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“Justice-Good Governance-Human Rights –Indigenous Rights- Charity”

SUBMISSION BY THE #STANDWITHNIKO (SWN) GROUP ON THE CLIMATE CHANGE BILL NO.31 OF 2021.

Good Morning Gentlemen,

1. INTRODUCTION

- 1.1. The #StandwithNiko group is very grateful for the opportunity given by this parliamentary standing committee to make submission on the Climate Change Bill.
- 1.2. The #standwithNiko Team is a civil Non-government group formed to advocate for justice, human rights in all forms including fundamental rights and indigenous group rights, Women and children Rights as recognized by the UN under its many instruments. The #standwithNiko team was initially formed in response to Honorable. Niko Nawaikula's unfair termination from parliament to organize his court challenge but has grown into an advocacy group as a voice for the people of Fiji on issues directly impacting them.

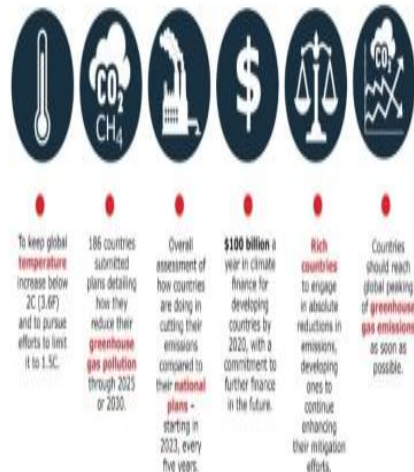
2. THE PARIS AGREEMENT

2.1 The Paris Agreement was signed in 2015 by 196 countries of which, Fiji was one of them.

2.2 The key points of the Paris Agreement:

KEY POINTS OF THE PARIS CLIMATE AGREEMENT

The 31-page document that details a landmark agreement reached in Paris on 12 December 2015 could be a turning point in the struggle to contain global warming. The historic pact, approved by 195 countries, will take effect from 2020.



Source: UNEP, Global Trends in Renewable Energy Investment 2015

2.3 What is the Goal?

1. Holding the global temperature degree. Pursue efforts to limit the temperature increase to 1.5 degrees.
2. Climate neutrality by 2050
3. For the first time Climate damage and loss is clearly defined but no mention of liability and compensation.

2.4 How do we recognize how much human influence we have on the climate?

- By collecting **DATA** from various sectors (Public and Private)

The data will give us a baseline to help us identify how much influence human how big a carbon footprint we have. This would then allow us to formulated policies in place to reduce that. A plan need to be formulated and followed covering us the first 5 years then reviewed.

The Paris Agreement came into force last year, 2020.

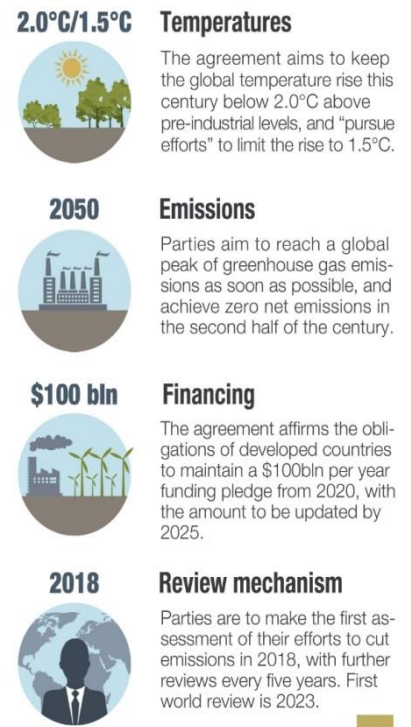
2.5 What are the clean technologies that Fiji can adopt?

- Offshore Wind Farms.
- Solar Farms in the western Division and other sunny places.



Key points of the Paris Agreement

196 signatories, will take effect from 2020



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increase in the average well below 2

- Use of water propelled turbines (rivers, sea waves to generate electricity)
- Use of other fuel alternatives such as marine Bunker fuel for inter-island shipping
- Use of Electric Cars (Expensive) cheaper alternative would be carpool, walk/bike to school and work, shop.

2.6 Who will Fund these Projects?

Encourage "Gain a Fund" research on alternative Sustainable resources. The Paris Agreement had pledged a minimum of \$100billion a year by 2020 to be reviewed in 2025. We can apply for funding based on Data/policies to fund all climate change Project.

The Fund sought from the UN must be allocated and used for its intended purpose according to the Climate Change Action Plan. We must be accountable and transparent and submitted reports must be honest and accurate.

2.7 How will we review and monitor these?

- 2018-FFP govt started by banning plastic bags (Do we have the DATA?)
- PM initiative of planting 1 million trees (Do we have the DATA?)
- The Minister for Economy has in his 2021 budget address has also banned Styrofoam packs (Do we have the DATA?)
- Set up monitoring committees in the villages/settlements though the Turaga ni Koro reporting to the Roko, to DO central/western/Eastern/Northern/Divisions who then report to the PS, who reports to the Minister who then presents to Parliament.

2.8 The first world review is in 2023. Are we ready?

The monitoring Team needs to make a submission every 4 years at the national level so that when the 5th year for review comes around all Data is Accurate and collated, to be presented at the UN.

The plan in Action needs to be periodically reviewed (it is a working document) to ensure that we are achieving our Climate Change targets consistently at all levels in society (in the public as well as the private sectors).

And now I will hand over to my colleague Honorable Niko Nawaikula to present his part before I sum up presentation.

3. BACKGROUND TO THE BILL

3.1. So far as we know the climate change bill has its origins to the general concern of the environment, as well as mother earth as the sustainer of our common home. That concern resulted in the Rio Declaration of 1992. It was followed up by Agenda 21 and eventually the 17 Sustainable Development Goals that are now part of Fiji's commitment.

3.2. Goal no. 13 which is "Take urgent action to combat climate change and its impacts" has a direct link to Climate Change Bill 2021. However Goal 12 which is "Ensure sustainable consumption and production patterns" & 14 which is "Conserve and sustainably use the oceans, seas and marine resources for sustainable development" are also related.

3.3. Goal no. 15 which is "Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss" is equally relevant.

4. BILL INCOMPLETE AND SHOULD FULLY ADDRESS COMMITMENT TO PRESERVE MOTHER EARTH, OUR COMMON HOME

4.1. Our first concern about this bill is that it is incomplete and any measure to address the need to preserve our common home must fully and comprehensively address the need to maintain our general environment to protect and preserve our common home.

4.2. This means in terms of this sustainable goal mechanism this means, that you need to take Sustainable Goals 12 (Ensure sustainable consumption and production patterns), 13 (Take urgent action to combat climate change and its impacts), 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development) and 15 (Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss) together because collectively these goals contribute to the protection and preservation of our environment, common home or mother earth in general.

4.3. Climate change only deals with the need to restrict greenhouse emission and it is a very small part of the need to protect the environment or our common home or our mother earth.

4.4. In other words, we are saying that equal priority must be given to sustainable development goals no. 12, 13, 14 & 15 because these goals deal with the protection of mother earth that is our common home.

4.5. Accordingly, in terms of priority one overall legislation or separate legislations must be tabled consecutively to address SDG no.'s 12-15 because these are concerns that are immediately needed to preserve mother earth as our common home.

4.6. It seems to us that Fiji's priority is determined by availability of overseas funds and not on its commitment to SDG goals.

4.7. This bill is a good example because the passing of this bill will qualify Fiji to accessibility to green climate fund as well as funds and projects to assist climate adaptation and restoration

5. OUR COMMENTS ON THE CONTENTS OF THE BILL

5.1. We submit the following comments on the content of the bill;

5.1.1. The bill is too big, comprehensive and cumbersome.

5.1.2. For a law that deals simply with the need to reduce and monitor greenhouse effect for a country with half a million population whose annual contribution to the emission of greenhouse gas is less than 3% of the global total, we feel that the bill is too big, complicated and comprehensive.

5.1.3. Accordingly, we plead to the drafters of the bill to simplify, make it conscience and clearly understandable to the ordinary person on the street

5.1.4. PURPOSE OF THE BILL IS TOO LONG AND CONFUSING

5.1.5 The expressed purpose of the law is too long and confusing, please ask the drafters to tie it up to SDG 13 and simplify it, for example to read as follows, FOR AN ACT TO COMBAT CLIMATE CHANGE BY THE REDUCTION , REGULATION, GOVERNANCE AND MONITORING OF GREEN HOUSE GAS EMISSIONS AND FOR RELATED MATTERS.

5.1.6. THERE IS A LOT OF SPACE WITHIN THE PROPOSED LEGISLATION THAT IS UNNECESSARILY TAKEN UP BY THE ADMINISTRATIVE MATTERS OF THE LAW

5.1.7. For example, the stated objectives of the act in (S4) are 18 in total and if the drafters can be asked if those 18 items can be placed in a schedule to the Act. Similarly on principles (S5) there are 13 items and if the drafters can be asked if this could be scheduled away or be included in a subsidiary legislation for the Act.

5.1.8. PART 2 DECLARATION OF EMERGENCY-

5.1.9. We find (S6) declaration of climate change very unusual and needs a lot of tidying up. (S61) declares Fiji is facing a climate emergency. But then (S62) goes on to say this act is a response to current and future risk.

(S63) then goes on to say Fiji is experiencing the impact of climate emergency and that it is vulnerable and transformation to zero emission is necessary.

5.1.10. In our view (S6) needs to be limited only to the declaration of climate emergency and the act did not explain again that this law is a response, that Fiji

is already experiencing the impact of climate emergency nor to explain that it is vulnerable and must achieve zero emission.

5.1.11. Accordingly can you please refer to the drafts man with our comment that this is an example of poor legal drafting because we feel (S6) must be limited only to the declaration and explanation that the act is a response, that Fiji is experiencing the effect and we aim to get zero emission is totally unnecessary and must be removed.

5.1.12. PART 3 IMPLEMENTATION OF THE PARIS AGREEMENT

5.1.13 We feel that S7 (2) a-h are administrative matters to fulfill and enabling provision, and this case being the implementation of the Paris agreement.

5.1.14 Can you ask the Drafters if S7 (2) a-h to simply say that the Minister is obliged to implement the Paris agreement and that (a)-(h) of S7 (2) be transferred to subsidiary legislation.

5.1.15 Also if you can ask the Drafters if the Paris agreement can be included as schedule to the act.

5.1.16 BILL IS NOT CLEAR ON HOW TO ENFORCE THE MINISTERS OBLIGATION AND RESONSIBILITIES

5.1.17 The bill example S7 (2) a-h and S8 (2) as well as in part 4 governance imposes many responsibilities and obligations on the Minister. Now the question is how does the law enforces those duties and obligations by the Minister. We don't see any provision that penalizes the Minister or public officer for their failure to do those responsibilities and obligation.

5.1.18 We wish to say that as opposed to the individual the bill imposes a lot of duty and obligation upon the Minister and public office holders to enable government to meet its obligation. Our concern is that the bill does not contain any enforcement provisions against the minister or this public officers. So where do we turn to for remedy if such Ministers ad public officers fail in their obligation under the act.

5.1.19 NO CONSIDERATION FOR INDIGENOUS CUSTOM, TRADITIONAL KNOWLEDGE AND PRIOR AND INFORMED CONCENT OF INDIGENOUS PEOPLE ON THIS PLACEMENT AND RELOCATION PART 12

5.1.20 We fell that the bill has not fully covered and traversed indigenous connection to the web of their environment and how that web can be hurt an strained by displacement and relocation. Where indigenous communities are currently located is connected to food source, custom and tradition that can be seriously affected by relocation.

5.1.21 Can you please ask the Drafters to address the above issues in the legislation.

Vinaka

A handwritten signature in blue ink, consisting of a large, stylized 'V' followed by a series of loops and a long horizontal stroke.

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For:Team #StandwithNiko (SWN)