

INEQUALITY, DISCRIMINATION AND EXCLUSION:

Assessing CRPD Compliance in
Pacific Island Legislation

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Abbreviations

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CPPED	Convention for the Protection of All Persons from Enforced Disappearance
CRC	Convention on the Rights of the Child
CRMW	Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
DHS	Demographic and Health Survey
DPAA	Disability Promotion and Advocacy Association, Vanuatu
DPL	Disabled Passenger Lift
DPO	Disabled Persons Organisations
ESCAP	United Nations Economic and Social Commission for Asia and the Pacific
FSM	Federated States of Micronesia
HIES	Household Income and Expenditure Survey
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
ICT	Information and Communication Technology
ILO	International Labour Organization
ITU	International Telecommunications Union
MHMS	Ministry of Health and Medical Services, Solomon Islands
MIDPO	Marshall Islands Disabled Persons Organisation
MIRC	Marshall Islands Revised Code
NATA	Naunau 'o e Alamaite Tonga Association
NCDs	Non-communicable Diseases
NDS	National Development Strategy
NPID	National Policy on Disability Inclusive Development, Republic of Marshall Islands
OHCHR	Office of the United Nations High Commissioner for Human Rights
OTA	Ofa Tui mo e 'Amanaki Centre, Tonga
PDF	Pacific Disability Forum
PIFS	Pacific Islands Forum Secretariat
PFRPD	Pacific Framework for the Rights of Persons with Disabilities
PNG	Papua New Guinea
PRIF	Pacific Region Infrastructure Facility
PRSD	Pacific Regional Strategy on Disability
PWDSI	People with Disabilities Solomon Islands
RMI	Republic of Marshall Islands
RPD	Rights of Persons with Disabilities Act, Republic of Marshall Islands
SIDA	Solomon Islands Deaf Association
SDGs	Sustainable Development Goals

SPC	Secretariat of the Pacific Community
TNDC	Tonga National Disability Congress
TNVIA	Tonga National Visual Impairment Association
UDHR	Universal Declaration of Human Rights
UNICEF	United Nations Children's Fund
UNCT	United Nations Country Team
UNPRPD	United Nations Partnership to Promote the Rights of Persons with Disabilities
UNTOC	United Nations Convention against Transnational Organised Crime
UPR	Universal Periodic Review
VPC	Vanuatu Paralympic Committee
VSDP	Vanuatu Society for Persons with Disabilities
WHO	World Health Organization

Introduction

The *United Nations Convention on the Rights of Persons with Disabilities* (CRPD) was the first international human rights treaty of the 21st century. Its adoption was a major milestone for human rights development and for the 650 million persons with disabilities around the world.

According to the World Health Organization (WHO), approximately 15 per cent of the world's population – over one billion people – experience some form of disability.¹ Over 80 per cent of persons with disabilities worldwide are living in low- and middle-income countries. Despite the existence of core international human rights treaties, persons with disabilities have remained invisible and subject to general neglect, stigma and discrimination. They suffer higher rates of unemployment and illiteracy and are typically not considered by state agencies or communities to be holders of basic human rights.²

A total of 13 Pacific island states have either signed or ratified the CRPD. Most (11) of them have ratified the Convention. In chronological order of ratification³, the countries are:

- Vanuatu (23 Oct 2008)
- Cook Islands (8 May 2009)
- Nauru (27 Jun 2012)
- Palau (11 Jun 2013)
- Papua New Guinea; PNG (26 Sep 2013)
- Kiribati (27 Sep 2013)
- Tuvalu (18 Dec 2013)
- Republic of Marshall Islands; RMI (17 Mar 2015)
- Samoa (2 Dec 2016)
- Federated States of Micronesia; FSM (7 Dec 2016)
- Fiji (5 Jun 2017)

Tonga and Solomon Islands were early signatories but have yet to ratify the Convention:

- Tonga (15 Nov 2007)
- Solomon Islands (23 Sep 2008)

States parties to the CRPD are legally bound by the terms of the Convention. Under general obligations set out in Article 4(1), they are required to:

- adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the Convention;
- modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
- refrain from engaging in any act or practice that is inconsistent with the Convention and ensure that public authorities and institutions comply with the Convention;
- take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise; and
- promote the development, availability and use of universally designed goods, services, equipment, facilities, standards, and guidelines.

A number of other global and regional frameworks and commitments also require Pacific countries to adopt measures, including legislative measures, to promote and protect

¹ Around 795,000,000 persons (15.6 per cent according to the *World Health Survey*) and 975,000,000 persons (19.4 per cent according to the *Global Burden of Disease*) 15 years and older are living with disability. *World Report on Disability* (2011), 44.

² Silvia Lavagnoli, Office of the United Nations High

Commissioner for Human Rights (OHCHR), *The Convention on the Rights of Persons with Disabilities: Key legislative measures for its effective implementation*.

³ *Status on CRPD Ratification in the Pacific*, 25 November 2020, OHCHR Pacific Office.

the rights of persons with disabilities. Importantly, equality and non-discrimination are fundamental human rights principles so the rights of persons with disabilities cut across all international human rights treaties,⁴ most of which have been ratified or signed by a significant (and growing) number of Pacific island states. These treaties comprise: the *International Covenant on Civil and Political Rights* (ICCPR), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT), the *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD), the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (CRMW), the *International Convention for the Protection of All Persons from Enforced Disappearance* (CPPED), the *Convention on the Rights of the Child* (CRC), and the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW).⁵

The *2030 Agenda for Sustainable Development* provides another important global framework that promotes the rights of persons with disabilities in the broader development context of addressing inequalities, discrimination and exclusion, and ensuring that no one is left behind. Goal 10.3 of *Sustainable Development Goals* (SDGs) specifically recognizes the need to eliminate discriminatory laws

eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard.

At the regional level, high level political support for disability inclusion and non-discrimination has been articulated for nearly two decades (since 2003). In 2012, Pacific Islands Forum Disability Ministers recommended “promoting and ratifying the *Convention on the Rights of Persons with Disabilities* and developing and implementing national policies and legislation consistent with the Convention.” This recommendation was endorsed in 2013 by Forum Leaders who also identified women with disabilities as a priority area for the implementation of the *Pacific Leaders’ Gender Equality Declaration*.⁶ The *Pacific Framework for the Rights of Persons with Disabilities 2016 – 2025* (PFRPD), endorsed by Forum leaders in 2016, recognizes the importance of enabling legal frameworks to promote, protect and fulfil the rights of persons with disabilities. Goal 3 of the PFRPD highlights the development of CRPD-aligned legal frameworks, including the review of domestic laws to eliminate disability-based discrimination and guarantee all fundamental rights and freedoms for persons with disabilities.

In addition, Pacific island states have endorsed two key Asia-Pacific regional frameworks: the *Biwako Millennium Framework for Action Towards an Inclusive, Barrier-Free and Rights-*

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