (TTPI)) have strong but variable links with the United States ranging from citizenship (Guam and the Commonwealth of the Northern Mariana Islands) to rights of entry with possibilities of transitioning to work and residence (most of the other countries in the former TTPI) (Figure 1). South of the equator, the eastern and central Pacific countries from Nauru and Kiribati in Micronesia to Fiji in Melanesia, as well as most of the Polynesian islands to the east, have links with New Zealand, Australia and the United States which again range from citizenship or nationality entitlements (Cook Islanders, Niueans, Tokelauans in New Zealand; American Samoans in the United States) to lengthy histories of engagement fostered by churches, education and a range of temporary work schemes in the past (Crocombe, 2001).

In the western Pacific, especially Papua New Guinea, Solomon Islands and Vanuatu, there are strong commercial links between the islands and Australia, but flows of labour have been small, especially since the independence of these countries in 1970s (PNG and Solomons) and 1980 (Vanuatu). This is in sharp contrast to the situation a century earlier when these three island groups provided the main labour force for the development of Australia's sugar industry in Queensland. Between 1862 and 1904, over 62,000 Pacific Islanders were recruited for work in Queensland (Parnaby, 1964; Price and Baker, 1976; Munro 1990), a labour trade that was known as 'blackbirding' and which in its early years involved forced migration (Moore, 1990). Over 90 percent of Queensland's 19th century labour came from western Melanesia with the New Hebrides (Vanuatu) providing 63 percent (just under 40,000) of the total (Munro, 1990). The termination of Australia's Pacific labour trade following the formation of the Commonwealth of Australia in 1901 saw the repatriation of many thousands of Melanesians back to their islands and the end of any special migration relationships between Australia and the Pacific until towards the end of the first decade in the 21st century when a Pacific Seasonal Work

Pilot Scheme was introduced (see section on Australia's emergent cluster below).

Notwithstanding some idiosyncratic dimensions to the immigrant populations shown in Table 1 (see footnote 10), what is striking is the very small numbers of immigrants in relation to their resident populations in the three countries of western Melanesia: Papua New Guinea – 0.3%; Solomon Islands – 0.5%; and Vanuatu – 1.2%. At the other end of the regional spectrum, and reflecting, in part, the influx of immigrants from Compact of Free Association States, the immigrant populations of Guam and the Commonwealth of the Northern Mariana Islands respectively comprise 49% and 45% of the total populations of these two States. In addition to having small shares of immigrants in relation to their total populations, the three countries in western Melanesia also have very small diaspora by comparison with their resident populations and with the much smaller populations of countries in the eastern and northern Pacific (Table 1). Inhabitants of Papua New Guinea, Solomon Islands and Vanuatu thus have more limited opportunities for international migration when compared to inhabitants of other countries in the Pacific.

The highly variable contribution that international migration is currently making to population change in PICTs can be seen in the estimates of the two major components of growth in the year ended June 2013 – natural increase and net migration (Table 2).

Whereas natural increase (the balance of births over deaths) added just over 200,000 people to the population of Melanesia in 2013, net migration (the balance of in-migration over out-migration) was small – a net loss of 4,340 for the region as a whole and most of this from Fiji. International migration contributed very little to overall population change in this sub-region in 2013. In Polynesia, on the other hand, the net loss of people through international migration (10,400) was almost as large as the contribution made by natural increase (11,170) (Table 2). In most of the countries listed in this sub-region the net out-migration rate per 1000 population was over 10 compared with rates of 1.2 for Micronesia and 0.6 for Melanesia. Polynesian populations are much more heavily impacted by migration than most of those in Micronesia and all of those in Melanesia (Table 2).

Another perspective on this variability in contemporary migration rates is reflected in Figure 3 which shows comparative out-migration rates for the independent states in the region.

The countries in western Melanesia have very low rates of emigration by comparison with the independent countries in the eastern and northern Pacific, as well as their Melanesian neighbour, Fiji. Substantial labour migration from Fiji to New Zealand and Australia has taken place from the 1950s, and there were formal work permit schemes with New Zealand from the mid-1970s until 1987 (Bedford, 2008; Bedford and Hugo, 2012). There has also been extensive migration of teachers,

Sub-region/country	Natural	Net	Population	Net migration
	increase	migration	growth	rate/000 pop
Melanesia	201,390	-4,340	197,050	-0.4
Fiji	9,120	-5,270	3,850	-6.1
New Caledonia	2,400	900	3,300	3.5
Papua New Guinea	168,210	50	168,260	0.0
Solomon Islands	15,220	-10	15,210	0.0
Vanuatu	6,440	-10	6,430	0.0
Micronesia	8,770	-630	8,140	-1.2
Federated States (FSM)	1,910	-1,900	10	-18.5
Guam	2,160	2,400	4,560	13.7
Kiribati	2,330	-100	2,230	-1.0
Marshall Islands	1,370	-930	440	-17.5
Nauru	280	-100	180	-9.9
Ntherrn Mariana Islands	630	10	640	0.2
Palau	90	-10	80	-0.6
Polynesia	11,170	-10,400	770	-16.0
American Samoa	1,190	-800	390	-14.2
Cook Islands	160	-100	60	-6.6
French Polynesia	2,950	-2,810	140	-10.8
Niue	10	-40	-30	-26.7
Samoa	4,530	-4,500	30	-24.0
Tokelau	10	-20	-10	-16.7
Tonga	2,090	-2,000	90	-19.4
Tuvalu	170	-30	140	-2.7
Wallis and Futuna	60	-100	-40	-8.3
Pacific Islands	221,330	-15,370	205,960	-1.4

Table 2: Components of Population Growth, July 2012-June 2013

Note: Some minor amendments have been made to the net migration estimates for countries given zero net migration in the SPC's Population Data Sheet, 2013.

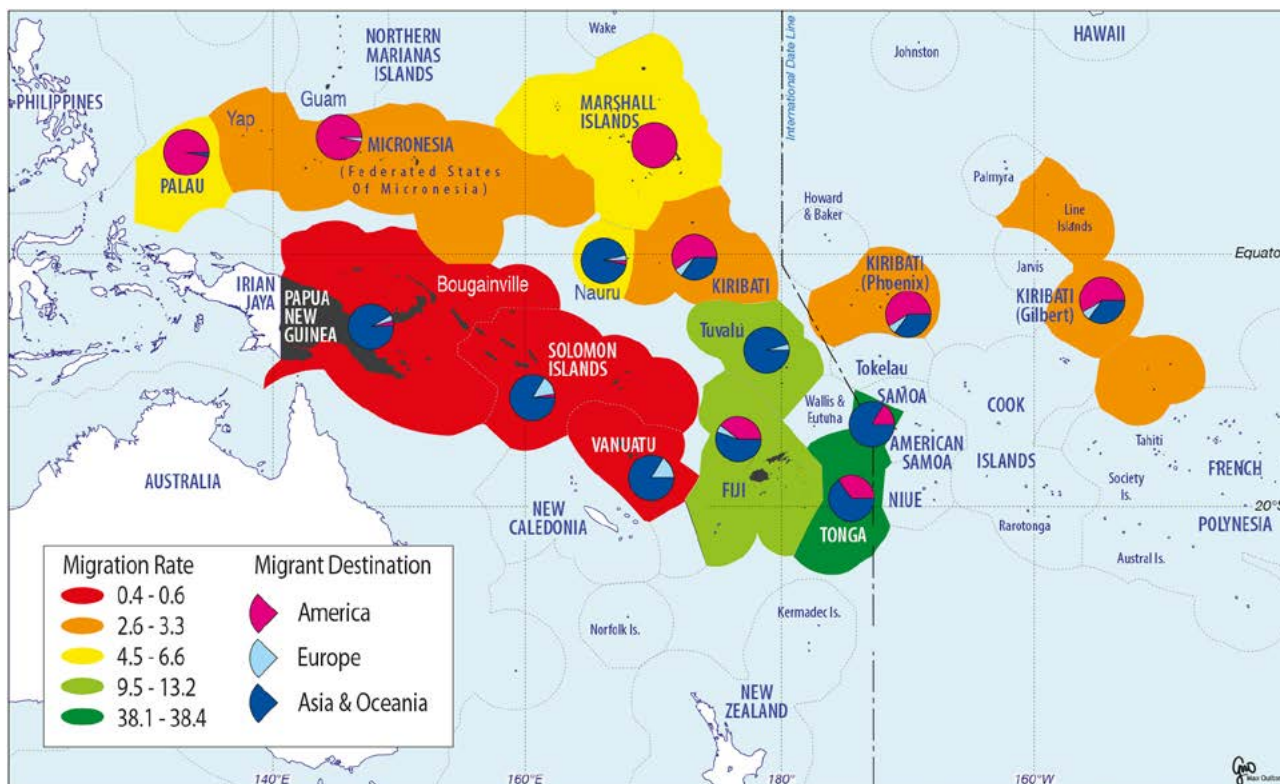


Figure 3: Pacific Migration Rates (per 1000 population) around 2006 and Major Destinations for Migrants (Gibson and Nero, 2008)

nurses, security personnel, entrepreneurs and other skilled Fijians and Fiji Indians to other Pacific countries as well as to countries on the Pacific Rim (Voigt-Graf et al, 2007).

The small diaspora of Papua New Guineans, Solomon Islanders and Ni-Vanuatu has significant secondary consequences for mobility in that there are very small proportions of people overseas with the familial links to provide either the necessary sponsorship and/or financial support to enable migration under family reunion categories, where they exist, or as visitors. Yet, it is these countries where, according to recent estimates from the Secretariat of the Pacific Community, the largest population growth is expected to occur in coming decades (Table 3). According to these projections, Melanesia's population could double again by 2050 (from 9,848,100 in 2013, to 18,726,600 in 2050). By comparison, the population of Micronesia is projected to increase by around 38 percent over the same period (from 515,300 to 711,300) while Polynesia's population may only increase by 20 percent (from 649,500 in 2010 to 782,700 in 2050) (Table 3). Ninety-six percent of the projected population increase of 9.2 million in the Pacific between 2013 and 2050 is likely to be found in Melanesia and it is only in the three countries of western Melanesia and in Kiribati in Micronesia that growth in excess of 40 percent is forecast for each of the two periods shown in Table 3: 2013-2030 and 2030-2050.

With limited opportunities for international migration for Papua New Guineans, Solomon Islanders and Ni-Vanuatu the Pacific region is faced with on-going growth in the share of its population which has fewer options than some other Pacific populations in responding to environmental stressors by undertaking some form of voluntary adaptive migration overseas. In contrast to their Melanesian counterparts, Micronesian and Polynesian populations have greater opportunity for international migration. As will be seen below, most countries have constitutional arrangements or specific agreements with countries on the Pacific Rim or in Europe that allow for international migration of a short-term, long-term or permanent nature.

Finally, the increasing role of China in the context of evolving Pacific migration futures must be acknowledged. While there have been small Chinese diaspora in several Pacific countries since the 19th century (Willmott, 1995), the 21st century has seen a significant increase in the regional economic and social presence of Chinese citizens, and the Chinese state (Crocombe, 2007). There are signs that, in some countries, this is leading to social tensions at a local level (Banga, 2013) as well as causing tension at a geo-political level as China and the United States vie for regional influence in the 'Pacific century'¹². While increasing geo-political competition could significantly impact on regional migration patterns by opening up new destinations, it is not yet clear if and how this will manifest (International Migration Institute, 2013: 16).

¹² See here op-ed by Hilary Clinton 'America's Pacific Century' Foreign Policy (October 2011)

Sub-region/country	Estimated population			Percentage change	
	2013	2030	2050	2013–30	2030–50
Melanesia	9,848,100	13,629,900	18,726,600	38.4	37.4
Fiji	859,200	936,200	1,026,700	9.0	9.7
New Caledonia	259,000	310,900	343,200	20.0	10.4
Papua New Guinea	7,854,400	11,100,000	15,520,000	41.3	39.8
Solomon Islands	610,800	912,400	1,353,700	49.4	48.4
Vanuatu	264,700	370,400	483,000	39.9	30.4
Micronesia	515,300	618,000	711,300	19.9	15.1
Federated States (FSM)	102,800	97,900	97,300	-4.8	-0.6
Guam	174,900	214,800	233,500	22.8	8.7
Kiribati	103,100	149,800	208,000	45.3	38.9
Marshall Islands	53,100	58,700	70,700	10.5	20.4
Nauru	10,100	13,700	17,100	35.6	24.8
Ntherrn Mariana Islands	53,900	64,500	66,700	19.7	3.4
Palau	17,400	18,600	18,000	6.9	-3.2
Polynesia	649,500	670,900	782,700	3.3	16.7
American Samoa	56,500	62,800	82,200	11.2	30.9
Cook Islands	15,200	16,000	16,000	5.3	0.0
French Polynesia	261,300	292,800	316,900	12.1	8.2
Niue	1,500	1,300	1,300	-13.3	0.0
Samoa	187,400	191,100	238,200	2.0	24.6
Tokelau	1,200	1,000	900	-16.7	-10.0
Tonga	103,300	105,900	127,200	2.5	20.1
Tuvalu	11,000	14,400	19,700	30.9	36.8
Wallis and Futuna	12,100	12,000	12,100	-0.8	0.8
Pacific Islands	11,012,900	14,918,800	20,220,600	35.5	35.5

Table 3: Population Change, 2013–2050

Data source: SPC Population Data Sheet, 2013, <http://www.spc.int/sdd/>

3.4 REGULATION OF MIGRATION IN THE PACIFIC: A BRIEF OVERVIEW

While movement between places in the pre-colonial Pacific was not constrained by boundaries of the kind that accompanied the formation of colonies and later independent nation states, entry into territory occupied by another group was subject to negotiation and access was not always granted. If approval to enter was granted, usage of host group territory was restricted. But the rules and practices regarding support for people in neighbouring islands or other parts of the region that had been affected by natural disaster were very different from the situation which exists today. In pre-colonial times, social affairs, including who had access to group territory, were regulated by traditional custom and practice, not written laws. Within these governance structures, arrangements for assistance and co-operation between communities in times of emergency developed (Campbell, 1984, 2006; Corrin and Paterson, 2011).

Beginning in the mid-19th century, and with the assistance of European missionaries and businessmen who had increasingly begun to settle in the region, a number of imperial regimes began to emerge (not all colonial) and with these came the beginning of written agreements and laws (Corrin and Paterson, 2011; Craig et al., 2014)¹³. Also, as early as 1872, the British Crown was enacting legislation outlawing “criminal outrages by British subjects upon natives of islands in the Pacific Ocean”, essentially to deal with ‘blackbirding’ – the kidnapping of island labour for work initially in mines in South America (Maude, 1981) and later for work on plantations in Australia (Corris, 1973).

During the first half of the 20th century, the movement of Pacific indigenous peoples into the small towns that evolved to serve mainly the trading companies and the colonial administrations was restricted by a range of Native Regulations designed to keep local people in their villages, working their lands to cover their subsistence needs as well as to generate a surplus for payment of head taxes in cash or kind. These restrictions on movement to urban areas applied throughout Melanesia until the Second World War (Brookfield, 1972). There were also restrictions on long-distance sea travel in sailing canoes, partly because of the perceived risk, by colonial administrators, of groups being lost at sea (Bayliss-Smith et al., 1988).

The emergence of more centralised forms of whole-of-island government tended not, however, to impact upon long-established practices for the provision of mutual assistance and cooperation during emergencies including in the wake of natural disasters. Bayliss-Smith et al (1988, 141) observed in relation to the eastern islands of Fiji:

[A]lthough there was potential for hurricane damage to gardens and houses in pre-colonial Kabara, food stress was not necessarily great and losses were shared. Intra- and inter-community co-operation were clearly key factors in the rehabilitation of areas affected by extreme physical events. Complex chains of dependency relationships linked communities and islands throughout pre-colonial Fiji; relationships which could be exploited in different ways depending on circumstances.

Indeed, in the context of community relocation as a means of adapting to natural disasters, the establishment of colonial administrations in the region had an enabling rather than restricting effect. In 1907, as a result of the devastation of Woleai by a typhoon, approximately 300 persons were relocated from Woleai (in the modern Federated States of Micronesia) to Saipan (now in the Commonwealth of the Northern Mariana Islands) where they founded a new settlement with the help of the German colonial administration. In the same year, approximately 400 people were also brought from the Mortlock atolls to Saipan (Spennemann, 2007). Numerous examples of community relocation to address environmental change linked with natural (e.g. drought) as well as human (e.g. mining) impacts can be found in the recent history of the Pacific¹⁴. Most of these relocations involved internal displacement of communities within their countries, although where colonial powers administered several different territories, international movements also occurred.

The Western Pacific High Commission covered the Protectorates established in the Solomon Islands and the Gilbert and Ellice Islands in the 1890s, Fiji (its headquarters for many years) and, with varying degrees of authority, Tonga, Pitcairn and the Tokelau and Cook Islands (until they came under New Zealand control). It was largely because of the common jurisdiction under the Western Pacific High Commission that I-Kiribati could be resettled relatively easily in Fiji (Rabi) to enable the further phosphate mining of their home island of Banaba, and in the Solomon Islands (Gizo and Wagina) following persistent drought in the Phoenix Islands¹⁵.

¹³ Written laws were introduced in Tonga in 1850 and 1860, followed by a written constitution in 1865. Written constitutions along with written laws were issued in Fiji in 1867, 1871 and 1873. Written laws were issued in Niue in 1876 and in the 1880s in Samoa.

¹⁴ Lieber (1977), Campbell (1984, 2006, 2010) and Barnett and Campbell (2010) all contain reviews of community relocation as one response to natural (and human-induced) disasters. See also, Tabucanon (2012) and McAdam ‘Caught Between Homelands’ *Inside Story* (15 March 2013 available at www.inside.org.au, accessed 6 December 2013).

¹⁵ See here Knudsen (1977).

This colonial administrative arrangement also allowed the Vaitupuans in Tuvalu to purchase the island of Kioa in Fiji in the late 1940s as a hedge against future population pressure on their home island, although in this case, regulation of the migration process did not always proceed smoothly¹⁶. Once these countries became independent, it was not nearly so easy for people to be relocated across international borders (Campbell, 2010).

In the past ten years, a number of Pacific countries have up-dated their immigration laws, including Fiji (2003), Samoa (2004), New Zealand (2009), Vanuatu (2010), Niue (2011) and the Solomon Islands (2012). The Cook Islands is presently reviewing its immigration legislation, which dates from the early 1970s. At the 2012 Conference of Pacific Immigration Directors, the Cook Islands Minister of Foreign Affairs and Immigration remarked:

The Cook Islands immigration law that is currently in operation today is the Entry, Residence and Departures Act 1971-72 that was designed for the circumstances of the early 1970s when the Cook Islands' only access to the world (apart from Radio Cook Islands) was via the 1960 New Zealand government built passenger and cargo vessel, Moana Roa, visiting tourist boats, yachts and the monthly Solent flying boats operated by Tasman Empire Airways Limited (TEAL) the forerunner of Air New Zealand. The Rarotonga International Airport was still being built...

One thing is clear however and that is the 1971-72 immigration legislation is clearly inadequate to meet the challenges of the 21st century.

Despite this general trend towards reviewing and updating national immigration law, other Pacific countries continue to apply legislation and/or regulations framed some decades ago such as Kiribati (1991) and Papua New Guinea (1978/9) (see Appendix 1 which lists the legislation consulted during the preparation of this report).

¹⁶ The Vaitupuans were granted entry by the Fiji's colonial government under an open admissions policy that ended in 1959. Some 40 of the settlers had returned to Vaitupu by the late 1970s. It was found that there were no regulations in existence covering the rights of re-entry of the returnees (Koch, 1978:97).



4. CLUSTERS AND HUBS: THE ARCHITECTURE OF PACIFIC ISLAND MOBILITY

The colonisation process in the Pacific, which did not end until the 1970s for large parts of the region, had a profound affect on regional mobility. To this can be added the mandate and trusteeship systems developed by the League of Nations and United Nations in the aftermath of World Wars One and Two. These systems respectively gave legal control over the affairs of various Pacific Islands to New Zealand and the United States. The twin processes of colonisation and trusteeship have provided the foundation for sub-regional ‘clusters’ of states within which the cluster members have varying levels of privileged access to temporary or permanent residence in the former colonial, mandate or trustee state which typically acts as a cluster ‘hub’. Over time, more clusters have emerged as developments of, or counterpoints to, these colonial clusters. The effect of clustering has been to greatly enhance the capacity for cross-border mobility overall, albeit in different ways. In order to better understand the variable effect of clustering on regional mobility, it is necessary to chart some of the ways by which the different island countries and territories have become members of one or more clusters.

In this section we discuss two groups of clusters: those that were basically established during the era of colonial rule and those that have emerged since the island states became independent. The main clusters established during the colonial era are shown in Figure 4, while some of those that have emerged in the post-colonial era are shown in Figure 5. Not all of the clusters that might be defined are included in this report (for example we only mention in passing the annual Micronesian Chief Executives Summit and the very recently formed Polynesian Leaders Group) but the maps and the discussion that follows detail the major features of the current arrangements that provide the essential architecture for exploring avenues and possibilities for contemporary voluntary adaptive migration within the region.

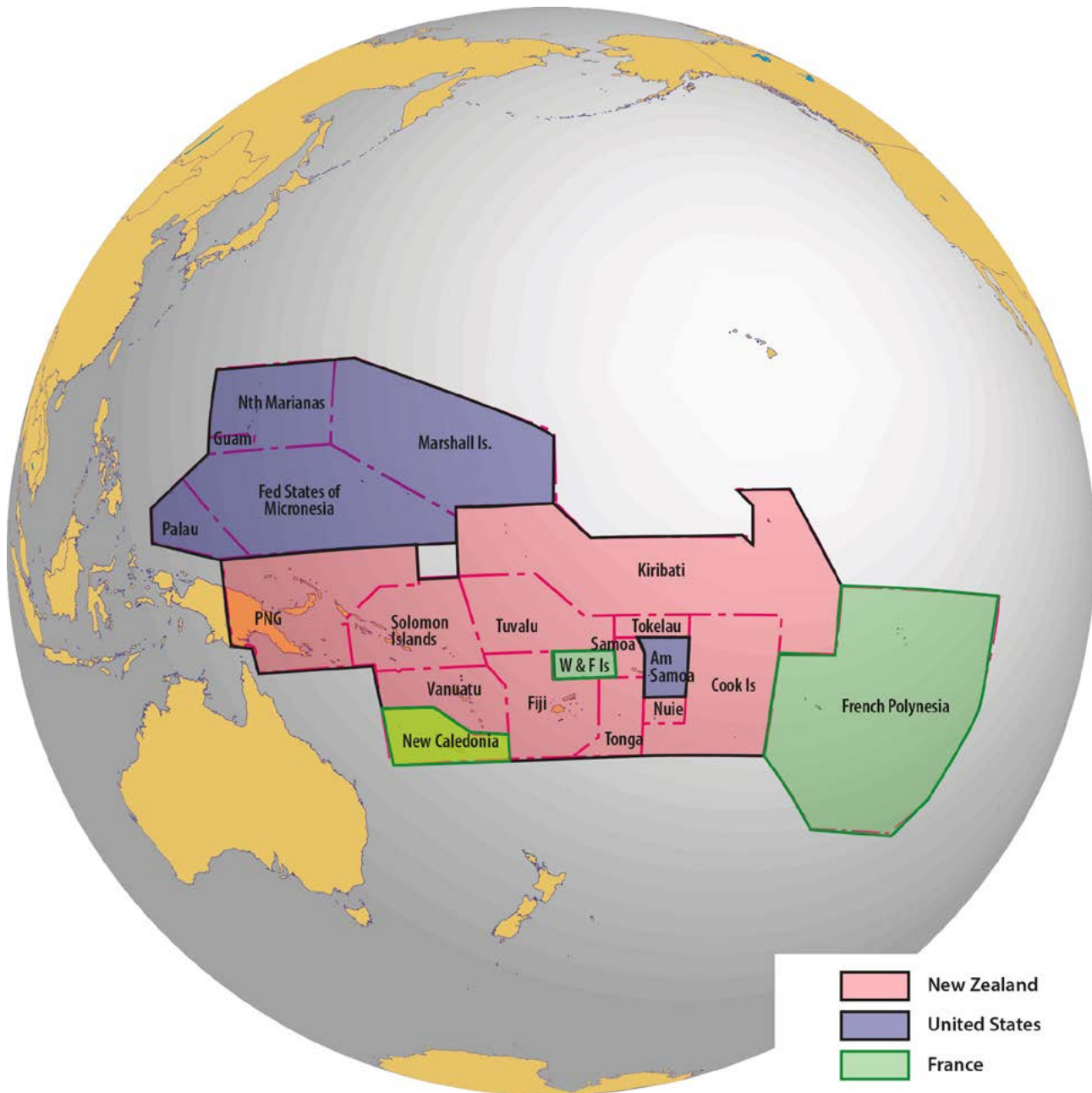


Figure 4: Established Population Mobility Clusters

4.1 THE NEW ZEALAND CLUSTER

4.1.1 Origins

The legal origins of the New Zealand cluster (Figure 4) trace from the turn of the 20th century. In 1901 the boundary of the Colony of New Zealand was extended to include what is now the Cook Islands and Niue¹⁷. From this time until the coming into force of the Cook Islands Constitution Act 1964 (NZ), and the Niue Con-

stitution Act 1974 (NZ), both the Cook Islands and Niue were part of New Zealand.

Following the outbreak of World War 1, the New Zealand Government seized from the German authorities what is now Samoa (formally Western Samoa). After the war a League of Nations Mandate was conferred empowering the New Zealand Parliament to make laws for the 'peace, order, and good government of the Territory of Western Samoa.' This resulted in the Samoa Act 1921, which provided the constitutional framework for the

¹⁷ An Imperial Order in Council was issued under the Colonial Boundaries Act 1895 (UK), and corresponding Proclamations issued in Auckland on 10 and 13 June 1901 formally applied the Imperial Order in Council on 11 June 1901. For an excellent overview of the legal origins of the New Zealand cluster, see Ministry of Justice (2000).

legal system of Western Samoa until independence in 1962 (Ministry of Justice, 2000:21).

The three Pacific atolls of Atafu, Nukunono, and Fakaofo, which comprise the Tokelau Islands, were made a British protectorate in 1889 and became part of the Gilbert and Ellice Islands Colony in 1916. By delegated authority, they were governed by the Administrator of Western Samoa from 1926, and from 1 January 1949 were, by effect of the Tokelau Act 1948 (NZ), declared to form part of New Zealand. They remain a New Zealand colony.

4.1.2 Mobility in the New Zealand cluster

There are several tiers to the relationships between New Zealand and the Pacific island countries which form part of its cluster. These tiers are reflected in New Zealand's immigration law and they produce varying levels of opportunity for cross-border movement between the members of the cluster and its hub.

Tier 1: Citizenship

Occupying the first tier are Pacific islands that are in a form of constitutional relationship with New Zealand which confers New Zealand citizenship on their nationals. Both the Cook Islands and Niue exist in free association with New Zealand and the constitutions of both countries vest full law-making powers in their respective legislatures. Nevertheless, Clause 1 of the 1983 Letters Patent Constituting the Office of the Governor General of New Zealand relevantly declares the realm of NZ to include New Zealand, the „self-governing“ states of the Cook Islands and Niue, and the Tokelau Islands¹⁸. The constitutions of the Cook Islands and Niue also explicitly preserve New Zealand citizenship status¹⁹.

These constitutional ties are reflected in the New Zealand Citizenship Act 1977. There has been some tightening of provisions relating to access to citizenship in recent years, however. Until end of 2005, most children born in the Cook Islands, Niue or the Tokelau Islands were automatically NZ citizens at birth and had unfettered rights of entry and stay in New Zealand under immigration legislation. However, from 1 January 2006, only children who had at least one parent who was a New Zealand citizen, and who was entitled to reside indefinitely in the Cook Islands, Niue or the Tokelau Islands, were citizens of New Zealand by birth.

The significance of this privileged citizenship provision in terms of mobility is that under the Immigration Act 2009 all New Zealand citizens are lawfully able to enter and reside in the country at any time and for as long as they wish. Under the Trans-Tasman Travel Agreement New Zealand citizens can also enter Australia and reside for as long as they wish there without obtaining visas in advance.

As regards movement of New Zealanders to tier one cluster islands, there is partial privileging. Niuean immigration law provides that every New Zealand citizen born in Niue has the right to travel to and remain in Niue at any time. New Zealand citizens with a parent who is also a New Zealand citizen but born in, or a permanent resident of Niue, can apply to remain lawfully in Niue. The person is deemed to be born in Niue for the purposes of the right of entry and stay under Niue's immigration law²⁰. Other New Zealanders are granted a 30-day visitors permit on arrival²¹. In the Cook Islands, New Zealand citizens travelling on New Zealand passports are exempt from obtaining an entry permit if their stay is for fewer than 90 days. Persons from the Tokelau Islands or Niue travelling on New Zealand passports will also qualify for these exemptions. Other special arrangements exist for New Zealand pensioners²².

Tier 2: Permanent residence via a special quota

Occupying a second tier in the New Zealand cluster is Samoa which, as reflected in the 1962 Treaty of Friendship signed at the time of independence, has a special international relationship with New Zealand. This special relationship is reflected in New Zealand immigration policy which, since 1970, has contained a Samoan Quota Scheme²³. This allows up to 1,100 Samoan citizens a year to be granted rights to permanent residence in New Zealand. In the early 1980s, there was a successful legal challenge in the Privy Council regarding citizenship rights for Samoans born before 1947 when a separate New Zealand citizenship was first mandated (Macdonald, 1986). As part of a negotiated settlement to this case, a Protocol to the Treaty of Friendship was signed in 1982 under which New Zealand has a specific obligation to consult Samoa on immigration (and citizenship) matters affecting Samoa.

Also sitting in this second tier are Tonga, Tuvalu and Kiribati. New Zealand's Pacific Access Category (PAC), which was introduced in 2002, allows 250 citizens of

¹⁸ Letters Patent Constituting the Office of the Governor General of New Zealand (S.R 1983/225). Available at: www.cabinetmanual.cabinetoffice.govt.nz/appendix-a (accessed 27 October 2013)

¹⁹ See section 6 Cook Islands Constitution Act 1964 (NZ); section 5 Niue Constitution Act 1974 (NZ).

²⁰ Section 5, Immigration Act 2011

²¹ Section 4 of the Niue Immigration Act 2011

²² <http://www.mfai.gov.ck/index.php/immigration/visitors.html> (accessed 1 October 2013)

²³ See INZ Operational Manual at S.1.10 (effective 1 April 2013)

Tonga, 75 citizens of Tuvalu, and 75 citizens of Kiribati to be granted residence visas each year. The total number of individuals approved under all these categories includes principal applicants, their partners, and dependent children. Selection criteria include: that principal applicants are aged between 18-45 years, that the generic immigration health and character requirements are met, and that the principal applicant or his/her spouse has an acceptable offer of employment in New Zealand. The PAC replaced existing arrangements with these countries including the visa-waiver entry privilege granted to citizens of Kiribati and Tuvalu in 1986, and the temporary work permits schemes that had been in place for Tongans since the mid-1970s and with Tuvaluans and I-Kiribati since the early 1990s (Bedford, 2008)²⁴.

Tier 3: special temporary employment privileges

Occupying a third tier are those Pacific countries which have been selected to be 'kick-start' states under New Zealand's Recognised Seasonal Employer (RSE) scheme, a managed circular migration policy introduced in 2007 to provide seasonal labour to the horticulture and viticulture industries (Ramasamy et al., 2008; Bedford (C.E.) 2013). Approved (recognised) employers in New Zealand's horticulture and viticulture industries are granted permission to recruit (an ATR or Agreement to Recruit) workers from member states of the Pacific Islands Forum (PIF). Although citizens of all PIF states are able to be offered employment under the scheme, the citizens of certain Pacific countries have been privileged in that New Zealand's Department of Labour entered into Inter-Agency Understandings with their counterparts in these countries to facilitate the effective recruitment, pre-travel preparation and orientation, and in-country pastoral care of workers (Ramasamy et al., 2008; Bedford (C.E.) 2013). The initial kick-start states were Samoa, Tonga, Kiribati, Tuvalu and Vanuatu, with the Solomon Islands added in 2010 and Papua New Guinea in 2013.

Selection of Samoa, Tonga, Kiribati and Tuvalu reflected long-standing special relationships which have been expressed in New Zealand's immigration laws via seasonal work and other policies since the 1960s. Vanuatu was added to ensure representation of at least one Melanesian country in the scheme in recognition of the fact that

one of the key objectives of the policy was to encourage "economic development, regional integration and good governance within the Pacific"²⁵. Engagement with at least one state in the western Pacific with which New Zealand had no previous privileged mobility arrangements, as well as with states in Micronesia (Kiribati) and Polynesia (Samoa, Tonga and Tuvalu) that New Zealand has previously assisted, was a significant development in immigration policy. In the four seasons between April 2007 and July 2011 the RSE work policy facilitated the temporary entry of at least 15,000 Pacific workers into New Zealand, with over half of these coming from Vanuatu (Bedford and Hugo, 2012: 64; Bedford (C.E.), 2013).

By 2013, New Zealand had opened up a channel for temporary seasonal labour migration for citizens of three countries in Melanesia (Papua New Guinea, Solomon Islands and Vanuatu) with which it had previously not had formal migration links, aside from study visas for scholarship students. A New Zealand employer, who is registered as a Recognised Seasonal Employer, and has been granted an Agreement to Recruit labour from the Pacific for a particular season, can receive assistance with recruitment, as directed under the conditions of Inter-Agency Understandings, in three countries in Melanesia, three in Polynesia and one in Micronesia. If they wish to recruit from other countries in Micronesia that are members of the Pacific Forum (such as Nauru, Palau, Federated States of Micronesia, Marshall Islands) they can, but their recruitment will not be facilitated by specific agreements between Ministries responsible for overseeing labour in New Zealand and the Pacific²⁶.

The third tier in New Zealand's cluster thus spans the independent states of the Pacific and is the most inclusive of any of the cluster arrangements regarding mobility. However, an important point often overlooked in discussions about leveraging the RSE scheme in the context of climate change is that it is not possible for Pacific citizens from any of these states to travel to New Zealand independently and become a seasonal worker under the RSE scheme. Workers need to be recruited by New Zealand employers and the scheme is completely demand-driven from the hub. Also, it is not possible for RSE workers to transition to residence from their short-term special purpose work visas (Bedford (C.E.), 2013).

²⁴ New Zealand also had work permit schemes with Fiji dating back to the 1960s but these were terminated following the first military coup d'état in Fiji in 1987. Fiji was included in the PAC when it was introduced in 2002 with a quota of 250 citizens, like Tonga. But this arrangement ceased after the 2006 military coup.

²⁵ See INZ Operational Manual at WH1. 1. 1.c (effective 29 November 2010). Fiji was also included as a kick start state when the scheme was initially scoped, but their access was put on hold as part of the New Zealand government's sanctions following the military coup d'état in December 2006.

²⁶ A small number of Nauruans were recruited as RSE workers in 2007 but this arrangement was short-lived. In the 2013/14 season the North Island Relationship Manager for the RSE Unit will attempt will be made to find an RSE employer to recruit a small number of Nauruans (George Rarere, pers comm, 24 October 2013).

4.2 THE UNITED STATES OF AMERICA (US) CLUSTER

4.2.1 Origins

The legal origins of a cluster focused on the United States of America (Figure 4) can be traced to 1898 with the ceding of Guam to the United States by treaty at the end of the Spanish-American War. What is now American Samoa was added in 1929 after renunciation by Great Britain and Germany of their claims, and the cession of these islands by the Samoan chiefs to the United States²⁷. The remainder of the cluster linked with the United States after World War II when the Trust Territory of the Pacific Islands (TTPI), comprising the Marshall Islands, the Northern Mariana Islands and the Caroline Islands (Figure 1), emerged as one of the 11 trust territories administered under the U.N. Trusteeship system. The United States negotiated a trusteeship agreement with the United Nations for giving it administrative control²⁸.

Following a recommendation in 1969 by the Micronesian Future Political Status Commission that the TTPI be constituted as a self-governing free state and able to negotiate entry into free association with the United States, the TTPI fragmented. The Northern Mariana group rejected this proposal, electing instead to become a commonwealth under US sovereignty. Ultimately, a covenant between the United States and the Northern Marianas was entered into formalising this arrangement²⁹. The remaining two island chains split further into the Republic of the Marshall Islands (RMI), the Federated States of Micronesia (FSM) and Palau. These states have all entered into Compacts of Free Association with the United States, under which the United States is given full authority for matters relating to their defence and security in return for financial and other assistance including preferential rights admission to the United States for their nationals.

4.2.2 Mobility in The USA Cluster

In common with the arrangements described for the New Zealand cluster, the relationships between the United States and the Pacific countries and territories within the USA cluster also translate into a three-tiered hierarchy which associated variations in rights of entry and stay.

Tier 1: Citizenship

The first tier is occupied by those territories whose residents are entitled to American (US) citizenship. Under law in the United States of America, citizenship can be derived from either the 14th amendment of the US Constitution³⁰ or from a specific statute conferring citizenship on inhabitants of a territory, which, although not a state of the Union, is under the sovereignty of the United States of America. Such legislation has been enacted for the inhabitants of Guam³¹, and the Commonwealth of the Northern Mariana Islands (CNMI)³². As citizens, inhabitants of Guam and CNMI are able to enter and work in the USA freely, and enjoy many of the rights of citizenship³³. The special status of these relations is reflected Immigration and Nationality Act (INA), which defines 'United States' as including not just the continental United States but also including Hawai'i, Puerto Rico, Guam and the CNMI.

Tier 2: Nationality but not citizenship

Guam and the CNMI are each defined as 'States' under the INA³⁴ and stand in contrast to American Samoa in respect of which no statute conferring citizenship has been entered into. Consequently American Samoa is defined under the INA³⁵ as an 'outlying possession' of the United States which constitutes a second tier relationship. The effect is that persons born to non-US citizen parents in an outlying possession are nationals but not US citizens at birth³⁶. While they able to enter the United States of America at will, the rights attaching to citizenship only in the USA do not apply in their case³⁷.

²⁷ Convention in Respect to the Samoan Group of Islands, Dec. 2, 1899, 31 Stat. 1878 (1900); Act of February 20, 1929, ch. 281, 45 Stat. 1253 (1929), 48 U.S.C. § 1661.

²⁸ See Armstrong, (1979), cited in Dema (2012).

²⁹ Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Pub. L. No. 94-241, 90 Stat. 263 (1976), 48 U.S.C. § 1801.

³⁰ Under which all persons born or naturalised in the United States, and subject to the jurisdiction thereof, are US citizens.

³¹ Section 307 Immigration and Nationality Act INA; 8 U.S.C. s1407.

³² Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. s 303 as approved by Congress, 8 U.S. 1408).

³³ US General Accounting Office (1997: 9) notes that some rights relating to voting do not apply in the insular areas.

³⁴ Section 101(a) (36) and (38).

³⁵ Section 101(a)(29)

³⁶ Section 308(1).

³⁷ Presently, a legal challenge is being mounted arguing that such a distinction is unlawful. A Federal Court in Washington DC has recently dismissed the appeal; see *Tuaua v US* Civil Action12-1433 (RJL); Fili Sagapolutele "American Samoans have no right to US citizenship, US court concludes" Pacific Scoop (28 June 2013). www.pacific.scoop.co.nz (accessed 12 September 2013).

Tier 3: Visa-waiver and access to employment in the USA

Occupying a third tier in the US cluster are the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI) and Palau, which have each entered into Compacts of Free Association (CFA) with the United States. Broadly, citizens of the CFA states by birth, and certain categories of citizens by naturalisation or their relatives, enjoy privileged rights of entry into USA. They do not require entry visas, and are exempt from the employment provisions of the INA.

Significant concerns emerged during the renegotiations of the CFA during the early 2000s over the impact CFA migration was having on State budgets in places such as Guam, Hawaii and the CNMI, to where the majority of Compact migrants travelled. By 1998, more than 13,000 FSM and RMI citizens had made use of the CFA to enter Guam, Hawaii and the CNMI as 'non immigrants'. Non-immigrant impact assessments prepared by the three State governments for the year 2000 estimated the total cost to their budgets of such movement to be \$58.2 million. In that year, Guam received \$7.58 million in impact funding, while the other two areas received no funding (US General Accounting Office, 2003: 6).

The amended CFAs now contain new provisions imposing restrictions and expressly applying the INA to Compact migrants³⁸. Although the right of entry and access to the labour market remains undisturbed, other provisions of the INA, including those upon which admission can be denied or legal stay brought to an end, remain operative³⁹. Further, entry and stay is neither automatic nor guaranteed. Once admitted, if a CFA State citizen subsequently becomes unable to show they have sufficient means to support themselves, they are liable to deportation. Admissions under the CFA agreements do not confer status as a lawful permanent resident (green-card holder). Nor does admission confer residence necessary for naturalisation under the INA. While a person admitted under the CFA provisions can apply for residence or naturalisation, no special rules apply, and the period of time admitted under the CFA does not count towards the five years of lawful permanent residence required for naturalisation⁴⁰.

4. 2. 3 Movement between Cluster Members

While the CFAs in relation to Palau, the RMI, and FSM allow free movement between these states and the United States of America, which includes Guam and the CNMI, they do not regulate admission between the CFA states. An interesting feature of the American cluster is that, despite this, there is a mutual privileging of entry and stay at this tier in the cluster. For example, the FSM code⁴¹ makes special arrangements for citizens and nationals of the United States of America, and citizens and nationals of the Republic of the Marshall Islands and the Republic of Palau, who may be issued a visitors permit for up to 365 days, compared to the 30 days for other non-citizens. In the Republic of the Marshall Islands, US citizens and citizens of Palau and the Federated States of Micronesia do not need a visa to enter⁴² and are also exempt from requirement to hold a work permit⁴³. In Palau, while entry visas are not generally required and a 30-day tourist visa will be issued, special arrangements exist for citizens of the United States of America, the Federated States of Micronesia, the Republic of the Marshall Islands, Guam, and the Commonwealth of Northern Mariana Islands who are issued 1 year visas upon arrival⁴⁴. It should also be noted that U.S. citizens and lawful permanent residents (LPRs) who travel directly between parts of the United States, which includes, for this purpose, insular possessions such as Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (CNMI), without touching at a foreign port or place, are not required to present a valid U.S. Passport or U.S. Green Card⁴⁵.

American Samoa has special provisions⁴⁶ for American citizens by allowing entry with possession of valid passport or other identity production and proof of onward ticket, or proof of employment, without the need to have fingerprints or a photograph of the holder. Otherwise, entry requirements for CFA nationals into American Samoa are the same as for other non-citizens wishing to enter as visitors.

³⁸ The amended Compacts were signed into law under the CFA Amendment Act 2003.

³⁹ The CFA agreement in relation to the FSM and RMI are explicit in this regard. Although the agreement with Palau does not expressly incorporate the other sections of the INA, these provisos remain applicable for the Department of Homeland Security which is the agency charged with the administration of the INS (see USCIS Fact Sheet (2008) *Status Of The Citizens Of The Freely Associated States Of The Federated States Of Micronesia And The Republic Of The Marshall Islands*; USCIS Fact Sheet (2008) *Status of the Citizens of the Republic of Palau*.)

⁴⁰ Dema (2012:186-189); Compact of Free Association Amendment Act 2003 sections 141(d) and (f).

⁴¹ FSM Code, Title 50, Section 103(1).

⁴² Immigration Act 2006, sections 13(1)(c) and 13 (1)(d).

⁴³ Labour (Non-Resident Workers Act) 2006, sections 10(2)(c) and 10(2)(d).

⁴⁴ Website of Palau Visitors authority.

⁴⁵ See 8 C.F.R section 215 (e), (g)(h); see also: <http://goo.gl/NWEGrK>

⁴⁶ Code of American Samoa, Title 41, Section 41.502(1)

4.3 THE FRENCH CLUSTER

4.3.1 Origins

The French took control of what is now Tahiti in 1842, and several other island groups near Tahiti were annexed in the 1880s. The islands were constituted as French Polynesia and in 1857 they became a territory of France. Wallis and Futuna became a French Protectorate in 1887 and a territory of France in 1961. New Caledonia was seized in 1853 and has become the anchor of the French colonies in the Pacific with its rich nickel deposits and extensive mining industry. The neighbouring islands, currently known as Vanuatu, were jointly administered as the Condominium of the New Hebrides by France and Britain between 1906 and 1980 after twenty years of collaboration via a Joint Naval Commission to protect the lives and interests of their respective citizens (Crocombe 2001). Of these French colonial possessions, New Caledonia has the most troubled history with a long-standing campaign by the indigenous Kanak population for independence spilling over into political violence from time-to-time.

Immigration into the territories that comprise the French cluster (Figure 4) is generally controlled by France. The situation in New Caledonia is more complex in light of the governance arrangements under the Noumea Accord (1998) and 1999 Organic Law⁴⁷. The Accord transferred a number of powers to the New Caledonia Executive, including powers relating to the provision of special guarantees for the employment rights of local inhabitants and the reinforcement of regulations regarding non-residents⁴⁸. Also, under the shared powers arrangements, the New Caledonia Executive is to be “associated with the implementation” of rules relating to the entry and stay of foreigners⁴⁹. This is reflected in the Organic Law, which explicitly preserves control by the French state over immigration but with an obligation on the High Commissioner in Noumea to consult the local government on visas for entry and stay of more than three months⁵⁰. These arrangements, whereby the New Caledonia Executive considers work permits on a case-by-case basis, provides for an unwieldy and rather opaque system for controlling entry and stay beyond that for short-term visitors (Fisher, 2013: 122).

4.3.2 Mobility in the French cluster

The French approach to colonial administration in the South Pacific differed from the British approach in a number of ways, the most significant of which, for present purposes, was the installation of a system of direct rule by French officials appointed by the French Government (Crocombe, 2001). One legacy of the French approach is an emphasis on the ‘indivisibility’ of French citizenship, which means that nationals of New Caledonia, French Polynesia and Wallis and Futuna are citizens of France with full rights to access to metropolitan France itself. As French citizens, they also are members of the European Union with the same mobility rights within the Union as any other French citizen. This tier one status also has allowed significant migration into New Caledonia, in particular of French citizens who, according to the 2009 census, were estimated to comprise nearly 30% of the total population. Conscious of the implications arising from the right to free movement enjoyed by EU citizens, France negotiated exemptions to the Schengen Agreement for its overseas territories, and in both New Caledonia and French Polynesia the provisions of local employment protection laws are permitted (Fisher, 2013: 218-219).

In terms of international migration, New Caledonia is by far the most significant of the three French territories and immigration is a particularly sensitive issue. Attracted by employment opportunities in the cluster’s largest regional economy, there has been a large and steady flow of migrants from French Polynesia and particularly Wallis and Futuna to New Caledonia (Crocombe 2001; Fisher 2013)⁵¹. The introduction of new categories of ethnic groups such as ‘mixed-race’ into the 2009 census in New Caledonia, and subsequent reallocation of this group to the declared Kanak, European and Wallisian populations, revealed that the Wallisian population’s share of the total increased from 9% in 1996 to 10.4% in 2009. Those from French Polynesia comprised an estimated 2% in 2009. The influx of Wallisians is a sensitive issue that has given rise to tensions which, from time-to-time, have spilled over into inter-communal violence (Fisher 2013: 120-121).

⁴⁷ The Noumea Accord was signed by France and representatives of the pro-France and pro-independence parties on 5 May 1998 and contained detailed governance arrangements leading up to a referendum on the territory’s ultimate future to be held by 31 December 2014. It was operationalised by France with the gazetting of the Organic Law in March 1999. The text of the Accord can be found at: (2002) 7(1) *Australian Indigenous Law Reporter* 88 (www.austlii.org accessed 20 October 2013)

⁴⁸ Article 3. 1. 1

⁴⁹ Article 3. 2. 2

⁵⁰ Article 21 and 24 of the Organic Law 1999.

⁵¹ There was also significant movement between Vanuatu and New Caledonia when the former was administered jointly by France and Britain as the Condominium of the New Hebrides (Bedford, 1973). A legacy of this movement is several thousand Vanuatu-born people living in New Caledonia (estimated to be around 4,800 in 2013 according the United Nations Population Division (2013).

Recognising the special nature of relations between New Caledonia and Wallis and Futuna, the Noumea Accord makes specific provision for a separate agreement between the two territories⁵². In 2003, an agreement between New Caledonia, Wallis and Futuna and France was entered into which provided for working rights for Wallisians in New Caledonia, and under which France undertook to cover the social security costs (Fisher, 2013: 120). The current status of this agreement is not certain.

4.4 THE PACIFIC ISLAND FORUM AS AN UMBRELLA CLUSTER:

The Pacific Islands Forum (PIF) is one of a number of regional organisations that has developed out of the South Pacific Commission, established in the 1940s by the colonial administrations to provide technical advice and support (Graham, 2008). This provenance means that PIF can be considered a neo-colonial grouping, an accusation sometimes leveled at it by certain of its Pacific state members. PIF brings together annually the Heads of State of all the independent Pacific countries⁵³, as well as Australia and New Zealand and senior representatives of countries with control over territories in the region such as the United Kingdom, France and the United States. In this sense, it is something of an umbrella cluster, spawning, in turn, sub-regional groupings such as the Melanesian Spearhead Group (see below).

In the context of a structure for framing mobility in the Pacific, PIF (which we have not mapped separately in Figure 4) can be regarded as a weak, or minor, cluster which includes all Pacific independent and self-governing states as well as several states outside the islands as either formal members (like Australia and New Zealand) or as observers (such as the USA, China, Great Britain and France). While PIF member states have yet to formally agree on and introduce an agreement expressly privileging mutual admission of their citizens, it is likely that PIF membership underpins the existing extensive, but incomplete, visa free or visa-on-arrival arrangements that exist for short-term entry of Pacific country passport holders in the independent island states (see section on visas). Further, the privileging of PIF membership is reflected in the admission policies of other 'hub' states in relation to temporary seasonal wor-

ker programmes such as New Zealand's RSE scheme. Indeed, it was recommendations contained in a report by a PIF-sponsored Eminent Persons Group in 2004 (Chan et al., 2004) about the need for greater access to employment opportunities in Australia and New Zealand that contributed to the decision by the latter two countries to introduce seasonal work pilots with selected Pacific Forum members in the latter part of the decade. It was at the Nadi meeting of the PIF in December 2006 that New Zealand's Prime Minister announced that the RSE work policy would become operational by April 2007 (Ramasamy et al., 2010; Bedford (C.E.), 2013).

PIF is also significant in the context of this review because the impact of climate change on the region has been a major item on the agenda of its annual meetings for several years now. The Republic of Marshall Islands, which hosted the 44th Forum meeting in September 2013, made climate change the theme of the Forum. The 2010 Port Vila Forum Communiqué⁵⁴ noted that one of five key areas which had been identified by the Council of Regional Organisations in the Pacific (CROP) as priorities for leaders' attention in the context of the Pacific Plan, was to "expand the definition of disaster risk management beyond that posed by climate change to be people focused, covering responses to health disasters as well as factoring in population growth and movement." According to the Communiqué, leaders noted that these, and the other identified key areas, were included under the Pacific Plan priorities for 2010-2013 and that "extra effort was required to achieve results in these areas." Although the 2011 Auckland Communiqué⁵⁵ refers to the displacement of people "as a result of the detrimental impacts of climate change", it seems to contemplate internal displacement only as it refers to displacement in the context of the need for adaptation finance "to enable Pacific island Forum countries to respond to the adaptation needs of their people". While the Communiqué⁵⁶ also refers to the multiple benefits of regional arrangements relating the cross-border movement in the form of temporary labour mobility schemes, the potential linkages between these schemes and voluntary adaptive migration in the context of climate change is not recognized. It is also worth noting that neither the 2012 Rarotonga Communiqué nor the 2013 Majuro Communiqué and Majuro Declaration on Climate Leadership make any explicit mention of population movement in the context of natural disasters or climate change⁵⁷.

⁵² Article 3. 2. 1

⁵³ Fiji has been excluded from meetings of the PIF since 2009.

⁵⁴ 41st Pacific Islands Forum, Forum Communiqué Port Vila, Vanuatu 4-5 August 2010, PIFS(10) 9, at p.5 paragraph [29].

⁵⁵ 42nd Pacific Islands Forum, Forum Communiqué Auckland, New Zealand, 7-8 September 2011, PIFS(11) 8, at p.5 paragraph [16].

⁵⁶ At Para [14].

⁵⁷ There are some oblique references to mobility in the context of adaptation to climate-induced environmental change. The Cook Islands Communiqué, at paragraph [59], notes the Cook Island Prime Minister's briefing on the Nansen Initiative and records the leaders agreement to 'monitor' population movement. The Majuro Declaration at paragraph [4] refers to the need to respond "urgently and sufficiently to the social, economic and security impacts of climate change so as to ensure the survival and viability of all Pacific small island developing States".

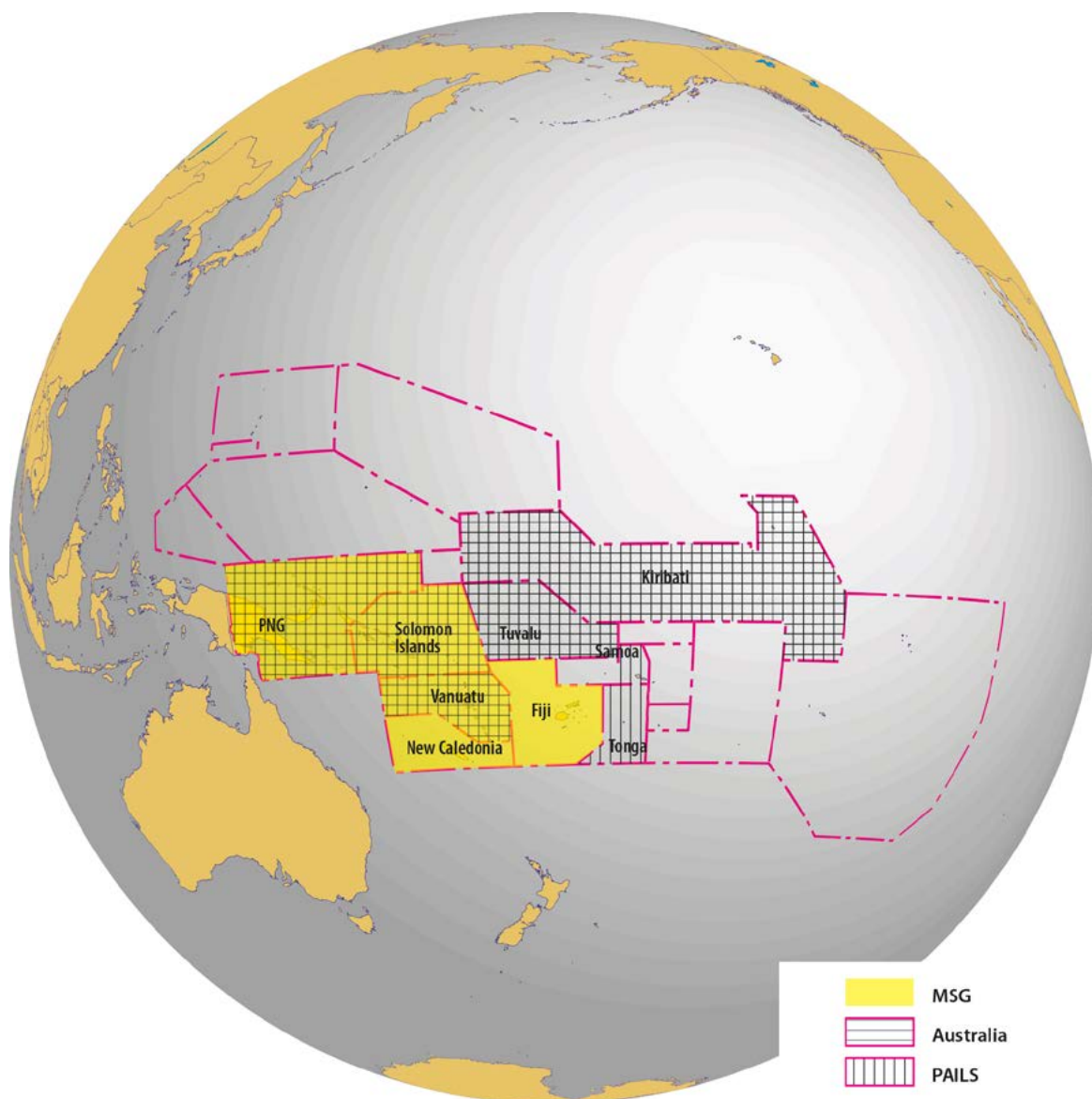


Figure 5: Post-colonial and Emerging Mobility Clusters

4.5 POST-COLONIAL AND ‘EMERGING’ CLUSTERS

In recent years, a number of what might be termed ‘post-colonial clusters’ of Pacific states have emerged, partly spawned by developments within the Pacific Island Forum. The most ambitious of these, as far as moving towards some formal arrangements for privileged entry and work opportunities for member country citizens, is the Melanesian Spearhead Group. The origins and operations of this sub-regional cluster are reviewed briefly in this section. Two other sub-regional clusters, which will not be discussed in detail here, are the Micronesian Chief Executives Summit (MCES) and the recently formed Polynesian Leaders Group (PLG). The MCES, which has been held annually since 2003 and which involves the Presidents of Palau, FSM and the RMI, reviews matters of common interest to the three independent states, including public health, climate change,

energy, fisheries, and the Compacts of Free Association. The PLG, which involves the leaders of Samoa, Tonga, Tuvalu, Cook Islands and Niue, was formed on the margins of the 2012 Rarotonga meeting of the Pacific Islands Forum. It is in its early establishment phase and in 2013 did not have any specific formal arrangements relating to movement between member states.

One of the two emerging clusters that are discussed briefly below is what we have termed an ‘Australian cluster’ which encompasses a restricted group of Pacific states plus East Timor that approved employers and recruiting agencies in Australia can access for labour to meet seasonal demands in particular industries. This is not an ‘established’ cluster linked with a particular era of colonial rule, although Australia did have one of the cluster members, Papua New Guinea, as a colony for much of the twentieth century. The second ‘emerging’ cluster shown in Figure 5, and which matches the Australian one in terms of countries involved, is the Pacific Labour Sending (PAILS) Forum. The members of PAILS

meet biennially to discuss common issues relating to labour migration and in their meeting in Samoa in October 2013 they agreed to establish a formal entity to develop a more co-ordinated approach to labour migration to countries on the Pacific Rim.

4.6 THE MELANESIAN SPEAR-HEAD GROUP (MSG) AS A POST-COLONIAL CLUSTER

The Melanesian Spearhead Group, which includes the four independent countries in the western Pacific (Papua New Guinea, Solomon Islands, Vanuatu and Fiji) and a pro-independence political party in the French colony of New Caledonia (Le Front de Liberation Nationale Kanak et Socialiste or FLNKS) (Figure 5), had its origins in the early 1980s soon after the termination of the Anglo-French Condominium of the New Hebrides and the emergence of Vanuatu as an independent state in 1980. Between 1970 and 1980 Fiji, Papua New Guinea (PNG), Solomon Islands and Vanuatu had all become independent; the anomaly in Melanesia was the French colony of New Caledonia. The MSG was initially formed to keep pressure for decolonization of France's Pacific territories alive in the Pacific Islands Forum. It was also concerned to build a stronger set of sub-regional relationships between the "big" countries of the Pacific, in part to offset a perceived greater unity of purpose and influence of many of the much smaller Polynesian states in the Forum.

In March 1988, the leaders of the four independent states and the FLNKS formalized the establishment of the MSG. They signed the "Agreed Principles of Co-operation amongst Independent States of Melanesia" with a view to promoting Melanesian identity and solidarity, especially through trade and economic development. An initial trade agreement was signed between PNG, Solomon Islands and Vanuatu in 1993, with Fiji joining in 1998. In June 1996, at a meeting of the MSG leaders in PNG, the "Agreed Principles of Co-operation" were revisited with particular reference to the issue of decolonization of New Caledonia following almost a decade of unrest between pro- and anti-independence groups. Finally, in 1998, the FLNKS and the anti-independence groups joined the French government of the day in signing the "Noumea Accord" with all sides accepting that there would be a 15 year transition towards greater autonomy and a referendum on independence after 2014.

A series of military coup d'etat in Fiji between 1987 and 2006, a decade of civil war on Bougainville in Papua New Guinea following the closure of one of the world's largest copper mines in 1989, and ethnic tensions in the Solomon Islands that eventually led to the Regional Assistance Mission Solomon Islands (RAMSI) in the early 2000s, along with the unrest in New Caledonia during the late 1980s and 1990s, all posed major challenges

for the MSG's agenda of co-operation and collaboration around a shared vision for development in Melanesia. But the vision proved durable enough to sustain the contradictions to a "Pacific way" of resolving disputes and, in March 2007, 19 years after the leaders of the independent states formalized the establishment of the MSG in Port Vila, they met again in Port Vila and signed the "Agreement Establishing the Melanesian Spearhead Group" as a formally constituted sub-regional organisation with a permanent secretariat, headed by a Director-General, located in Port Vila (MSG, 2007). Under this Agreement, a much more elaborate institutional framework was established to ensure regular, high-level consultation and the negotiation of agreements. Included amongst these was provision for a two year rotating the role of chairperson of the MSG.

4.6.1 Mobility in the Melanesian Spearhead Cluster

While a key focus of the MSG since the 1980s has been a trade agreement amongst member countries, freeing up the movement of skilled labour has also been on the agenda, especially during the two years Fiji's Prime Minister was in the chair between 2011 and 2013. In March 2012, the Governments of Papua New Guinea, Solomon Islands, Vanuatu and Fiji signed a Memorandum of Understanding to facilitate the temporary movement of skilled nationals between their countries for the purposes of taking up employment without compromising national laws and policies on health, safety, minimum working conditions and border requirements. The MSG Skills Movement Scheme, which became operational in September 2012, is the first significant intra-regional labour mobility agreement in the western Pacific since the four countries transitioned to independence between 1970 (Fiji) and 1980 (Vanuatu).

The MSG Skills Movement Scheme makes provision for up to 400 people from each of the member countries to work in another MSG country. The scheme is seen to be a model for temporary movement of skilled people in the Melanesian sub-region in that it would serve to assist to address a problem of under-employed/unemployed people with trade and professional skills in Fiji, while at the same time addressing skill shortages in other MSG countries. Fiji especially has a surplus of tertiary trained trades and service workers who could meet demands for their skills in PNG, the Solomons and Vanuatu (as long as they did not exceed the age limit for employment in government-funded services in these countries). Through this scheme, Melanesian leaders saw they could make better use of human resources within the region rather than sourcing skills from other parts of the world.

Several of the skill shortages in the different countries are similar – medical personnel, surveyors, engineers of various kinds, scientists, and a range of qualified practitioners in services such as business development, law and banking – and all countries have restrictions on access to relatively low-skilled jobs by non-nationals.

Notwithstanding these constraints, exchanges of small numbers of skilled workers between MSG countries are likely to get underway during 2014. The first group to move are likely to be some Fiji-trained teachers heading for Papua New Guinea which currently has a major shortage of teachers in its state-sponsored education system⁵⁸. The MSG Skills Movement Scheme will evolve slowly and its importance in the region is more symbolic than substantive at this stage in terms of actual labour mobility between countries in the sub-region. It is a symbol of growing sub-regional identity and commitment to seek solutions to human resource problems within the region rather than always relying on external sources to meet skill shortages.

4.7 EMERGING CLUSTERS?

4.7.1 Australia

Australia's relationship to and engagement with the Pacific has historically been very different from those of New Zealand (Bedford et al, 2007; Bedford and Hugo, 2012). Since the 1950s New Zealand has, in general terms, given greater priority to Pacific Island countries in its migration policy. Indeed, a major source of Australia's Pacific population is New Zealand - Pacific Islanders who have become citizens of New Zealand, have been able to take advantage of the Trans-Tasman Travel Agreement that allows New Zealand citizens to stay in Australia indefinitely without applying for a visa (Bedford and Hugo, 2012).

Just as New Zealand assumed responsibility for a former German colony - Western Samoa - under a League of Nations Mandate, so too did Australia for the German colony in New Guinea. This was linked for administrative purposes to Papua, which Australia had taken over from Britain in the late 1890s, forming Papua New Guinea. Nevertheless, as Bedford and Hugo (2012: 54) note:

[Australia's] immigration policy has never prioritised the Pacific, and only Papua New Guinea has been a consistent element of the country's aid and foreign policy in the region. Indeed, Australian immigration officials have persistently denied any special relationships with Pacific countries—they are treated the same as other countries (except for New Zealand).

In contrast to this hands-off approach to facilitating Pacific mobility, some recent policy initiatives by the Australian government arguably herald the emergence of an Australian mobility cluster in the region. The principal policy development has been the 2008 Pacific Seasonal Worker Pilot Scheme (PSWPS) which became the Seasonal Work Program (SWP) in July 2012. Modelled on New Zealand's RSE, but significantly different in organisation, the PSWPS initially offered seasonal work to citizens of Papua New Guinea, Vanuatu, Kiribati and Tonga. In 2011, it was extended to include Nauru, Samoa, the Solomon Islands and Tuvalu (Figure 5). However, from the outset the Australian seasonal work scheme struggled to match the success of its New Zealand progenitor, with fewer than 150 of the 2500 permits allocated to the PSWPS being filled by seasonal workers during the first two years of operation (Bedford and Hugo, 2012: 71). Following the introduction of the Seasonal Work Program in July 2013, an on-going replacement for the PSWPS, the scheme has been gaining momentum and in the year ended June 2013 just under 1,500 workers, mainly from Tonga, were recruited.

Also worth noting in this context is the Australia-Pacific Technical College (APTC), an Australian Government initiative announced at the Pacific Islands Forum in 2006, which aims to provide Australian-standard skills and qualifications through programmes offered in the Pacific that have relevance for a wide range of vocational careers where skilled employees are in high demand. Courses and qualifications cover occupations such as aged and community care, hairdressing, hospitality-related occupations, as well as trade and technical courses such as carpentry, electrical work, tiling, plumbing, and refrigeration and air conditioning. Significantly, many of these courses appear on Australia's Skilled Occupations List⁵⁹ meaning that graduates may be able to transition to work from a Temporary Graduate Visa (Subclass 485) without leaving Australia. There are two streams, one resulting in the grant of an 18 month visa, the other for up to four years depending on the qualification⁶⁰. This is potentially a significant policy development in that, while Australia does have a specific temporary work visa (Subclass 457), the evidence suggests only a very small percentage of the 457 visas granted have been issued to workers from the Pacific⁶¹.

⁵⁸ John Licht (2013) MSG Skills Movement Scheme (SMS), presentation to the Pacific Labour Sending (PAILS) Forum, Apia, 23 October 2013.

⁵⁹ Version July 2013, www.immi.gov.au/skilled/sol, (accessed 9 October 2013).

⁶⁰ www.immi.gov.au/students/385/ (accessed 9 October 2013).

⁶¹ Bedford and Hugo (2012: 66) note that, in the year to the end of June 2008, despite a nearly 30% increase in the total number of 457 visas granted, only 1.6% were to Pacific workers and them mostly from Papua New Guinea and Fiji. Other schemes include the Kiribati Australia Nurses Initiative (KANI) which allows for training of nurses to Australian standards, thus giving the recipients of the training the right to apply for 457 visas and possibly to transition to residence in Australia from such visas (see here, McAdam, 2012: 206).

4.7.2 Pacific Labour Sending (PAILS) Forum

The World Bank has been playing a major role in the Pacific since the mid-2000s in developing potentials and capacities for Pacific states to increase their opportunities for gaining access to labour markets within the region as well as in countries on the Pacific Rim. Their major report, *Expanding Opportunities for Pacific Islanders Through Labour Mobility at Home and Away* (World Bank, 2006) had a significant impact on the discussions in Australia and New Zealand about managed seasonal labour migration that led to the establishment of the RSE and SWP schemes (Bedford (C.E.), 2013). More recently they have initiated and facilitated dialogue between senior policy makers in Pacific labour sending countries and representatives of major international agencies with an interest in migration (ILO, IOM), regional organisations (Office of the Chief Trade Adviser (OCTA) and the Melanesian Spearhead Group (MSG), as well as Australia and New Zealand. In turn, this dialogue has generated meetings of the Pacific Labour Sending (PAILS) Forum in 2011 and 2013.

At the PAILS Forum held in Apia (Samoa) between 22 and 24 October 2013 senior officials considered proposals for greater regional co-operation around the management of labour migration to maximise development gains in the region. This initiative runs in parallel with the negotiations taking place around a free trade agreement between Pacific states and Australia and New Zealand (PACER-Plus) which includes a chapter on labour mobility (Bedford and Hugo, 2012). In essence, the PAILS Forum represents an emerging cluster of countries with some common recent labour mobility experiences (all Pacific countries represented participate in the RSE and SWP schemes) which could provide the foundation for some strategies for greater collaboration in order for Pacific countries to be more competitive in international markets for labour, especially markets in Asia (Figure 5). This is not a firmly defined cluster yet, but is further evidence of attempts being made from within the region (e.g. Melanesian Spearhead Group) as well as with the support of international agencies (the PAILS Forum) and countries on the Pacific rim (RSE and SWP) to create greater opportunities for labour mobility in the region. All of these initiatives, including the on-going PACER-Plus negotiations, are contributing to some streamlining of processes and the breaking down of barriers to population movement between countries. In this context they have relevance for the long-term adjustment of Pacific peoples to slow-onset environmental changes linked to or exacerbated by global warming.

4.8 CLUSTERS AND HUBS AS MOBILITY ARCHITECTURE: SOME OBSERVATIONS

The clustering of countries and territories into sub-regional groupings provides a useful architecture for framing contemporary Pacific migration and understanding its future potential. There are a number of features of this clustering which need emphasis in the context of cross-border population movement linked with natural disasters and the effects of climate change.

First, the clustering of states into sub-regional groupings is neither fixed nor static. Over time, new clusters have emerged as counterpoints to or developments of existing clusters. This dynamism, which is a critically important feature of the contemporary architecture, has the potential to greatly enhance mobility in the region by fostering new bilateral and multilateral agreements providing for the temporary or permanent cross-border movement of Pacific peoples as an aspect of the ongoing and continual alignment of state interests at a sub-regional level. The development of the Melanesian Spearhead cluster is a case-in-point. Originally conceived as a mechanism within PIF to promote decolonization of France's Pacific territories, its initial emphasis was on promoting Melanesian identity and solidarity, especially through trade and economic development. It is only since early 2012 that an explicit labour mobility dimension has been added to the cluster with the MSG Skills Movement Scheme.

As noted earlier, other sub-regional groups exist, such as the Polynesian Leaders Group and the Micronesian Chief Executive's Summit. There is no reason to think that these grouping cannot develop over time into mobility-related clusters. Should sufficient convergence of state interest occur on the issue of disaster-induced cross-border migration, including through the effects of climate change, this dynamic clustering process will be crucial in enhancing mobility as a means of adaptation by opening up new pathways for movement. Also in this context, it is important not to overlook the convergence of state interest as expressed through bilateral mobility-related agreements (Boncour and Burson, 2010). Historically, the bilateral agreements both New Zealand and the United States have with selected Pacific countries have been an important mechanism for enhancing Pacific migration.

Second, the clusters are not structured in the same way. In the colonial clusters, where New Zealand and United States act as central hubs, multi-tiered structures exist. This means that the effect of cluster membership is not homogenous across the cluster. The extent to which cluster membership confers privileged rights of entry and stay to the citizens of cluster states is highly variable within the cluster. The degree to which mobility is enhanced depends on which tier in which structure the Pacific island citizen exists.

At a regional level, further variability derives from different bundles of privileged rights of admission and stay being conferred between these two clusters. While there is some overlap, there are important differences also. The range of rights include the granting of unfettered right of entry and stay by way of an entitlement to hub-state citizenship (New Zealand and the United States); the preferential entitlement to residence by targeted quotas (New Zealand); privileged access to the hub-state labour market (the United States) and temporary work in certain sectors of the hub-state economy (New Zealand).

In contrast, the Melanesian Spearhead Group cluster has a flatter structure in which, while state influence may vary, no state acts as a central hub. This means that the effect of cluster membership is more homogenous, relating to privileged rights of entry for MSG country visitors to Papua New Guinea and temporary access to selected occupations within the four labour markets of the independent states. As specified in Annex 1 to the Skills Movement Scheme, those occupations which are subjected to the scheme are professional, managerial or skilled-trades related. Many have minimum levels of experience requirements. Outside this limited privileging of some skilled migrants, semi or unskilled migrants from in-cluster states, or those in-cluster skilled migrants whose occupations are not included in Annex 1, will be caught by the law generally regulating the employment of non-resident labour.

Table 4 captures some of the variability in privileging generated by the cluster and hub architecture in the Pacific region. It reveals that relatively few states and territories, representing a small percentage of the overall regional population, have hub-state citizenship conferring unfettered rights of entry, stay and labour market access. A slightly larger number have access to special residence categories or unfettered access to hub-state labour markets. Most of the regional population has, at best, the ability to qualify for temporary work schemes. Another interesting feature shown in Table 4 is that, despite the US and French clusters including far smaller shares of the total regional population than the New Zealand cluster, both allow a larger share of that population greater freedom of movement as the holders of hub-state citizenship.

The important point to note here is that this variability, both between and within clusters, provides a multiplicity of policy nodes around which a convergence of regional state interest in addressing the potential for cross-border movement of peoples in the context of natural disasters and climate change can translate into future action.

The clusters are not sealed from each other and many overlap (Table 4). A striking example in this regard is Vanuatu, which is a member of both the Melanesian Spearhead Group and the New Zealand cluster and has some historical legacies relevant for future population movement in the French cluster to which it once belonged as a colony. Vanuatu is also included in the emerging Australian cluster through its participation on the SWP. Citizens of Vanuatu therefore enjoy a high degree of relative mobility potential even if the numbers of Ni-Vanuatu living overseas in 2013 is small. The relative mobility of Ni-Vanuatu may well be due for further imminent boost if current negotiations between Vanuatu, the EU, France, New Caledonia and Australia regarding reciprocal arrangements for visa-on-arrival status come to fruition (Ligo, 2013).

While the formation and development of new clusters creates clear mobility enhancing pathways, particularly for short-term labour migration, the effect of clusters and hubs on promoting regional mobility generally is far less certain. Important gains have been made, notably with New Zealand's RSE scheme, which is widely regarded to be a successful policy development involving reasonably substantial numbers of Pacific workers, but both the Australian SWP and the Melanesian Spearhead Group Skills Movement Scheme have provided limited mobility gains to date. The former has not yet proven to be a sufficiently attractive vehicle for the recruitment of significant numbers of Pacific workers. The latter is capped at 400 per host country and only offers opportunity to a narrow segment of the sub-region's population.

There have also been policy interventions that have had a negative impact upon regional mobility. Of particular note here is the closing by New Zealand in 2012 of the adult child and sibling categories and the further tightening of eligibility criteria in the parent category in the family sponsored migrant stream (Bedford and Liu, 2013)⁶². Both policy mechanisms have been important pathways for migration of Pacific Islanders into New Zealand and have contributed greatly to the growth of the Pacific diaspora. The changes by Australia to its Social Security and Citizenship legislation in 2001 have also had some negative implications for Pacific Islanders who became New Zealand citizens and then travelled to Australia under the Trans-Tasman Travel Agreement. In the past three years there has been increasing pressure from New Zealand's Prime Minister on his Australian counterpart to remove the restrictions the current policy imposes on New Zealand citizens who have moved to Australia since 2001 (Ansley, 2013).

⁶² Since the late 1990s New Zealand's policy governing the issuing of residence visas has favoured entry of skilled migrants. The skilled migrant stream has consistently accounted for around 60 percent of 40,000-50,000 residence visas issued in a given year, while the family sponsorship stream (including parents, adult children, siblings, and other relatives who are not part of the nuclear family that can accompany the skilled migrant) has accounted for around 30 percent of the annual intake. The international or humanitarian stream (including the special quotas for Pacific migrants and the annual quota of Convention refugees) accounts for the remaining 10 percent of visas issued. Further information on these streams can be found at the Immigration New Zealand website, www.immigration.govt.nz.

Sub-region/country	Established					Emergent	
	NZ	US	French	PIF	MSG	Aust	PAILS
Melanesia							
Fiji	X*			X*	X		
New Caledonia			X		(X)		
Papua New Guinea	X			X	X	X	X
Solomon Islands	X			X	X	X	X
Vanuatu	X			X	X	X	X
Micronesia							
Federated States (FSM)		X		X			
Guam		X					
Kiribati	X			X		X	X
Marshall Islands		X		X			
Nauru				X			
Nthern Mariana Islands		X					
Palau		X		X			
Polynesia							
American Samoa		X					
Cook Islands	X			X			
French Polynesia			X				
Niue	X			X			
Samoa	X			X		X	X
Tokelau	X						
Tonga	X			X		X	X
Tuvalu	X			X		X	X
Wallis and Futuna			X				
% Pacific pop. In cluster	91.0	6.1	4.8	94.6	89.5	83.2	83.2
% Pacific pop in cluster with hub-state citizenship	0.2	2.1	4.8				

Table 4: Population Mobility Clusters in the Pacific, 2013

X* Fiji is currently suspended from NZ's Pacific Access Category and RSE scheme. Fiji's membership of the Pacific Islands Forum has also been suspended

(X) New Caledonia's pro-independence party the FLNKS, is a full member and current Chair of the Melanesian Spearhead Group

X Denotes state/territory whose citizens also have hub-state citizenship

Note: Percentages of Pacific population in clusters derived from population estimates

in Table 1. Data from SPC Population Data Sheet, 2013, <http://www.spc.int/sdd/>

Changes in the US Cluster have also decreased mobility in some areas. The Federal Consolidated Natural Resources Act 2008 replaced the Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program⁶³. A subsequent “Interim Final Ruling” (IFR)⁶⁴ by the U.S. Customs and Border Protection in 2009, which sets out the requirements for non-immigrant visitors seeking admission into Guam or the CNMI under the new programme, designated only Australia, Nauru, New Zealand, and Papua New Guinea for participation in the Guam-CNMI Visa Waiver Programme. The Solomon Islands, Vanuatu, and Western Samoa, which were included in the previous Guam Visa Waiver Programme, were not included in the new programme. The IFR states that the Solomon Islands were not included ‘in consideration of on-going civil and political insta-

bility”. Vanuatu, and Western Samoa are not included on the list of eligible countries due to very high rates of refusal for non-immigrant visitor visas. In addition, these countries did not provide a “significant economic benefit” to the CNMI⁶⁵.

Other changes in the US cluster relating to amendments to the CFA agreements between The United States and Palau, The Federated States of Micronesia, and the Republic of the Marshall Islands do not appear to have significantly reduced migration flows. From 2003 through 2008, the share of Guam’s and Hawaii’s total populations that are Compact migrants grew. In 2008, Compact migrants represented approximately 12 percent of the total population in Guam and one percent of the total population of Hawaii (US GAO, 2011: 15-16).

4. 8. 1 Cluster membership and natural disasters: two examples

The following examples illustrate the importance of cluster membership in the context of natural disasters with reference to the New Zealand cluster. New Zealand typically strives to be a good international citizen by offering assistance in the wake of natural disasters, especially those that affect its Pacific neighbours. The fact of cluster membership and tier status within the cluster has an impact on the scale and type of assistance and, in particular, the extent to which that assistance has implications for cross-border movement in the wake of natural disasters.

Tier 1

The ‘tier one’ status of Niue was clearly evident after Cyclone Heta struck the island in 2004 and the New Zealand government offered to resettle the resident population of around 1,800 in New Zealand. This offer was not taken up and, while there was some cross-border displacement to New Zealand and Australia, many Niueans who were resident in New Zealand returned to assist with the reconstruction efforts and to reside. In fact, the pre and post-disaster populations remained relatively stable (Bedford et al, 2006). Similarly, following a hurricane in 1966, approximately half of the population of the Tokelau Islands (also ‘tier 1’) was relocated in New Zealand. Longitudinal studies carried out on the Tokelauan community in NZ have showed that the relocated population and their children had a range of poor health outcomes relative to their kin at home (Salmon et al 1985; Lane et al 2005). This shows

that relocation of communities into new environments, even when leading to some form of durable solution, can inherently give rise to ongoing protection needs.

Tier 2

By way of contrast, the assistance offered to Samoa after a devastating tsunami struck the southern coast of Upolu in September 2009 and the support provided to Tuvalu during a severe drought in 2011, reflect their tier 2 status. Following the tsunami villagers from the badly damaged Falealili District were given the opportunity to work on orchards in New Zealand under the RSE scheme even though the regional quotas for seasonal labour were full. This dispensation, which was just one of the types of assistance provided to Samoa by New Zealand after this disaster, was approved under the RSE Strengthening Pacific Partnership (SPP) programme which was being piloted in 2009 (Bedford (C.E.), 2013). Samoa’s special relationship with New Zealand, enshrined in the 1962 Treaty of Friendship, ensures a rapid response from New Zealand following a natural disaster.

The severe drought that affected Tuvalu during 2011 caused major problems for fresh water supply for the urban population on Funafuti. New Zealand, along with other countries in the region, provided assistance with shipments of bottled water and the installation of small desalination units. Tuvaluans were also assisted to find seasonal work in New Zealand under the SPP programme at the time of the drought, but this assistance pre-dated the drought. The specific New Zealand response to drought in Tuvalu was targeted at assistance to people in the islands, not new forms of assistance to leave the country.

⁶³ At section 212(l) of the US Immigration and Nationality Act.

⁶⁴ The Guam-CNMI Visa Waiver Program Interim Final Rule (IFR), (16 January 2009).

⁶⁵ IFR, part IIIA(3)



5. CROSS-BORDER POPULATION MOVEMENT: THE CURRENT VISA SITUATION

The underlying regional migration architecture outlined in the previous section provides a major dimension of the context within which flows of people between island countries and some of the major destinations for migrants on the Pacific Rim. The major mechanism for regulating these flows into each country is the issuing of visas for short-term entry and stay or long-term residence. In this section we examine the extent to which this architecture, as *currently expressed* through immigration law and regulation, allows or impedes the undertaking of voluntary adaptive migration or relocation as a means of reducing the risk of future forced displacement. In considering this we have concentrated on three main issues:

- 1 To what extent do Pacific states grant visa free or visa-on-arrival entry rights to citizens of other Pacific countries? Just how easy is it for people to move around the Pacific?

- 2 How easy is it for Pacific visitors to other Pacific countries to obtain, or transition to, short-term work visas/permits without having to leave the country they are visiting? The issue here is how does the current regional migration architecture facilitate the generation of remittance flows, which can potentially be used to assist funding in-situ adaption or otherwise promoting community resilience?

- 3 What pathways to residence exist? If long-term or permanent stay becomes necessary or unavoidable, what scope for relocation exists under current residence policy settings in the region?

5.1 BASIC MOBILITY: VISA FREE OR VISA-ON-ARRIVAL TRAVEL IN THE PACIFIC

A review of Immigration law in the region reveals that there is a large degree of privileging of Pacific citizens in terms of granting visa free or visa-on-arrival entry as visitors or for tourism purposes. Entry is granted for periods ranging from a maximum of 30 days⁶⁶, to a maximum of 3 months⁶⁷. Extensions are possible.

In contrast, the countries of the Pacific Rim do not generally grant waiver or visa-on-arrival status to citizens of Pacific islands. For example, unless granted visa waiver status, all persons require a visa to be permitted to travel to New Zealand. However, under New Zealand immigration law, visa waiver status is conferred on citizens of over 50 countries including Australian citizens and permanent residents, citizens of France, the UK, and citizens and nationals the United States⁶⁸. Similar provisions exist in relation to Australia⁶⁹ and the United States⁷⁰. To the extent that PIF membership gives rise to privileged rights of entry, it does so on mainly for citizens of Pacific states travelling within the island countries only. This may have important consequences for individuals or households wishing to respond to natural disasters by moving across regional borders. At a base level, and putting all other considerations aside, current immigration laws in the Pacific mean this is far more likely to be actualized by travelling to another island country than to the Pacific Rim countries, although getting to another island country may require a visa to transit to the destination if the travel is by air.

While there is a general freedom for Pacific state citizens to travel between island countries, there are anomalies. Thus, for example, citizens of Kiribati and Tuvalu are excluded from the permit-on-arrival status under Solomon Islands immigration law⁷¹. Citizens of Papua New Guinea are excluded from permit-on-arrival status in Niue⁷². Nauru is exceptional in that, according to information on the government website, entry permits must be applied for in advance by all non-citizens⁷³.

Cluster status also impacts on entitlements to visa free or visa-on-arrival privileging. Under the Vanuatu Immigration Act 2010, “a national or citizen of a member state of the Melanesian Spearhead Group” is an exempt person⁷⁴. A similar special status exists for citizens of Melanesian Spearhead countries visiting Papua New Guinea – they are exempt from the requirement to purchase a visa on arrival and instead get a special MSG stamp in their passport (Michael Gene, 24 October 2013, pers comm.). In a number of instances, it is status as a citizen of the ‘colonial’ hub-state that confers this right, not nationality of the Pacific country itself. Nationals of the Cook islands, for example, are eligible for visa-free entry into Fiji if they travel on a New Zealand passport or into Tonga or Vanuatu as New Zealand citizens⁷⁵. Similarly, citizens of Guam and the Commonwealth of the Northern Mariana Islands are typically accorded visa waiver privileges as US citizens. The position as regards American Samoa is more nuanced. As inhabitants of an ‘outlying possession’, American Samoans are ‘non-citizen nationals’ under US law. There is no common treatment of this unique status across the region. Some countries’ immigration laws confer visa-free privileges on US citizens only⁷⁶, others on ‘nationals’ as well as citizens⁷⁷. A final point worth

⁶⁶ See, for example, the Cook Islands, Federated States of Micronesia, Niue, Palau, Kiribati, the Republic of the Marshall Islands.

⁶⁷ A visitor permit in the Solomon Islands entitles a visitor to remain in Solomon Islands for any period or periods in the aggregate, not exceeding three months in any period of twelve months.

⁶⁸ See Section 14 Immigration act 2009, Immigration (Visa, Entry Permission, and Related Matters) Regulations 2010 Schedule 2, and INZ Immigration Instructions at E.2.1

⁶⁹ In 1996, Australia introduced the Electronic Travel Authority (ETA) system, an electronically stored authority for travel to Australia for short-term visits for tourism or business purposes. It replaces the visa label or stamp in a passport and removes the need for application forms. However, it is only available to passport holders from a number of countries, regions and locations. While passport holders from the United States, France and the United Kingdom are able to apply for ETAs, no person travelling on any passport issued by a Pacific Island country can apply for an ETA. New Zealanders have special provisions entitling them privileged access to Australia; see Fact Sheet 55 www.immi.gov.au (accessed, 11 October 2013).

⁷⁰ See Section 217 of the Immigration and Nationality Act, 8 U.S.C. 1187; www.travel.state.gov (accessed, 10 October 2013).

⁷¹ Solomon Islands, Ministry of Commerce, Industries Labour and Immigration; www.commerce.gov.sb (accessed, 1 October 2013).

⁷² Schedule 2, Immigration Regulations 2011.

⁷³ See; www.naurugov.nr/about-nauru/visiting-nauru/visa-requirements (accessed, 1 October 2013). This requirement for visas to visit Nauru dates back to the period when phosphate was being mined on the island and there was extensive labour migration from Kiribati and Tuvalu.

⁷⁴ See; Immigration Act 2010, Section 2(d).

⁷⁵ Department of Immigration www.immigration.gov.fj/ (accessed 13 October 2013); Tonga Consulate General San Francisco; www.tongaconsul.com (accessed, 30 September 2013); section 2, Vanuatu Immigration Act 2010.

⁷⁶ Examples include: France (including the French Territories), Niue, the Republic of the Marshall Islands

⁷⁷ Examples include: New Zealand, Vanuatu, Papua New Guinea, Kiribati, and Fiji.

emphasising in this context is the intra-cluster privileging within the US cluster. As noted earlier, the CFA states of Palau, the Republic of the Marshall Islands and the Federated State of Micronesia, have mutual privileging arrangements.

There are certain unavoidable hurdles which must be overcome by all, such as obtaining a passport and finding sufficient funds to travel. Health and character requirements are uniform features of all immigration laws and may impact upon the mobility of a percentage of the regional population. In general terms, however, there is a high level of basic intra-regional mobility facilitated by national immigration laws. At the more forced end of the migration spectrum following a natural disaster, for example, there may well be an issue as to whether persons can effect cross-border migration as bona fide visitors for tourism purposes, and the duration of any period of lawful stay may be insufficient for the affected person's needs. However, as one shifts towards the voluntary end of the spectrum, visa waiver or visa-on-arrival privileges allow Pacific populations the chance to travel internationally, to visit kin and to potentially seek out business and employment opportunities in other parts of the region as well as in selected countries outside the region (France, New Zealand, United States of America) for members of particular clusters. In this way, the high degree of temporary mobility as a visitor under immigration law prevailing in the region provides an important mechanism for facilitating voluntary adaptive migration by providing opportunities to explore the potential to migrate for longer periods or on a permanent basis.

5.2 WORK PERMITS

An ability to enter and stay, while plainly important for securing safety from harm both in anticipation of an imminent natural disaster and in its immediate aftermath, will only provide a partial immigration solution. Disaster-affected persons who do move across international borders will need to be, and in many cases are, provided with assistance by the host-state and in many cases by the international community. Also in those host states with established diaspora communities these can and do provide support. However, where diaspora communities are established in the host-state, the cultural imperative to assist, embedded deep in the Pasifika psyche, can place financial pressure on host households and contribute to poverty in those communities (McLeod, 2010).

In both the contexts of voluntary adaptive migration by individuals and planned relocation of larger groups, including entire communities, the ability of persons to find work will be an integral component of any durable solution. An essential issue to consider, therefore, is the extent to which current immigration laws in Pacific countries allow for the employment of migrants generally, as a means by which disaster-affected individuals and households who do move across international borders can seek to provide sustainable livelihoods for themselves.

Here it is important to emphasise that, for those individuals with professional or trade-related skills such as in teaching, construction, nursing or public administration, existing bilateral and regional agreements already create such opportunity to move abroad. At a broader level, however, there are number of features of the present regional legal framework regulating the employment of non-resident labour which are potentially limiting.

Unsurprisingly, legal frameworks in Pacific countries generally privilege the right of host-state citizens and residents to employment. Some legal frameworks are explicit in this regard. An example is the Legal Code of the Federated States of Micronesia, which states⁷⁸:

The Congress of Micronesia (sic) finds and declares that it is essential to a balanced and stable economy in the Trust Territory that Trust Territory citizen workers be given preference in employment in occupations and industries in the Trust Territory, and that the public interest requires that the employment of noncitizen workers in such occupations and industries not impair the wages and working condition of Trust Territory workers.

The regional multilateral and bilateral arrangements which allow for the cross-border movement of certain classes of people or for sector-specific host-state employment are not so much exceptions to this general privileging as being reflections in policy that no resident or citizen worker is qualified, willing and able to perform the role in question.

An important point to note is that, in many instances, obtaining a work visa is an employer-led process. An often overlooked point in discussions on migration is the extent to which employers act as admissions gate-keepers (MBIE, 2013). In many instances, it is the employer who must obtain prior authority to recruit non-resident workers and provide the relevant employment-regulating Ministry with sufficient proof that no resident of citizen worker is able to fill the position in question⁷⁹. The law in many countries contains

⁷⁸ Title 51, Section 113.

⁷⁹ See, for example: Papua New Guinea Employment of Non-Citizens Act 2007, section 18; The Republic of the Marshall Islands Labour (Non-Resident Workers) Act 2006, sections 16 (Occupational Shortage List permit), 17 (general work permit) and 18 (temporary); Federated States of Micronesia Legal Code, Title 51, section 131; The Cook Islands, Ministry of Foreign Affairs and Immigration, www.mfai.gov.ck (accessed 13 October 2013); Vanuatu Labour (Work Permits) Act 1985, section 2(2).

highly prescriptive requirements regarding advertising by the employer which may impact upon the ability of these systems to respond in a timely fashion - particularly in the immediate aftermath of a natural disaster⁸⁰.

The employer-led nature of the work permit regime in many countries is a potentially limiting feature of migration law in the region in the context of voluntary adaptive migration or planned relocation. It places a premium on affected populations having some pre-existing relationship or otherwise forging one with a host-state employer who has identified and is able to demonstrate a need for the employment of non-resident labour. In this regard, a significant factor will be the existence of a large established diaspora that is sufficiently embedded in the host-state economy to provide employment to their kin.

Access to employment in Pacific countries is often highly regulated and controlled. Visas are typically granted for work with a specific employer. Many countries in the region have binding legal repatriation provisions⁸¹. Some temporary work provisions, such as those in Fiji and the Cook Islands, may require a citizen to be trained alongside the non-resident worker as a condition on award of a work visa⁸². In a number of instances, access to work for non-citizens is limited to specified occupations or sectors of the economy. This takes a number of forms. In some countries migrant workers can only be employed in specifically designated occupations. In American Samoa, for example, employment of non-citizens is confined to two canneries and a call-centre⁸³.

Other countries have a list of reserved occupations. Most notable in this context is Papua New Guinea where the Employment of Non-Citizens Act 2007 allows for regulations to be issued prescribing specified occupations as being reserved only for citizens⁸⁴. If so prescribed, no work permit can be issued in respect of these occupations. The resulting Employment of Non-Citizen Regulations 2008 contains a list of occupations reserved for citizens⁸⁵. It includes many occupations which large numbers of the Pacific workforce would be able to undertake such as gardeners, nanny/babysitter, child care worker, cafe workers, waiters, logging plant

operators, taxi and bus drivers. While the MSG Skills Movement Scheme is therefore a positive development, many persons living subsistence lifestyles or without the relevant skills qualifications and experience, but nevertheless vulnerable to the adverse effects of natural disasters, will be unable to leverage this scheme as a means of effecting voluntary adaptive migration.

In other countries, such as Vanuatu and the Republic of the Marshall Islands, only a fixed quota or percentage of non-resident workers may be employed by an employer, with the remainder of workforce positions being reserved for residents or citizens⁸⁶. This feature of employment law in many parts of the region, designed to provide maximum employment opportunities to rapidly growing citizen populations, will need to be factored into discussions around relocation along with more familiar issues such as land tenure and access to land by non-citizens.

A further issue of importance in the context of disaster-induced cross-border movement is the ease with which persons entering on temporary visitor visas can transition to work permits while remaining in the country. It may simply not be feasible or safe to return to the country of origin in order to be issued with a permit offshore. What information is available presents a mixed picture. In the Republic of the Marshall Islands, for example, unless the applicant falls within the investor or family categories, there is a general prohibition on any work permit being issued in-country. While there is an absolute discretion to grant in-country permits, this can only be done "under exceptional circumstances."⁸⁷ Similarly restrictive provisions operate in Papua New Guinea and the Federated States of Micronesia⁸⁸. In Niue, while a person on a temporary permit is able to apply for a further temporary permit in-country, the position is unclear as the legislation only expressly provides for temporary work and student permits, not visitor permits⁸⁹. In contrast, in Vanuatu, the legislation allows for a person in Vanuatu as the holder of a valid visa to apply for a further visa whether of the same or of a different kind⁹⁰. In the Solomon Islands, legislation expressly allows regulations to be issued setting out the

⁸⁰ Papua New Guinea Employment of Non-Citizens Act 2007, section 13.

⁸¹ Papua New Guinea Employment of Non-Citizens Act 2007, section 40; American Samoa Title 51, Chapter 9, Section 41.0910(a).

⁸² Cook Islands Ministry of Foreign Affairs and Immigration, www.mfai.gov.ck (accessed 13 October 2013); Fiji Department of Immigration, www.immigration.gov.fj (accessed 13 October 2013).

⁸³ Title 51, Chapter 9, section 41.909 Code of American Samoa.

⁸⁴ Section 12.

⁸⁵ Regulation 10 and Schedule 2.

⁸⁶ Vanuatu, Labour (Work Permits) Act 1985, section 9; Republic of Marshall Islands Labour (Non-resident Workers) Act 2006, section 29.

⁸⁷ Republic of the Marshall Islands Labour (Non-Resident Workers) Act 2006, section 23.

⁸⁸ Papua New Guinea Employment of Non-Citizens Act 2007, section 19. A change of status is allowed if the person is a dependent spouse seeking work, or is married to a PNG citizen; Federated States of Micronesia code, Title 50, section 104(3).

⁸⁹ Niue Immigration Act 2011, sections 12, 14, and 16.

⁹⁰ Vanuatu Immigration Act 2010, Section 34(2).

circumstances in which a visa holder can transition to another type of visa⁹¹. In the cases of the Cook Islands and Fiji, the information contained on the websites of the relevant ministries does not indicate whether in-country transition to residence is permissible.

In New Zealand and Australia transitioning from a visitor's visa to a temporary work visa (excluding the special-purpose seasonal work visas in both countries) while in-country is permitted, as is seeking permanent residence via a transition from temporary work or tertiary study (Bedford and Hugo, 2012). In the case of citizens of Pacific countries, transitioning to residence from both study and temporary work visas has often been achieved via the family sponsorship route rather than the skilled migrant category (Bedford, 2008).

5.3 RESIDENCE

Immigration frameworks in the region contain a range of pathways to residence. A common one, although often expressed in different ways and with varying criteria⁹², is the provision of a pathway to residence for spouses and dependent children of host-state citizens. This privileging of residence for spouses and immediate dependent children is likely to simply reflect historical immigration policy settings, but could also reflect concerns over land ownership in the host-state. In some settings, particularly in host-states with established diaspora, spousal residence will be a useful policy mechanism for facilitating voluntary adaptive migration over time. Nevertheless, sponsorship criteria, including minimum income levels, may operate to limit the potential for this to be leveraged⁹³. Further, some countries have a criterion relating to a specified minimum duration of the marriage⁹⁴ which could also serve to be a limiting factor. There are pathways to residence that can potentially be leveraged in the context of voluntary adaptive migration or planned relocation, but the options relating to spouses and dependent children, or the settlement of persons who have been living lawfully for many years in the host-country, are fairly limited.

In regulatory systems that allow for residence based on specified periods of legal presence in the host-state the planned relocation of vulnerable people of communities over time may be able to be facilitated. However, the qualifying period under current policy settings is highly variable and can be lengthy. In American Samoa, for example, it can be up to 20 years in some circumstances, reflecting the government's expressly stated desire to restrict migration of all kinds into the territory because of concerns about cultural preservation and limited natural and infrastructure resources⁹⁵. In Niue, the period of lawful presence is set at 10 years⁹⁶. By comparison, Fiji allows for the grant of residence to non-citizens who have been lawfully present for 5 years, but the person must consider Fiji⁹⁷ "their home" and their presence must be beneficial to or in the interests of Fiji. Potentially this could be a controversial requirement in the context of voluntary adaptive migration.

Throughout the Pacific, family life typically involves extended family networks spanning closely-knit communities or villages. A fundamental determinant of the current responsiveness of immigration policy to the challenges of voluntary adaptive migration and planned relocation is the extent to which chain migration of members of the wider family group, such as parents and siblings (and their families), is allowed. Most immigration policies in the region have no specific provisions aimed at facilitating the migration of the wider family group. An exception in this regard is Papua New Guinea, which grants 'special exemption' status for non-working aged parents of citizens, valid for 5 years⁹⁸.

In the Pacific Rim, both Australia and New Zealand have closely controlled parent categories. In Australia, the category is subject to a centre-of-gravity test, in which at least half the applicant's children are required to be Australian citizens or permanent residents, or eligible New Zealand citizens who are usually resident in Australia⁹⁹. In New Zealand, the parent category has recently been restructured into two tiers, delineated by income requirements for the adult sponsor which many families in the Pacific diaspora would struggle to meet. Under "tier two" there is the additional requirement that

⁹¹ Solomon Islands Immigration Act 2011, section 18(2).

⁹² See for example: Tuvalu, Persons Entitled To Enter Tuvalu Without Permit Order (CAP.25. 15. 2); Fiji, Immigration Act, 2003, Section 9(1) and Section 16 of the Constitution regarding 'exempt' status or spouse of Fiji Citizen; Solomon Islands, Immigration Act 2012, section 17(d). Papua New Guinea grants "special exemption entry permits, valid for up to five years to spouses of citizens, see; Papua New Guinea Immigration and Citizenship Services Authority www.immigration.gov.pg/permanent-residence/ (accessed 17 October 2013).

⁹³ See, for example, Solomon Islands Immigration Act. Section 25.

⁹⁴ In the case of Papua New Guinea, this is five years; see Papua New Guinea Immigration and Citizenship Services Authority www.immigration.gov.pg/permanent-residence/ (accessed 17 October 2013).

⁹⁵ See Code, Title 41 Chapter 2 41.0201 and Chapter 4, section 41.0402 and 41.0403.

⁹⁶ Niue Immigration Act 2011, section 20(5).

⁹⁷ Fiji Immigration Regulations 2007, Regulation 51.

⁹⁸ PNG Immigration and Citizenship Services Authority, www.immigration.gov.pg/special-exemption/ (accessed 17 October 2013).

⁹⁹ In Australia: The Aged Parent (Residence Visa (Subclass 804). See, www.immi.gov.au/migrants/family/aged/804 (accessed 17 October 2013).

none of the parent's children (the sponsoring child's siblings) can be usually resident in the country of origin (Bedford and Liu)¹⁰⁰. As with the centre-of-gravity test in Australia, this requirement will rule out the parent category as a means of facilitating chain migration for many Pacific families. To this, must also be added the closure of the adult sibling category in New Zealand, further limiting the possibility for the chain migration of family members as a means of facilitating the voluntary adaptive migration or relocation of communities over time.

A final feature to note is that a number of countries in the region have discretionary caps on the total number of permanent residence visas which can be granted to persons who do not qualify under pathways arising from marriage to a citizen or other privileged categories. In American Samoa, the cap is 50 per fiscal year¹⁰¹. In the Cook Islands, the cap on non-marriage related residence is 650¹⁰². Samoa also has an annual quota¹⁰³ although, on the information available, the current limit is unclear, as is whether spousal-related residence is exempted from the quota¹⁰⁴.

¹⁰⁰ INZ Operations Manual F4. 1. 20 and F4.35, effective 30 July 2012 (accessed 17 October 2013).

¹⁰¹ Title 41 Chapter 4, section 41.0403 (4)(b).

¹⁰² Sections 4 and 5 of the Entry, Residence and Departure Act 1971-72 (as amended in 2008). It remains to be seen whether the review of the country's immigration law removes or alters the cap.

¹⁰³ Immigration Act 2004, section 14.

¹⁰⁴ The only document that has been able to be located is Public Notice S.R. 2006/02 which set the quota for the year 1 July 2005 - 30 June 2006 at 12 for persons "normally resident in Samoa, with a further 3 for those normally resident outside. Dependents under the age of 21 were not counted. Eligibility criteria included "connections to Samoa". It is not clear of this is meant to include connections via marriage thereby removing applications by spouses of Samoan citizens from the quota



6. CONCLUSIONS

In our view, there is a need for greater attention to be given to assessing how existing laws impact upon population movement and allow for sustainable and dignified lives through the employment of those who do move across borders in the context of natural disasters and climate change. Immigration law and laws relating to the employment of non-resident labour can provide critical information on possible pathways to work and residence.

In the Pacific, immigration laws sit within and reflect a multiplicity of partially overlapping sub-regional clusters of states, giving rise to a highly-textured migration landscape. The textured nature of this landscape allows for potential leverage to better enable states to respond to various forms of mobility linked to natural disasters and climate change. The dynamic process of cluster formation and development provides opportunities for the enhancement of regional mobility. Existing and emerging sub-regional clusters should be encouraged and supported in their attempts to foster and promote intra-cluster mobility.

Special account needs to be taken of the variable patterns of population change in the region, especially in Melanesia where the great majority (85 percent) of the region's population live. Three of these countries (Papua New Guinea, Solomon Islands and Vanuatu) currently possess a narrow range of opportunities for undertaking cross-border movement as a means of adapting to environmental stressors under current policy settings. Enhancing the international mobility options for these western Melanesian populations should be a key regional priority.

At a base level, a high degree of mobility between Pacific Island states is possible under the extensive visa free or visa-on-arrival privileges mutually extended to citizens of Pacific countries. This mutual privileging of entry of citizens in a region containing many small island states should be celebrated, and avenues for leveraging this freedom to move around in the region merit more detailed analysis. In the post-disaster setting, states should be encouraged to develop humanitarian policies which expressly allow for the temporary entry or, at the very least, the non-expulsion of non-nationals affected by natural disaster.

While the introduction of new policy mechanisms dealing with the specific situation of those affected by natural disasters is to be encouraged, the main point we wish to emphasise is that, in our view, current policy mechanisms are amenable to adjustment in ways which would allow people affected by natural disasters, including those linked with climate change, to make voluntary choices about moving from places where environmental change is severely compromising long-term residence. Existing immigration laws, regulations and policies should be revisited with reference to:

- ❶ Making allowance for the in-country change of immigration status and, in particular, to allow for the transition from visitor to worker status.
- ❷ Providing a pathway to residence based on a specified period of lawful presence and stay in the host countries.
- ❸ Reviewing requirements for sponsorship for residence in cases where the applicant is from a community at risk to adverse effects of natural disasters and slow-onset processes linked to climate change.
- ❹ Making allowance for the entry and stay of parents and other close family members of residents originating from at-risk communities.
- ❺ Increasing the flexibility of policies and capacity of quotas under existing bilateral special relationships which confer privileged rights of entry and stay (such as the Pacific Access Category in New Zealand).

Not only will these steps increase the capacity of Pacific islanders to undertake voluntary adaptive migration, but they will promote the development of socially and economically entrenched diaspora in host-states, which are better able to promote the long-term relocation of whole communities by facilitating chain migration through sponsorship.

In our view, current immigration policy mechanisms, with appropriate adjustment and support from the international community, broadly provide the Pacific region with the tools necessary to meet, in substantial part, the human mobility implications of natural disasters in a climate-affected 21st century. We recognise that there will be an understandable privileging by states of their resident and citizen labour forces, particularly in those Pacific island countries with high unemployment in populations with significant proportions of young people. Nevertheless, states should be encouraged to review current policy settings in order to maximise opportunities for sustainable voluntary adaptive migration by non-nationals who have access to employment. This includes policy settings that relate to land ownership and access to land in host-states by migrants. Otherwise, the potential exists for the creation of significant landless communities of immigrants, forced to live under informal arrangements in squatter settlements.

We acknowledge that migration costs in the region can be prohibitively high, both in terms of costs of travel but also when settling at the destination end. Voluntary adaptive migration may place significant financial burdens on the fiscal position of host-states, through providing necessary financial support to diaspora communities and promoting sustainable livelihoods through employment in host-state economies. Financial support through UNFCCC adaptation funding mechanisms or other international funding to facilitate and sustain voluntary adaptive migration should be considered.

Finally, it goes without saying that these immigration-related interventions need to be considered as part of a portfolio of responses, including up-skilling Pacific people to allow them to move within the region and beyond as skilled migrants. Permitting residents to hold dual citizenship, as recommended by the Nansen Initiative Regional Consultation in the Pacific, is a further policy intervention to be included in the portfolio of responses.

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APPENDIX 1: LEGISLATION CONSULTED

1. American Samoa

- Legal Code, Title 41, Citizenship, Alienage and Immigration
- Immigration Regulations

2. Australia

- Migration Act 1958 (Cth)

3. Cook Islands

- None able to be located online. Information sourced via website of Ministry of Foreign Affairs and Immigration

4. Fiji

- Immigration Act 2003
- Immigration Act Amendment Promulgation 2008
- Immigration regulations 2007

5. French Polynesia

- Information sourced via website of French Embassy

6. Federated States of Micronesia

- Constitution of FSM: Preamble and Articles I – III
- FSM Code, Title 50, Immigration Act
- FSM Code, Title 51 : Protection of Resident Workers

7. Guam

- Organic Act 1980
- Immigration and Nationality Act 1980 (US)
- Consolidation of Natural Resources Act 2008 (US)

8. Kiribati

- Immigration Ordinance 1991(Laws of Kiribati – Revised edition 1980)
- Immigration Amendment Act 2002

9. Marshall Islands

- Immigration Act 2006
- Labour (Non-Resident Workers) Act 2006
- Labour (Non-Resident Workers (Amendment) Act 2009
- Compact of Free Association, as Amended (Implementation) Act, 2004

10. New Caledonia

- Noumea Accord 1998
- Information sourced via website of French Embassy

11. Nauru

- Immigration Act 1999
- Immigration Amendment Act 2005
- Immigration Regulations 2000

12. New Zealand

- Immigration Act 2009

13. Northern Mariana Islands

- Immigration and Nationality Act 1980 (US)
- Consolidation of Natural Resources Act 2008 (US)

14. Niue

- Immigration Act 2011
- Immigration Regulations 2011

15. Republic of Palau

- Compacts of Free Association with US, Article IV

16. Pitcairn

- Immigration Control Ordinance 2006
- Right of Abode Ordinance 2010

17. Papa New Guinea

- Migration Act 1978
- Migration Regulations 1979
- Employment of Non-Citizens Act 2007
- Employment of Non-Citizens Regulations 2008

18. Samoa

- Immigration Act 2004
- Immigration Act Public Notice (10.2.06)

19. Solomon Islands

- Immigration Act 2012
- Immigration Act (Corrections of Errors) Order 2010

20. Tokelau

- Immigration Regulations 1991
- Immigration Amendment Rules 2003

21. Tonga

- Immigration Act, Laws of Tonga 1969 (1988 Revised Edition) Cap 62
- Immigration (Amendment) Act 1988
- Immigration (Amendment) Regulations 2010

22. Tuvalu

- Immigration Act, Laws of Tuvalu (2008 Revised Edition) CAP 24.15
- Immigration Regulations (2008 Revised Edition) CAP 24.15.1

23. Vanuatu

- Immigration Act 2010
- Labour (Work Permits) Act, Laws of Vanuatu (2006 Edition), Cap 187,
- ACP-EU Act 2001

24. United States of America

- Immigration and Nationality Act 1980

25. Wallis and Futuna

- Information sourced via website of French Embassy

DISASTERS CLIMATE CHANGE AND DISPLACEMENT

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This is a multi-partner project funded by the European Commission (EC) whose overall aim is to address a legal gap regarding cross-border displacement in the context of disasters. The project brings together the expertise of three distinct partners (UNHCR, NRC/IDMC and the Nansen Initiative) seeking to:

- 1 › **increase the understanding** of States and relevant actors in the international community about displacement related to disasters and climate change;
- 2 › **equip them to plan for and manage** internal relocations of populations in a protection sensitive manner; and
- 3 › **provide States and other relevant actors tools and guidance** to protect persons who cross international borders owing to disasters, including those linked to climate change.

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