

SUBMISSION TO THE PARLIAMENTARY SELECT COMMITTEE ON JUSTICE, LAW AND HUMAN RIGHTS
OF THE PARLIAMENT OF FIJI ON CLIMATE CHANGE BILL NO.31.

SUBMISSION BY THE PACIFIC DISABILITY FORUM

DATE: 8 SEPTEMBER 2021

INTRODUCTION

Bula Vinaka and Greetings Honourable Chairperson and honourable members of the Justice, Law and Human Rights committee. I would like to introduce myself; I am Sainimili Tawake and I am the Regional Coordinator on Climate Change for the Pacific Disability Forum.

I would also like to say Bula Vinaka to all those viewing this livestream submission particularly to PDF's Chief Executive Officer and Staff and to persons with disabilities in Fiji and big bula Vinaka as well to parliamentary staff who are working behind the scene to ensure that the public submissions are running smoothly.

The structure of my presentation is as follows:

- I would like to introduce the organisation I represent in this virtual submission of Bill No. 31 on Climate Change and a little bit of information on the work we do on climate change and disability.
- PDF's Acknowledgement of the Climate Change Bill.
- I will briefly talk about PDF's support for the Bill.
- I will elaborate on article 11 of the Convention on the Rights of Persons with Disabilities.
- I will then present PDF's recommendations
- Then conclusion.

The Pacific Disability Forum is a Pacific Regional Organisation of Persons with Disabilities. PDF has a membership of over seventy organisations across the Pacific including Timor Laste, Australia, New Zealand as well as the French Pacific and US territories. There are five national organisations of Persons with disabilities in Fiji that are members of PDF. These organisations are The Fiji Disabled Persons Federations, Fiji Association of the Deaf, Psychiatry Survivors Association of Fiji, Spinal Injury Association, and the United Blind Persons of Fiji. All these national organisations have branches Fiji wide. PDF's main mission is to ensure the full inclusion, effective participation and inclusion of persons with disabilities in Pacific Islands 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 (SDG), 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. PDF was formally established in 2004 and registered in Fiji in 2007.

Currently, PDF with funding support from DFAT through the Australia Pacific Climate Partnership Program 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 conducted a study on Understanding the vulnerabilities of persons with disabilities in climate change situations in Fiji.

Climate Change 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.ⁱ

People with disabilities make up an estimated 15 percent of the global population and 20 percent of the world's poor.¹ A report by the UN High Commissioner on 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.

ACKNOWLEDGMENT OF THE PROPOSED BILL

The Pacific Disability Forum acknowledges the Fijian Government on the work on climate change at international level, nationally and in various communities and support the Climate Change Bill No. 31.

From PDF's perspective, Bill 31 is,

- A genuine attempt to end the 'climate wars' by locking in lasting, achievable, bipartisan national action on climate change, and
- As 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-emissions, energy efficient and climate resilient infrastructure and buildings.
- The bill proposes to work towards net zero emissions target by 2050 and set out emissions reduction plans, and possibly emission reduction budgets.
- Enable Fiji to meet its international obligations under the United Nations Framework Convention on Climate Change, Sustainable Development Goals 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)
- 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 decision are efficient, effective, and equitable, informed, risk-based and integrated and fiscally responsible,
- that when taking action to address climate change, the Bill respects, promote and consider the rights and freedoms of all Fijians recognised in the Bill of Rights of the Fiji Constitution. On this note Honourable Chair, we will respectfully make our recommendations which we will further highlight in this submission.

¹WHO 2011, World Disability Report.

PACIFIC DISABILITY FORUM'S SUPPORT FOR THE BILL

The Pacific Disability Forum welcome and acknowledge the disability inclusive interventions by the Fiji Government and in turn show our support for the Bill based on the following:

- On 7 June 2016, The Fiji 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 is on Disaster and humanitarian emergencies sub-section (1) states and I quote, that, 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.
- Sub- section (2) states, 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.” Unquote.
- 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% of Fiji's population (113,595) this is very close proximity to the WHO estimate of 15 percent.
- On the climate change Bill, PDF affirms particularly sections
- Section 37 sub-section (3) states that the Director must take all reasonable steps to ensure that the Information Platform is accessible to people with disabilities. This 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 prevents persons with disabilities from accessing vital information to allow them to act accordingly.
- Section 77 sub section 1b states that, 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 Chair, 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 moving to safety and because, as for other emergencies, they may be invisible to relief workers, who are unaware of their specific vulnerabilities.

CRPD Article 11: Situations of risk and humanitarian emergencies

Honourable Chair! please allow me to elaborate on article 11 of the Convention on the Rights of Persons with Disabilities and what are 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 organizations, including women, boys and girls with disabilities, at all levels;
- mobilize adequate, timely and predictable resources to operationalize 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.
- 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 focuses on mitigation rather than adaptation (as mitigation will require international cooperation, adaptation should be individualized and occur at the national and local levels, 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 these actions.

Climate change in IPCC usage refers to a change in the state of the climate that can be identified (e.g. 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.²

The United Nations Office for Disaster Risk Reduction defines DRR as follows and I quote: “Disaster risk reduction is aimed at preventing new and reducing existing disaster risk and managing residual risk, all

² UNFCC (2011) Fact sheet: Climate change science - the status of climate change science today,

of which contribute to strengthening resilience and therefore to the achievement of sustainable development” unquote.

The Pacific 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. ESCAP confirms that 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.³

PDF'S RECOMMENDATION

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.

PDF respectfully recommends that under section 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 expended as far reaching and to include all the various communities in Fiji.

Section 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 organizations are included in any climate actions 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 programs.

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. PDF respectfully recommends that in any climate action that is undertaken in any community to minimize climate risks including programs 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; accessibility, assistive devices, the principle of non-discrimination, social protection, disability support services including mental health services and 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 program.

³ ESCAP, The Facts.

CONCLUSION

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. PDF would like to urge that efforts are focused on reducing human vulnerability, and as we all know Honourable Chair, 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.

Thank you.

-END-

CONCLUSION

ⁱ Marget Rosso Grossman; Climate Change and the Law, <https://www.jstor.org/stable/20744540>