

[VERBATIM REPORT]

VIRTUAL MEETING OF THE S/C ON JUSTICE, LAW & HUMAN RIGHTS

BILL

Climate Change Bill 2021 (Bill No. 31/2021)

SUBMITTEES: (1) National Federation Party (NFP)
 (2) Pacific Disability Forum (PDF)

DATE: Wednesday, 8th September, 2021

VERBATIM NOTES OF THE VIRTUAL MEETING OF THE STANDING COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS HELD AT THE BIG COMMITTEE ROOM (EAST WING), PARLIAMENT PRECINCTS, GOVERNMENT BUILDINGS, ON WEDNESDAY, 8TH SEPTEMBER, 2021, AT 9.30 A.M.

Interviewee/Submittee: National Federation Party

In Attendance:

Mrs. Seini Nabou - Party General Secretary

MR. CHAIRMAN.- I welcome Honourable Members, members of the public, the Secretariat Team, ladies and gentlemen; a very good morning to you all. It is a pleasure to welcome everyone, especially viewers who are watching from the comfort of their home.

At the outset, pursuant to Parliament's Standing Order 111, all Committee meetings are to be opened to the general public, therefore, please, note that the submission is open to the public and media. It is also being streamed live on Parliament website, social media online platforms and the Parliament channel via *Walesi* platform.

For any sensitive information concerning the matters before us this morning that cannot be disclosed in public, this can be provided to the Committee either in private or in writing. However, please, be advised that pursuant to Standing Order 111(2), there are only few specific circumstances that allow for non-disclosure of this and includes:

- (1) National security measures;
- (2) Third party confidential information;
- (3) Personal and human resource matters; and
- (4) Committee deliberation and development of Committee's recommendation and report.

I wish to remind Honourable Members that all questions to be asked are to be addressed through the Chairman. This is a parliamentary meeting and all information gathered is covered under the Parliamentary Powers and Privileges Act. However, please, bear in mind that we do not condone, slander or liable of any sort and any information brought before this Committee should be based on facts.

In terms of the protocol of this Committee meeting, please, minimise the usage of mobile phones and all mobile phones to be on silent mode while the meeting is in progress. Now, I would like to take this opportunity to introduce the Honourable Members of this Committee.

(Introduction of Committee Members)

MR. CHAIRMAN.- Thank you, Honourable Members, for that wonderful introduction.

Today, the Committee will be hearing a submission on the Climate Change Bill 2021, Bill No. 31 of 2021. For the purpose of the viewers who are joining us this morning, I would like to give a brief explanation on what the Climate Change Bill is about.

The Climate Change Bill 2021 aims to provide a wide range of framework that will guide Fiji's response to climate change, from ensuring that all Government agencies work together as a means of addressing climate change to provide the legal mandate to be able to mobilise resources, enhance

coordination and making sure that appropriate planning and consideration is done when it comes to climate change.

Before us we have the representative from the National Federation Party (NFP). I would like to thank the Party representative for accepting the invitation of the Committee.

I now invite you to introduce yourself and to begin with your submission, after which there will be a question and answer session. Thank you.

MRS. S. NABOU.- Thank you and good morning Mr. Chairman and Honourable Members of the Standing Committee on Justice, Law and Human Rights. I am the General Secretary for the National Federation Party (NFP) and it is my profound honour to share some thoughts on behalf of the Party on the Bill before you. We thank you for the opportunity.

Before I begin, I would like to bring to the Committee's attention that NFP had already made public its thoughts on two drafts of the same Bill through the *Fiji Times* in the years 2019 and 2020 respectively, thus we have been following it very keenly.

Mr. Chairman and Honourable Members of the Committee, at the outset, it is gratifying to finally see in this third version of the Bill that the 1.5 degree Celsius as a global average temperature, being embedded in this third draft. For Fiji, as a Pacific Small Island Developing State and member of the Association of the Small Island States (AOSIS) negotiating bloc in the global climate change negotiations, this should have been captured right at the outset, and we know that it was not in the first two drafts of the Bill.

In the definition 'Minister', it is referred to in this Bill as the Minister responsible for climate change. It is understood that the Minister for Economy, along with his other portfolios, holds this responsibility, just as he is the Minister responsible for Elections. So, it becomes confusing when Clause 10(3)(a) compels the Minister for this Bill to consult all Ministers, including the Minister responsible for the economy, which is himself. It just does not read right, unless, of course, this is forward thinking ahead of the 2022 Election outcomes where a new Minister for Economy may not necessarily be responsible for climate change.

In Clause 5(h) which details the principles of the Bill, there is only one reference to the term, 'loss and damage'. This issue is a hotly contested one at the United Nations Framework Convention on Climate Change (UNFCCC) negotiations because of the confusion that it is only about insurance. But in relation to this draft before your Committee, it is disappointing that despite the lofty pledges to be guided by traditional knowledge, this draft does not even define what traditional knowledge is. Yet, it has gone ahead to define '*talanoa*'.

Apart from the lack of definition, there is nothing in the Bill as part of national concerns on Fiji's specifics to loss and damage to record a robust inventory of intangible or non-economic losses from all our communities who have traditions and customs when extreme weather events removes all traces to it. Such inventory of losses should include; ancestral sites, movements and journeys, language and dialects, soil type, traditional medicines, plants and herbs, food storage and preparation, folklore, chants, dance, history, song, genetic resources, genealogy, kinship ties, totems, burial sites, etcetera.

You may be wondering why I am bringing this up. On the issue of loss and damage, these are the things that will be lost to communities if extreme weather events happen. But if we are going to pitch that against insurance, how do we know what we have lost if we have not recorded it? So that is why,

perhaps, in your deliberations, you might want to consider fine-tuning this a bit. The Minister for Economy, in moving the motion to table this draft and refer it to your Committee for the first reading, had stated the imperative for this Bill to be approved by Parliament before the Climate Change 26th Conference of Parties this coming November.

While Part 3, beginning from Clauses 7 and 8 of the Bill makes reference of Fiji's commitment to the Paris Agreement by way of State party reports through Nationally Determined Contribution (NDC) reports, Fiji should also be very aware that there are reports available from earlier in the year that synthesises climate ambition through the global NDCs submitted so far, and global ambition on these commitments seems to have frozen up.

I bring this up to merely underscore that while we can codify best practice as per this Bill before your Committee, it will fall back on Fiji to be honourable to ourselves in the first instance, not just because of global imperatives or global climate change financing commitments, which remains as empty pledges to this day.

All commitments made in this Bill fall back on Fiji to uphold, to make the necessary institutional adaptations and pay for, on our own accord, which brings me to my second point Honourable Members. Should this Bill be passed in the next sitting of Parliament? There are substantive inter-agency adjustments and internal changes that this Bill requires to be effected.

However, in the Budget that we have just passed, there is only \$1.2 million allocated to Head 4-1-8, which is for Climate Change and International Co-operation. Mr. Chairman, \$1.06 million of this allocation is to pay for established staff alone. There is no other allocation in any of the Heads in the Budget dedicated to climate change. The question is, are we passing this Bill just to look good for COP 26, while wilfully aware that we have not allocated funds to execute what this law needs to happen? It would be quite unfortunate if this Bill is used as leverage to make and I quote; "multilateral miracle happen", to paraphrase the Minister for Economy's own words when he tabled this Bill.

In Clause 8, the Bill says, and I quote:

"All ministers must, where relevant and with the assistance of the Committee, take all reasonable steps within their portfolio to promote the achievement of any sectoral emissions reduction or limitation targets in Fiji's NDC."

It would, perhaps, be more meaningful if this Clause is removed altogether and Clause 14 as was previously in the 2019 version of the Bill, bring back a compulsory clause for a "Cabinet Committee on climate and disaster risk" that is there to provide high level oversight of climate and disaster risks and national responses. That is more necessary rather than devolving the mandate of Ministers downwards to selected Permanent Secretaries, as set out in Clause 12, through the National Climate Change Coordination Committee.

As a quick aside, I note that in the 2019 and 2020 versions of the Bill, all Permanent Secretaries were to be members of this Committee. But now in the version before you, "a Permanent Secretary responsible for climate change" which, at this point in time, no Permanent Secretary is, "may nominate representatives from State entities". For such a wide-reaching and multi-pronged law, this cannot be left open to personal preferences and whims. If Clause 19(1) states that "decision-makers must promote and ensure consistency with climate objectives", that lays out 40 Acts listed in Schedule 1 that should really translate to all 20 confirmed and/or Acting Permanent Secretaries as listed on the Government Directory via the digitalFIJI platform.

At the Cabinet level, such a Cabinet Committee on climate and disaster risks is pivotal if a budget coding and tracking system that is defined in the Bill as a system to track and report on climate change related expenditure in Fiji is to become a reality, as per Clause 87. The Minister responsible for finance cannot and should not be the sole conduit for sustainable financing, as set out in Clause 87. These are necessary discussions for the Cabinet level, otherwise, if we are to look against the 40 Acts related to this Bill as listed in Schedule 1, this law officially gives birth to a super-EST Minister, not just a super Minister.

Now, that a carbon budgeting process mechanism of a long term emissions reduction target is also a requirement that is extensively set out from Clause 38(2) right through to Clause 42, it makes even more sense that a Cabinet Committee is there providing a high level oversight.

Those discussions and negotiations need to happen at the Cabinet level, to ensure cross-portfolio buy-in, ownership and complementarity. The worse thing that could happen is, if all the essential institutional requirements across the 40 Acts listed in Schedule 1, are haphazard and helter-skelter. For example, in the Bill, the requirement for a carbon budget, as per Clause 39, commits Fiji to a cap on the maximum level of the net Fiji carbon account and it should a gradual phase-down of the cumulative amount of carbon dioxide emissions permitted for five years.

The United Kingdom (UK), as the host nation for COP 26 scheduled for Glasgow in November, announced its sixth carbon budget in April this year which, for the first time, incorporates the UK's share of international aviation and shipping emissions. Our Bill specifically excludes emissions from international aviation or shipping in Clause 3(3). However, this could be overturned in Clauses 43(1) and 111(a), where the Minister is allowed to make regulations on it, in order to give effect to the Bill.

In the UK for the budgetary periods 2008 to 2012, their carbon budget was 3,018 million tonnes of carbon dioxide equivalent. For the periods 2013 to 2017, the carbon budget was 2,782 million tonnes of carbon dioxide equivalent, and for their 2018 to 2022 period, their carbon budget was 2,544 million tonnes of carbon dioxide equivalent. So, we can see from those three periods that it is coming down and that is because there is a global ambition everywhere for low carbon economies.

For Fiji, it is conceivable that five-year carbon budgets as such, and once set, could then be allocated to every Government Department that will, in time, dribble down to every day individual. It could be the difference between driving to your corner store to buy fresh bread in the morning or walking, in order to ensure compliance with a carbon budget that Fiji will commit to. It is noteworthy that the reference year for which carbon budgets must be reduced in relation to, was the year 2019 in the 2020 draft of the Bill, and it is now year 2013 in this current Bill before the Committee. There is nothing in the explanatory notes to explain this change.

Carbon budget commitments could mean that the Government's capital expenditure for upgrades or new developments they generate greenhouse gas emissions across the Government's social services sector, the infrastructure sector, the economic services or primary industry sector or the general administration sector are more controlled.

Now that the carbon budget is also required to be tabled in Parliament within 10 days of its determination, as set out in Clause 39(8), it is odd that there are no requirements for a debate or a process for Parliament to scrutinise these specifics, even for amended carbon budgets, as set out in Clause 42. Carbon budgeting has wide ramifications for national development and finance and as such, should require more rigorous parliamentary scrutiny. If we overlay the annual budget process with the new carbon budget approach, there will be a need for synchronicity. This, again, justified why a Cabinet Committee is essential.

The compliance mechanism of this Bill falls on inspectors as authorised officers. Perhaps, the Committee may want to clean up how it is laid out right now.

Mr. Chairman, Clause 14 details that inspectors appointed, as per section 18 of the Environment Management Act 2005, are also inspectors and authorised officers for the purposes of this Bill. Yet, Clause 9(2) allows the Minister to also appoint a person or class of persons to be authorised officers. In Clause 9(3), it further allows the Minister to appoint suitably skilled officers or inspectors appointed under the Local Government Act to also become authorised officers. It might be neater and seamless if all matters related to inspectors or authorised officers, their required skills, appointments and powers under this Bill, are all in one place.

On the issue of carbon sequestration and property rights, it is noteworthy that Part 10, containing Clauses 45 to 64, has had a major rewrite from the previous 2020 version of the Bill.

Mr. Chairman, Clause 45(2)(a) details that the registrar of Carbon Sequestration Property Rights is the Registrar of Titles, whereas in the 2020 version of the Bill, a carbon sequestration property right is granted by the Registrar of Titles with the consent of the Conservator of Forests.

There appears to be a gap in the treatment of carbon sequestration property rights throughout Part 10. If blue carbon emissions reduction projects for which mangroves, seagrasses and saltwater marshes are valuable carbon stores, that for the most part can be found within customary fishing grounds in Fiji but yet, this Bill is unable to record that.

Right now as it is written in the Bill, there is no avenue for the Registrar of Titles to align with registering this manner of blue carbon sequestration property rights, unless the iTaukei Fisheries Commission mandated in section 14 of the Fisheries Act is directly involved because this Commission already has a registrar of iTaukei Customary Fishing Rights, just as it has the powers to conduct inquiries where ownership of customary fishing ground boundaries are contested. While the Fisheries Act is specific to fishing in customary fishing grounds, those same areas which may have mangroves, seagrasses and saltwater marshes are currently registered and protected.

Mr. Chairman, blue carbon is referenced throughout the Bill, yet there appears to be no specific mechanism to register these blue carbon sequestration rights. It is pointless, if Clause 48(c) states that policies, procedures and safeguards for REDD+ are to be developed in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, but the Bill itself does not permit an interface between blue carbon sequestration rights and customary fishing ground owners, to register their exclusive and distinct legal rights to blue carbon sequestration and blue carbon stocks.

Mr. Chairman, Part 14 in Clause 88, provides for incentives for the promotion of climate change initiatives. We can only caution that these provisions must not give right to perverse incentives that undermine the intention of this Bill.

I would also add here that it is disappointing that in the first previous alteration of this Bill, Clause 93 which has the 10-year moratorium on deep sea mining has been removed from the 2020 and this current Bill before you. If the National Ocean Policy which is also referred to in this Bill is part of this climate change protection, then you might consider including the 2019 section 93, which puts that 10-year moratorium on deep sea mining.

Mr. Chairman and Honourable Members of the Committee, that brings to close some of on the glaring aspects of the text of the Bill that NFP thought to share light on. We thank you, again, for the opportunity, and I am happy to take any questions. *Vinaka.*

MR. CHAIRMAN.- Thank you, Mrs. Nabou, for deliberating on the Bill itself. I now open the floor. Does any Honourable Member have any questions or queries to be clarified, or if they have any questions they want to ask the presenter?

May be, I will start Ma'am with just a general question. What is the stand of NFP on the Bill itself? Does NFP actually supports the introduction of the Bill?

MRS. S. NABOU.- Mr. Chairman, I think, that based on this the submission today and what your Committee comes out with and what is eventually tabled on the floor, when you debate the Bill, I think the Party will reserve its comments until then.

MR. CHAIRMAN.- Thank you. Honourable Dr, Govind, do if you have any question?.

HON. DR. S.R. GOVIND.- Thank you, Mr. Chairman. I do not have any questions at the moment.

MR. CHAIRMAN.- Thank you. Honourable Matanitobua, I see your hand is raised.

HON. RATU S. MATANITOBUA.- Thank you, Mr. Chairman. I thank you, Seini, for your submission. Mrs. Nabou, my question is, referring to climate change, do you think we should have a special Minister or a portfolio for climate change? Apart from the Honourable Attorney-General, do you think, we should have one special portfolio or Minister to handle climate change?

MRS. S. NABOU.- Thank you, Honourable Matanitobua. Through you, Mr. Chairman, I think that because this Bill is over 100 pages and it has quite a few new things that will need to be done, for example, the carbon budget, as I had disclosed and all those different projects for adaptation and mitigation, you will have a director, that is in the Bill, to do most of it.

However, I think it would be prudent that there is a specific Minister to deal with all those and to make sure because, this Bill also covers looking into the RBF, FNPF, and there is quite a few heavy legal penalties in there too. I do not want to speak for the Minister for Economy, but it looks like quite a heavy workload and I am not sure whether one individual can handle this huge workload as set out in this Bill.

MR. CHAIRMAN.- Thank you for that response. Any other Members with any question? Yes, Honourable Matanitobua, you have the floor.

HON. RATU S. MATANITOBUA.- Thank you, Seini. On the penalties, do you think that \$750,000 is too high? What is NFP's view, is it too high or do you want to reduce it?

MRS. S. NABOU.- Thank you, Honourable Matanitobua. We did not touch that bit of it because I think it is a bit too early to decide whether that amount of \$750,000 is a good amount that will stop the behaviour that does not support climate change projects and the carbon trading, et cetera. I suppose that is why in the previous article that we put in the *Fiji Times*, we had suggested that perhaps, in some of the projects, rather than expect that all these is going to happen once the Bill is passed and we know that the mechanics of it is not going to be, we had suggested in 2020 that maybe, we should pilot some of the projects so that we can see if we are really ready to go in with this. I mean, once you bring in a carbon budget, for example, if you have big roading projects that will need big machines that emit carbon greenhouse gas emissions, you need the roads, taxpayers need the roads, but you also have a carbon budget that will say, "We cannot do things like we did before". Now that will be a cost to someone, or to the company or will also be a cost to the taxpayers.

So that is why we had suggested that we will not be able to comment on that amount for legal penalties because I think you would probably have to trial that out first and then the stakeholders directly involved would be able to say, “Aah, this is too much, it does not help us bring the emissions down, etcetera, etcetera”. Thank you, Mr. Chairman and thank you, Honourable Matanitobua.

HON. RATU S. MATANITOBUA.- Thank you, Mrs. Nabou, and thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Honourable Ratu Suliano Matanitobua. Honourable Bulivatu?

HON. M.D. BULITAVU.- *Vinaka*. Through you, Mr. Chairman, *vinaka* Mrs. Nabou for that presentation. I think just on the bit that you had touched on, the sequestration and you probably talked about those blue carbon that are not factored into the Bill. Can you clarify that again?

MRS. S. NABOU.- Sure. Again, this points to the question that was asked by Honourable Matanitobua whether the current Minister can do this. Carbon Sequestration Property Rights is a new thing. It is centred on land, and that is why I think the Bill says that the Registrar of Titles should also be the Registrar for Carbon Sequestration Property Rights.

Now in the previous version of the Bill, 2020 version, Clause 48 that talked about REDD+ and blue carbon policy. In this version, that heading has been taken out but in Part 10, there are references to blue carbon projects. So, obviously, the intention is there to explore blue carbon projects. But as of right now who registers areas in the sea? It is not the Registrar of Titles, I do not think. For customary fishing grounds, there is a registrar for customary fishing grounds.

Most of the fishing grounds probably have a lot of mangroves, saltwater marshes and seagrasses. So there is a registrar that is already there but there is no provision for blue carbon to be registered. Now, can the Registrar of Titles, does that individual have the competence to register that, or is there an overlap, or is there something missing in the Bill? Thank you, Honourable Bulitavu.

HON. M.D. BULITAVU.- Mrs. Nabou, probably the Committee will consider that and also have a discussion with the Director Climate Change Division on how it treats carbon in the mangroves and also work out something with the Ministry of iTaukei Affairs and the iTaukei Lands Commission on how *qoliqoli* and those rights can be attached to the carbon sink that should be attached as part of the title too, if they are moving into carbon trading. Probably, if there are technical measures that are already in place or will be coming in after this as part of the regulations of this Bill, then we will also forward those comments to the NFP, that is sufficient to address the issues that have been raised here.

MRS. S. NABOU.- Thank you, Sir. Mr. Chairman, may I just also add a bit to that, may be the Committee might want to invite the iTaukei Fishing Grounds Commission which is set up already under section 14 of the Fisheries Act, because there would probably be some overlap there or is it even mapped already. I do not mean to confuse you but I just thought that I would raise that. Thank you, Mr. Chairman.

MR. CHAIRMAN.- Thank you, Mrs. Nabou, for that response to the question raised by Honourable Bulitavu. Honourable Sharma, do you have any question?

HON. R.R. SHARMA.- Thank you, Mr. Chairman. I would like to thank the representative from the NFP for the timely submission, and if there are any questions or queries, the Committee will elaborate on your submission, then surely we will come to you. Otherwise, thank you very much.

MR. CHAIRMAN.- Thank you. Has anyone else has any final comments to make from the Committee's side?

I think just one final clarification on the blue carbon with regards to the fishing grounds, I believe there will be a separate law that is going to govern that. It is not covered under the Climate Change Bill 2021 that is before the Committee. So just the clarification on that, there will be a separate Bill introduced before Parliament just to cover the blue carbon with regards to the fishing grounds.

MRS. S. NABOU.- Thank you, very much, Mr. Chairman. But I should also mention that in Schedule 1 of this Bill, the 40 Acts that had been talked about, the Fisheries Act is already there, so that there is a link and I think it would be just neater that you consider moving those provisions within here, because it is related to carbon trading.

MR. CHAIRMAN.- Thank you. A final comment from the submittee before we close this session.

MRS. S. NABOU.- Thank you, Mr. Chairman, I think I am good.

MR. CHAIRMAN.- I will request Honourable Sharma to thank the submittee before we close the session.

HON. R.R. SHARMA.- Thank you very much, Mr. Chairman. On behalf of the Standing Committee on Justice, Law and Human Rights, I would like to thank the representative from the NFP for the submission on the Climate Change Bill 2021. We will surely adhere to the submission you presented this morning and we will look into it within the Committee, and surely if there is any queries, questions or anything we would like to know on it, we will surely come back to you. Thank you very much.

The Committee adjourned at 10.10 a.m.

The Committee resumed at 10.36 a.m.

Interviewee/Submittee: Pacific Disability Forum (PDF)

In Attendance

Ms. Sainimili Tawake - Regional Coordinator Climate Change

MR. CHAIRMAN.- Honourable Members, it is a pleasure to welcome everyone, again, to the second submission this morning. With us we have Ms. Sainimili Tawake, who is actually representing Pacific Disability Forum (PDF). She is with us to actually do the presentation on the Bill that is before us, the Climate Change Bill 2021 that the Committee is currently scrutinising and she is here to give the submission on behalf of PDF.

Welcome on board, Madam, and we will give you the floor in a short while. First, I will introduce the Members of the Committee.

(Introduction of Committee Members)

Just before we go into the submission proper, I would like to state some of the objectives of the Bill. We have actually given a brief in the previous submission with regards to the Bill itself. So, some of the objectives of this Bill are to:

- (1) Provide a framework by which Fiji can develop and implement clear and long term climate change measures and policies that will safeguard the future of Fiji and its people, ecosystems and biodiversity in the face of the climate emergency.
- (2) Enable Fiji to meet its international obligations under the Convention and the Paris Agreement and to implement Fiji's NDC.
- (3) Facilitate the achievement of regional commitments and aspirations relating to climate change, including the *Suva Declaration on Climate Change*.
- (4) Establish institutional and governance structures for the implementation of this Act.
- (5) Facilitate evidence-based consideration of climate change issues in specified areas of Government and private sector decision-making.
- (6) Integrate the consideration of climate change projections, articulation of risk reduction responsibilities and formulation of resilience-building objectives across all sector plans and strategies.
- (7) Provide for the development, implementation and review of the NCCP, NAP, National Ocean Policy and any other climate change policies.
- (8) Establish a transparent framework for the monitoring, reporting and verification of anthropogenic emissions by sources and anthropogenic removals by sinks of greenhouse gases.

- (9) Enhance Government transparency and enable informed private and civil sector decision-making and risk management through the establishment of data management systems and the publicly accessible information platform that contains data relating to Fiji's greenhouse gas emissions, climate change projections and vulnerability.
- (10) Set a long term emissions reduction target and carbon budgets, and reduce Fiji's greenhouse gas emissions consistently with the aim of achieving each carbon budget and the long term emissions reduction target.
- (11) Provide for a strategic response to the climate emergency through the implementation, operation and administration of regulations, measures and actions that aim to reduce Fiji's greenhouse gas emissions.
- (12) Provide for the development of emissions reduction projects, programmes and activities and facilitate access to international carbon markets.
- (13) Provide for the implementation, operation and administration of regulations, measures and actions that build climate resilience and enhance adaptive capacity to the impacts of climate change, with respect to Fiji's communities, built environment and ecosystems.
- (14) Provide for the relocation of at-risk communities and safeguard their rights.
- (15) Ensure that climate-related policies and measures adequately integrate consideration of oceans through safeguarding and enhancing the ability of oceans to respond to the adverse impacts of climate change and taking advantage of the mitigation potential of oceans.
- (16) Safeguard Fiji's national security and sovereignty including with respect to Fiji's sovereignty over its maritime zones, such as internal waters, archipelagic waters, territorial seas, contiguous zone and exclusive economic zone within the meaning of UNCLOS and in the alignment with the Declaration on Preserving Maritime Zones in the Face of Climate Change Related Sea Level Rise.
- (17) Establish a framework for securing nationally and internationally derived finance for the implementation of this Bill when it becomes an Act.
- (18) Require companies, managed investment schemes, the Fiji National Provident Fund Board, licensed financial institutions and the Reserve Bank to disclose the financial risks that climate change presents to their businesses and measures adopted to reduce those risks, and require company directors and the Fiji National Provident Fund Board to consider climate change risks to the extent that they present foreseeable opportunities or risks to the entity.

So, those are some of the objectives of the Bill itself.

I now invite the representative of the Pacific Disability Forum to introduce herself and then begin with her submission, after which there will be a question and answer session. If there is a need be, we might interrupt in between to actually ask questions, or we might just leave it to the end once you done with your presentation. Thank you, Madam.

MS. S. TAWAKE.- Mr. Chairman, my apologies.

MR. CHAIRMAN.- Thank you.

MS. S. TAWAKE.- *Ni sa bula vinaka* and greetings, Mr. Chairman. Thank you for those kind words of welcome and *bula vinaka* to the Honourable Members of the Standing Committee on Justice, Law and Human Rights.

Through you, Mr. Chairman, I would like to say a big *bula vinaka* to my *tutua*, the Vunivalu of Namosi, Honourable Ratu Suliano Matanitobua. *Ni bula saka, Ratu*.

I would like to introduce myself. I am Sainimili Tawake and I am the Regional Coordinator on Climate Change for the PDF. I would like to take the opportunity to acknowledge the Committee for giving us the time to present our submission on the Climate Change Bill 2021, Bill No 31 of 2021.

I would also like to say *bula vinaka* to all those viewing this livestream submission, particularly to the PDF Chief Executive Officer and staff, and to persons with disabilities in Fiji. A big *bula vinaka* as well to the Parliamentary staff who are working behind the scene to ensure that public submissions are run smoothly.

The structure of my presentation is as follows:

- I will introduce the organisation I represent in this virtual submission on Bill No. 31/2021, and a little bit of information on the work we do on climate change and disability in Fiji and as well as in the Pacific;
- I will also present our organisation's acknowledgement of the Climate Change Bill 2021;
- I will also emphasise a little bit on the organisation's support to the Bill;
- I will elaborate on Article 11 of the Convention on the Rights of Persons of Disabilities; and then
- I will present our recommendations.

Mr. Chairman, the PDF is a Pacific regional organisation of persons with disabilities. The PDF has a membership of over 70 organisations across the Pacific, including Timor-Leste, Australia, New Zealand, as well as the French Pacific and the US territories.

There are five national organisations of persons with disabilities in Fiji that are members of PDF. These organisations are the:

- (1) Fiji Disabled Persons Federation;
 - i) Fiji Association of the Deaf;
 - ii) Psychiatry Survivors Association of Fiji;
 - iii) Spinal Injury Association; and
 - iv) United Blind Persons of Fiji.

All those national organisations have branches Fiji-wide.

The PDF's main mission is to ensure the full inclusion, effective participation and inclusion of persons with disabilities in Pacific Island countries and territories, through evidence-based advocacy and active engagement in policy development, implementation and monitoring of the Convention on the Rights of Persons with Disabilities (CRPD), Sustainable Development Goals (SDGs), Pacific Framework

for the Rights of Persons with Disabilities (PFRPD), Framework for Resilient Development in the Pacific (FRDP), Incheon Strategy, and other relevant global and regional frameworks, in collaboration with relevant stakeholders. The PDF was formally established in 2004 and registered in Fiji in 2007.

Currently, PDF, with funding support from DFAT through the Australian Pacific Climate Partnership Programme and in partnership with National Organisations of Persons with Disabilities in Tuvalu, Kiribati and Solomon Islands, are implementing phase one of a project on disability inclusive climate adaptation.

In 2018, in close collaboration with the UNESCO Pacific Office, PDF conducted a study on understanding the vulnerabilities of persons with disabilities in climate change situations in Fiji.

Mr. Chairman, climate change as we all know, is the biggest environmental problem facing the world today. While scientists around the world are trying to understand the climate process, Governments around the world are developing legal and policy framework to mitigate its causes and to adapt the changes that cannot be avoided.

People with Disabilities make up an estimate of 15 percent of the global population and 20 percent of the world's poor. A report by the United Nations High Commissioner for Human Rights stated that discrimination, marginalization, and certain social and economic factors, people with disabilities may experience the effects of climate change differently and more intensely than others.

In acknowledging the proposed Bill, the PDF acknowledges the Fijian Government on the work on climate change at international level, as well as nationally and in various communities and do support the Climate Change Bill 2021 (Bill No. 31/2021).

From PDF's perspective, Bill No. 31 is:

- a genuine attempt to end the 'climate wars' by locking in lasting, bipartisan national action on climate change.
- an authentic proposal to build a legal and policy framework for national action on climate change and develop policies for the construction of sustainable, low-emission, energy efficient and climate resilient infrastructure and buildings.
- that the Bill proposes to work towards net zero emissions target by 2050 and set out emissions reduction plans, and possibly emission reduction budgets.
- to enable Fiji to meet its international obligations under the United Nations Framework Convention on Climate Change (UNFCCC), Sustainable Development Goals (SDGs) and its notion of leaving no one behind and the Paris Agreement, the Sendai Framework and also the Convention on the Rights of Persons with Disabilities (CRPD).
- to facilitate the achievement of regional commitments and aspirations relating to climate change, including the *Suva Declaration on Climate Change*.

The Bill includes guiding principles for decision-makers, implementers and key climate stakeholders:

- to ensure decisions are efficient, effective and equitable, informed, risk-based and integrated and fiscally responsible; and
- that when taking action to address climate change, the Bill respects, promotes and considers the rights and freedoms of all Fijians recognised in the Bill of Rights of the Fijian Constitution.

On this note, Mr. Chairman, we will respectfully make our recommendations which we will further highlight in this submission.

On PDF's support to the Bill, we would like to welcome and acknowledge the disability inclusive interventions by the Fijian Government and in turn, show our support for the Bill based on the following.

On 7th June, 2016, the Fijian Government ratified the UN Convention on the Rights of Persons with Disabilities and Article 11 of this Convention states that State Parties to the Convention to take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

In addition, the enactment of the Rights of Persons with Disabilities Act in 2018, and section 31 of the Act on Disaster and Humanitarian Emergencies, sub-section (1) states, and I quote:

“All persons with disabilities have the right to reasonable accommodation with regard to the protection and safety of their persons in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”

Subsection (2) states, and I quote:

“In accordance with subsection (1), the State must implement all necessary measures to ensure that the rights of persons with disabilities are protected in accordance with Article 11 of the CRPD.”

In 2012, the Pacific Disability Ministerial Meeting called for increased efforts to assist countries to collect and analyse relevant data to improve understanding of situation of people with disability, and urges national and regional stakeholders to work together to increase the disability data, research and knowledge, and use this to better inform decision-making.

In 2017, Fiji used the Washington Group of Questions to determine and identify disability, assessed the equalization of opportunities and established that persons with disabilities comprised of 13.7 percent of Fiji's population, that is, approximately 113,595 people in Fiji have disability. This is very close proximity to the World Health Organisation (WHO) estimate of 15 percent. The Director must take all reasonable steps to ensure that the Information Platform is accessible to people with disabilities.

On Climate Change Bill 2021, PDF affirms, particularly Clause 37(3) that states, and I quote:

“The Director must take all reasonable steps to ensure that the Information Platform is accessible to people with disabilities.”

This, Mr. Chairman, is a step in the right direction, taking into consideration that in the face of climate crisis, information is not always accessible to persons with disabilities in addition to the existing inaccessible platforms that prevent persons with disabilities from accessing vital information to allow them to act accordingly.

Section 77(1)(b) states, and I quote:

“To provide for a minimum standard of protection and assistance to persons at risk of, or affected by, disasters and climatic change, including the most vulnerable persons and taking into consideration the special needs and circumstances of persons living with disabilities, the elderly, sick, women and children.”

Mr. Chairman, as the impact of climate crisis increases, it must be expected that persons with disabilities and their families face increasing risks. Persons with disabilities are additionally vulnerable due to difficulty in moving to safety and because, as for other emergencies, they may be invisible to relief workers, who are unaware of their specific vulnerabilities.

Mr. Chairman, please, allow me to elaborate on Article 11 of the Convention on the Rights of Persons with Disabilities and the requirements of member States. In order to comply with Article 11 of the CRPD, States and other relevant humanitarian actors are required to:

- reform their policies and practices in the context of situations of risk and humanitarian emergencies under the CRPD;
- ensure effective management and dissemination of accessible information at all stages of emergencies;
- ensure active coordination, participation and meaningful consultation with persons with disabilities and their representative organisations, including women, boys and girls with disabilities, at all levels;
- mobilise adequate, timely and predictable resources to operationalise their commitment for emergency preparedness and response that is inclusive of and accessible to persons with disabilities following a human rights-based approach in their programming efforts, in order to avoid exclusion of persons with disabilities;
- build capacity across stakeholders including both, military and civilian, peacekeeping personnel, and other field workers intervening in emergency situations regarding the rights of persons with disabilities;
- implement international cooperation in line with the standards established in the CRPD;
- avoid, including in their disability-related strategies, matters of prevention of primary impairments;
- promote the inclusion of persons with disabilities in existing UN frameworks dealing with conflict and emergency situations; and lastly
- adopt internationally agreed guidelines on humanitarian response for upholding the rights of persons with disabilities.

In relation to climate change, international agreement regarding climate change namely, the Paris Climate Agreement, established in 2016 primarily focusses on mitigation rather than adaptation, as mitigation will require international cooperation. Adaptation should be individualised, and occur at the national and local levels. In this way, it directly addresses the needs of persons with disabilities when implementing inclusive climate actions. It is also an indication of the level of priority placed on addressing those actions.

Climate change in IPCC usage refers to a change in the state of the climate that can be identified, for example, using statistical tests, by changes in the mean and/or the variability of its properties and that persists for an extended period, typically decades or longer. It refers to any change in climate over time, whether due to natural variability or because of human activity.

The United Nations Office for Disaster Risk Reduction defines disaster risk reduction as follows, and I quote:

“Disaster risk reduction is aimed at preventing new and reducing existing disaster risk and management residual risk, all of which contribute to strengthening resilience and therefore to the achievement of sustainable development.”

The Pacific, Mr. Chairman, as we all know is the region most prone to both, natural and man-made hazards, which combine with unsustainable human development processes. According to ESCAP, populations at large are exposed to disaster risk, and persons with disabilities face disproportionately high levels of risk. Mr. Chairman, ESCAP confirms that persons with disabilities in the Asia and Pacific region are between two and four times more likely to be killed during disasters than others. As a result of insufficiently inclusive evacuation systems, support services and preparedness measures.

On PDF’s recommendations, the preamble to the 2016 Paris Agreement includes persons with disabilities as one of the populations most acutely affected by climate change. However, subsequent provisions omit disability inclusion as an essential principle in action against climate change. Persons with disabilities remain largely excluded from decision-making processes and plans to address and prevent climate change and the responses to climate-related disasters and emergencies both, at national and local level.

Mr. Chairman, PDF respectfully recommends that under Clause 67 on climate change adaptation, that the needs of persons with disabilities are taken into account and ensuring their engagement in relation to capacity building, education, awareness, adaptation, and action for climate empowerment, in addition that climate awareness is not only limited to climate adaptation partners, but to be expanded as far-reaching and to include all the various communities in Fiji.

Mr. Chairman, Clause 5, the principle of intergenerational and gender equity, PDF respectfully recommends that human rights principles and human rights-based approach are taken into consideration to ensure that persons with disabilities and their representative organisations are included in any climate action, particularly those actions that directly affect their lives, and the safety and protection of future generations of persons with disabilities from climate hazards. To recognize that persons with disabilities can also play an active role in making decisions and choices as climate actors rather than passive recipients of climate adaptation programmes.

In addition, on averting and minimising loss and damage, the loss of accessibility and damages to assistive devices during extreme weather events have multiple impacts on the lives of persons with disabilities. This means, they also lose access to health, education, food source, livelihood, and other aspects of their lives.

Mr. Chairman, PDF respectfully recommends that in any climate action that is undertaken in any community to minimise climate risks including programmes of relocation, that the concept of pre-condition to inclusion of persons with disabilities is introduced. There are six components of the pre-conditions to inclusion and that includes:

- (1) accessibility;

- (2) provision of assistive devices;
- (3) principle of non-discrimination;
- (4) social protection;
- (5) disability support services including mental health services; and
- (6) community based inclusive development.

The absence of pre-conditions to inclusion undermines the inclusion and independence of persons with disabilities in any climate mitigation and adaptation programme.

To conclude, Mr. Chairman, the disproportionate impact of climate change hazards on people with disabilities should not be ignored. One of the best ways to reduce the vulnerability of persons with disabilities to climate-driven disasters is to enhance both, individual and community resilience.

Mr. Chairman, PDF would like to urge that efforts are focused on reducing human vulnerability and as we all know that when vulnerability is reduced, climate change impacts are lessened. Moreover, the notion of twin-track approach in addressing the vulnerability of persons with disabilities through resilience building tackles a whole host of other development issues in enabling climate change adaptation to occur.

The IPCC says, “Increased capacity, voice and influence of low-income groups and vulnerable communities and their partnerships with local governments also benefit adaptation.”

Mr. Chairman and Honourable Members, thank you for listening.

MR. CHAIRMAN.- Thank you, Madam, for the wonderful presentation that you have brought before the Committee. A very informative and a very in-depth presentation and I believe, at a very outset, you did mention that you do support this particular Bill and introduction of it in Parliament.

MS. S. TAWAKE.- Yes, Sir.

MR. CHAIRMAN.- Thank you very much for elaborating and giving reasons as to why you actually support this Bill, thank you very much for that.

I now open the floor to our Members, if they have any questions they would like to ask. I will begin by asking, as an overview do you think this Bill is disability friendly?

MS. S. TAWAKE.- Yes, Sir. Before providing our submission, we had looked at the Bill and we picked out aspects or components of Clauses in the Bill that mentioned persons with disabilities and what needs to be done. So, our submission today is to add on to what you already have there.

MR. CHAIRMAN.- Now, all the Bills that come to our Committee, we have been requesting the Fiji Human Rights and Discrimination Commission to come and present to us with regards to the human rights aspect of the Bill in which it also covers disability. But I believe from now onwards, if any Bill is referred to us, we will definitely invite you and your team to come and present before the Committee, if the Bills are actually disability friendly.

That is very important for us to incorporate as part of the human rights, with the objective of the Government that no one should be left behind. So, we will definitely be inviting you in the future as well to do an analysis from your point of view, and to actually see whether the Bill is appropriate for each and every sector, for each and every human being who is going to be affected by the Bill itself.

Thank you very much. Honourable Members, do you have any questions?

HON. RATU S. MATANITOBUA.- Thank you, Mr. Chairman. Through you I thank, Ms. Tawake. I have nothing to ask, Sir.

MR. CHAIRMAN.- Honourable Dr. Govind.

(Inaudible)

MR. CHAIRMAN.- Thank you, Honourable Dr. Govind. You were not quite clear, I think because of the network but anyway, thank you for your comment. Honourable Bulitavu?

HON. M.D. BULITAVU.- Thank you, Mr. Chairman. I also agree with you, I would like to thank the presenter and submittee, Ms. Tawake, for that very precise submission. Also, your explanation on how this Bill relates to disability and the various Clauses that you have identified that take care of the concern of the organisation, as well as other things that you have raised to add on to what information the Committee will be equipped with in terms of strengthening our discussion and deliberation.

Vinaka Vakalevu. You have done well in terms of identifying those Clauses and also have submitted much better in terms of Bills when you come to identify Clauses and how relevant are they to the organisation that you represent and also the objectives of the organisation that you fulfil.

MR. CHAIRMAN.- Thank you, Honourable Bulitavu, for those comments. I believe that brings us to the end to this submission today. We do take note of all the points that were raised, Madam, before the Committee. Once we are back into Committee deliberation, we will definitely go through the Bill Clause by Clause, as you have mentioned.

For the purpose of your information, this particular session was recorded so what our Secretariat Team is going to do, they are going to extract all the important information that you have relayed and the points that you have mentioned that you recommended for changes and then it will be brought to the Committee. Then the Committee will deliberate on whether those changes are needed and the Committee is going to take them on board. If not, why not? If, yes, then why we have to. So, those are some of things that are going to be done at the deliberation stage. That is just for your information as to the normal process of the Committee.

Once again, thank you very much, Madam, for availing yourself this morning before the Committee and doing the presentation. Any final comments from your side, Madam?

MS. S. TAWAKE.- Thank you so much, Mr. Chairman and Honourable Members, for this beautiful opportunity to present before you, our submission to the Bill. We, again, would like to mention that we do support the Bill and the only message we would like to put forth to you, Mr. Chairman and Honourable Members, the notion of 'nothing about us without us'. So, as persons with disabilities and organisations of persons with disabilities, we are happy to engage with you on anything with regards to the livelihood and the welfare and the rights of persons with disabilities.

MR. CHAIRMAN.- *Vinaka.*

The Committee adjourned at 11.15 a.m.