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Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Parliament House
Canberra ACT 2600

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4 April 2023

Dear Committee Secretary,

Submission on the Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023

As the Director of the Andrew & Renata Kaldor Centre for International Refugee Law at UNSW Sydney, I am pleased to provide a short submission relating to the to the Migration Amendment (Australia's Engagement in the Pacific and Other Measures) Bill 2023.

The Kaldor Centre is the world's first and only research centre dedicated to the study of international refugee law. The Centre was established in October 2013 to undertake rigorous research to support the development of legal, sustainable and humane solutions for displaced people, and to contribute to public policy involving the most pressing displacement issues in Australia, the Asia-Pacific region and the world. A core area of the Centre's areas of expertise is mobility in the context of climate change and disasters.

The creation of a new Pacific Engagement Visa (PEV) is a welcome development. It will enable 3,000 Pacific Islanders to move permanently to Australia with their families each year, complementing and building upon existing temporary and seasonal work schemes which are an important source of income and livelihood diversification for Pacific peoples. In the context of climate change, migration can be a crucial form of adaptation and a long-term risk management strategy.

The proposed use of a ballot to select prospective migrants for the PEV is a practical and appropriate mechanism. It echoes the longstanding approach of New Zealand's Pacific Access Category and the United States' Green Card schemes. By its nature, a ballot gives each entrant an equal chance of selection and does not prioritize a particular type of worker (eg skilled or unskilled). However, eligibility to enter the ballot may be limited 'by reference to any objective criteria that are relevant to the particular visa, including nationality' (Explanatory Memorandum, page 3).

As the Explanatory Memorandum to the bill states (page 3):

The use of a ballot for choosing applicants for the PEV is appropriate because demand for this visa is expected to exceed the number of PEVs available annually under Australia's migration program. A ballot will provide eligible persons from participating countries with equal and transparent access to the PEV. As the number of places, allocated on an annual basis, to citizens of each participating country will vary, to reflect population differences in those countries and the priorities of the Australian Government, there may be a number of ballots conducted, for example, one ballot for each participating country. Multiple selections for each country can be held if necessary to ensure that the annual program target for that country is achieved. The use of ballots in this way for migration from the Pacific is similar to the approach taken by New Zealand for many years.

Please do not hesitate to contact me if I can provide further information.

Yours sincerely,

Professor Jane McAdam AO