

Committee Secretary
Joint Standing Committee on Treaties

2 September 2026

Inquiry into the *Fiji-Australia Vuvale Union* treaty

Dear Secretary,

Thank you for the opportunity to provide this submission to the inquiry into the proposed *Fiji-Australia Vuvale Union* treaty (the proposed Treaty).

The Peter McMullin Centre on Statelessness (PMCS) is an expert centre at the University of Melbourne's Law School that undertakes research, teaching, and public policy engagement and outreach activities aimed at reducing statelessness and protecting the rights of stateless people in Australia, the Asia Pacific, and as appropriate more broadly.

The term 'stateless' is defined in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons (1954 Statelessness Convention) as a person 'who is not considered as a national by any State under the operation of its law'. The 1954 Convention along with the 1961 Convention on the Reduction of Statelessness (1961 Statelessness Convention) are the key international treaties to protect stateless people and to prevent and reduce statelessness.

The United Nations High Commissioner for Refugees (UNHCR) is the UN agency mandated to identify and protect stateless people, and to prevent and reduce statelessness. In this submission we refer to the UNHCR *Handbook on Protection of Stateless Persons*.¹

Additionally, we refer to the forthcoming *Global Recommendations on Nationality and Statelessness in the Context of Climate Change* (UNHCR-PMCS Global Recommendations) prepared by PMCS and UNHCR.² We also refer to the 2022 report *The Future of Nationality in the Pacific: Preventing Statelessness and Nationality Loss in the context of*

¹ UNHCR, *Handbook on Protection of Stateless Persons* (2014) <https://www.unhcr.org/dach/wp-content/uploads/sites/27/2017/04/CH-UNHCR_Handbook-on-Protection-of-Stateless-Persons.pdf>.

² Peter McMullin Centre on Statelessness and United Nations High Commissioner for Refugees, *Global Recommendations on Nationality and Statelessness in the Context of Climate Change* (forthcoming; September 2026) embargoed copy attached.

Climate Change published by PMCS, the Kaldor Centre for International Refugee Law and the University of Technology Sydney.³

1. Background

- 1.1. Fiji is highly vulnerable to the impacts of climate change.⁴ The Fijian archipelago is regularly affected by cyclones and floods which will become more severe due to sea-level rise and changing weather patterns.⁵ While recognising climate change as ‘the single greatest threat of the livelihoods, security and wellbeing of Pacific peoples’, the proposed Treaty does not focus on the issue as its *raison d’être*.
- 1.2. Under Article 2(2)(c) of the proposed Treaty, Australia and Fiji undertake to establish a Vuvale Union with one of its underlying aims to advance climate security. Further, Article 4(4)(b) of the proposed Treaty refers to the several commitments of both states to enhance individual and collective peace and security, including through ‘supporting adaptation and mobility with dignity for Pacific peoples, recognising the existential threat posed by climate change’.
- 1.3. Both Fiji and Australia are parties to the key international human rights instruments including 1966 International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, 1979 Convention on the Elimination of All Forms of Discrimination Against Women, 1989 Convention on the Rights of the Child, 2006 Convention on the Rights of Persons with Disabilities, and 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 1.4. Australia is a party to both the 1954 Statelessness Convention and the 1961 Statelessness Convention, since 1973. Fiji is only party to the 1954 Statelessness Convention.

³ Michelle Foster, Nicola Hard, H       Lambert and Jane McAdam, *The Future of Nationality in the Pacific: Preventing Statelessness and Nationality Loss in the context of Climate Change* (‘Future of Nationality in the Pacific report’) (May 2022) <https://law.unimelb.edu.au/__data/assets/pdf_file/0010/4119481/The-Future-of-Nationality-in-the-Pacific_May2022.pdf>.

⁴ *Fiji-Australia Vuvale Union* (2026) Article 4. See, *Australia-Fiji Development Partnership Plan 2024-2028* (Department of Foreign Affairs and Trade) <<https://www.dfat.gov.au/sites/default/files/australia-fiji-development-partnership-plan-2024-2028.pdf>>.

⁵ ‘How Fiji Is Impacted by Climate Change’ (UNFCCC, 9 February 2017) <<https://unfccc.int/news/how-fiji-is-impacted-by-climate-change>>.

- 1.5. The silence of the proposed Treaty on questions of citizenship in the context of climate-related mobility raises concern not only in relation to its efficacy in combatting the risk of statelessness for Fijians, but also its potential to exacerbate this risk. Citizenship is central to both a sense of identity and belonging, which in turn are arguably essential to the idea of dignity. It would therefore be important for the proposed Treaty to explicitly deal with the implications for the citizenship status of Fijians who may migrate to Australia under its auspices, to ensure that it supports both states' commitment to 'mobility with dignity'.

2. Mobility with dignity

- 2.1. The proposed Treaty refers to mobility with dignity in Article 4(4)(b) without providing any details on the form or timelines for this envisioned mobility. Notably, the provision calls for supporting adaptation and mobility with dignity for Pacific peoples generally, rather than Fijian citizens or permanent residents. This broad undertaking may not assist Fijian citizens or permanent residents compelled to migrate in the context of climate change and disasters.
- 2.2. Article 3(3)(c) also includes a commitment towards enhancing 'cultural and people linkages' through mobility but enshrines this commitment under the aim of deepening Fiji and Australia's economic and human development partnership.
- 2.3. The proposed Treaty should explicitly take into account Fiji's own frameworks on mobility in the context of climate change and disasters. Fiji's *National Climate Change Strategy 2018–2030* establishes human mobility as a 'priority human security and national security issue' and encourages the development of regional responses 'to manage cross-border migration and displacement'.⁶
- 2.4. In its *2019 Displacement Guidelines*, the Fijian government has undertaken to consider all preventive measures that 'avert and minimize the impacts of displacement on the affected population'.⁷ Recognising its duty and responsibility to protect people at risk or affected by displacement in the context of climate change and disasters, the Fijian government also sets out to take a pre-emptive approach towards 'preventing or minimising the adverse impacts of

⁶ Ministry of Economy, Fiji, 'National Climate Change Strategy 2018–2030' (2018) 54

<https://fijiclimatchangeportal.gov.fj/wp-content/uploads/2022/01/FIJI-NCCP-2018-2030_0.pdf>.

⁷ Ministry of Economy, Fiji, 'Displacement Guidelines in the context of Climate Change and Disasters' (2019) 4 <<https://fijiclimatchangeportal.gov.fj/wp-content/uploads/2022/01/Displacement-Guidelines-Jan-2020.pdf>>.

displacement’.⁸ Additionally, Fiji’s *2021 Climate Change Act* and *2018 Planned Relocation Guidelines* provide for any planned relocation to happen in accordance with human rights and prioritising community needs from the bottom-up.⁹

Risks of statelessness

- 2.5. Fiji follows a *jus soli* citizenship framework; it also permits dual citizenship.¹⁰ Section 7 of the *Citizenship of Fiji Act 2009* provides citizenship to foundlings in the territory, deeming that they were born in Fiji.
- 2.6. For children born to one or both citizen parents overseas, Sections 8(1) and 8(5) of the *Citizenship of Fiji Act 2009* impose residence requirements on such children for three out of the five years preceding registration where the child is over the age of 18 at the time of registration. In contrast, if the overseas birth of the child is registered before they turn 18 years old, Fijian citizenship will be granted without a residence requirement.¹¹
- 2.7. In the case of Fijian citizens migrating to Australia under the auspices of the proposed Treaty, it would be necessary for them to register the births of their children as soon as possible after birth to avoid children being left stateless, given that it might be difficult or impossible to meet residency requirements if registration takes place after the age of 18 years. Australia may have obligations to grant nationality to children born in Australia to Fijian parents who would otherwise be stateless, pursuant to Article 1 of the 1961 Statelessness Convention and Article 21(8) of the *Citizenship Act 2007*. The PMCS-UNHCR Global Recommendations urge states to ensure that all children are able to acquire a nationality in the context of climate change in order to prevent childhood statelessness.¹² potential risks of statelessness that may emerge from the envisioned mobility.

⁸ Ibid 10.

⁹ *Climate Change Act 2021* (Fiji) s75-78. Ministry of Economy, Fiji, ‘Planned Relocation Guidelines: A Framework to Undertake Climate Change Related Relocation’ (2018) 7-9 <https://fijiclimatchangeportal.gov.fj/wp-content/uploads/2022/01/Planned-Relocation-Guidelines_Fiji.pdf>.

¹⁰ *Citizenship Act 2009* (Fiji) s6, 14.

¹¹ Future of the Nationality in Pacific report (n 3) 15.

¹² PMCS-UNHCR Global Recommendations (n 2) 60 – 63.

- 2.8. Renunciation of citizenship under Fijian law is only permitted if the person holds another citizenship, thus preventing the risk of statelessness.¹³
- 2.9. If a citizen by naturalisation or registration of citizenship makes the oath of allegiance to another state, Fijian citizenship law allows the relevant Minister to deprive them of citizenship if that person has ‘done anything, or is associated with or involved in any activity, which is incompatible with the oath or affirmation of allegiance taken by that person’.¹⁴ In such a case, Fijian citizenship could be withdrawn even if the person were to be left stateless.¹⁵ The PMCS-UNHCR Global Recommendations urge states to prevent loss of nationality leading to statelessness for those migrating or displaced across borders in the context of climate change.¹⁶
- 2.10. Australia currently lacks a procedure to determine statelessness, which means that it would not necessarily be able to properly identify and provide protection to a person who migrates to Australia whose Fijian nationality is withdrawn and who lacks any other nationality. The PMCS-UNHCR Global Recommendations urge states to identify stateless persons who have been displaced or have migrated across international borders in the context of climate change by establishing and ensuring access to statelessness determination procedures.¹⁷
- 2.11. Under the proposed Treaty, it is not clear when the envisioned mobility of climate vulnerable Fijian citizens to Australia would occur, whether it would be temporary or permanent, and if such mobility would create pathways to Australian citizenship.

3. Recommendations

PMCS urges the Committee to provide clarity on the nature of mobility envisaged for Fijian citizens under the proposed Treaty and address its potential impacts on their citizenship. PMCS recommends that before any migration from Fiji to Australia is activated under the auspices of the proposed Treaty:

¹³ *Citizenship Act 2009* (Fiji) s15.

¹⁴ *Ibid* s17.

¹⁵ See, *Future of the Nationality in Pacific* report (n 3) 28.

¹⁶ PMCS-UNHCR Global Recommendations (n 2) 58-59.

¹⁷ *Ibid* 44-45.

- a. Australia and Fiji should provide clarity on the nature of mobility envisaged for Fijian citizens and permanent residents under the proposed Treaty, including when such mobility would occur, whether it would be temporary or permanent, and if such mobility would create pathways to Australian citizenship.
- b. Citizenship laws and policy frameworks of Australia and Fiji should be carefully evaluated to identify and prevent any potential risks of loss of citizenship and statelessness.¹⁸
- c. Australia and Fiji should explicitly address citizenship issues and include safeguards to prevent statelessness in the proposed Treaty.¹⁹
- d. Fiji should consider amending its laws to grant Fijian citizenship to all children born to citizens overseas regardless of their age and without the requirement to reside in Fiji, therefore addressing the risk of statelessness for Fijians moving to Australia under the proposed Treaty.
- e. Both states must comprehensively address any risks of loss or deprivation of citizenship leading to statelessness for any persons migrating under auspices of the proposed Treaty.
- f. Australia should implement a statelessness determination procedure to properly identify and provide protection to stateless persons who migrate from Fiji or who become stateless in Australia after migrating under the auspices of the proposed Treaty.

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¹⁸ Ibid 54-57.

¹⁹ Ibid 68-69.