

# **REVIEW OF POLICY AND LEGISLATION ON DISABILITY IN PACIFIC ISLAND COUNTRIES**

**PACIFIC ISLANDS FORUM SECRETARIAT**

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This report is the product of work by consultants Graham McKinstry and Penelope Price.  
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Fiji  
Kiribati  
Nauru  
Niue  
Palau  
Papua New Guinea (PNG)  
Republic of Marshall Islands  
Samoa  
Solomon Islands  
Tonga  
Tuvalu  
Vanuatu

## LIST OF ACRONYMS

APCD	Asia-Pacific Development Centre on Disability
BMF	Biwako Millennium Framework for Action
CEDAW	Convention on Elimination of all forms of Discrimination against Women
COGs	Community Organisations Grants Scheme
DDA	Disability Discrimination Act
DPIOSO	Disabled Peoples' International Oceania Subregional Office
DPO	Organisations of Persons with Disabilities
EFA	Education for All
EPOC	UNESCAP Pacific Operations Centre
FDPA	Fiji Disabled Persons Association
FNCDP	Fiji National Council of Disabled Persons
HREOC	Human Rights and Equal Opportunities Commission
ICT	Information and Communication Technology
ILO	International Labour Organisation
IYDP	International Year of Disabled Persons
MDGs	Millennium Development Goals
NCCD	National Coordination Council on Disability
NDC	National Disability Council
NGO	Non-Governmental Organisation
PICs	Pacific Island Countries
PDF	Pacific Disability Forum
PIFS	Pacific Islands Forum Secretariat
RNN	Regional NGO Network
SPC	Secretariat of the Pacific Community
UNDP	UN Development Programme
UNESCAP	UN Economic and Social Commission for Asia and the Pacific
UNESCO	UN Educational Scientific and Cultural Organisations
WHO	World Health Organisation
WWD	Women with Disabilities

## EXECUTIVE SUMMARY

This is a review, analysis and discussion of disability legislation, policy and developments in the Pacific Island states that make up the Pacific Islands Forum. It is a discussion of international, regional and Pacific disability mandates. It attempts to identify the stakeholders in disability concerns, at national, regional and international level. It identifies Governments as the stakeholders with primary obligation for upholding the rights of persons with disabilities but concludes that this can only be in full partnership with persons with disabilities and their organizations, and other agencies actively concerned with disability issues. It provides many examples of positive developments and initiatives in the area of disability within the region, and presents a model for the development of national disability policy. The review also presents recommendations for action at national and regional level, and includes Country Profiles in Annex 3.

Persons with disabilities are known to be marginalised in Pacific countries. Legislative frameworks, mostly inherited from pre-independence days, do not cater for their rights or guarantee services. In more recent times, attitudes towards persons with a disability have taken a "paradigm shift" from a charity-based perception to a human rights based model. Internationally this has been recognised, with the United Nations commencing a process leading towards a Comprehensive and Integral International Convention to Protect and Promote the Rights and Dignity of Persons with Disabilities.

In the Asian and Pacific Region, Governments of the region, by means of a UNESCAP resolution, agreed to the extension of the Asian and Pacific Decade of Disabled Person, from 1993-2002 to 2003-2012. In October 2002, a High Level Inter-Governmental Meeting to Conclude the Asian and Pacific Decade of Disabled Persons was held at Otsu, Japan. The highlight of this meeting was the adoption of the Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific (BMF). The BMF is the policy document, to guide decision-making and action to achieve an inclusive, barrier-free and rights based society for persons with disabilities in countries of our region by 2012. It is designed to guide action by governments at all levels including local government, regional United Nations agencies, intergovernmental bodies, international, regional and national NGO agencies, international, regional and national organizations of persons with disabilities and their families, civil society organizations, and individuals. At its meeting in Auckland in August 2003, Pacific Islands Forum leaders endorsed the BMF as providing a set of goals and targets that Pacific Island countries could work towards over the next ten years. They acknowledged that immediate priorities for Pacific Governments should be to address policy that would dismantle barriers and improve access and coordination for persons with disabilities.

Given that the BMF has been endorsed by the Forum leaders, the review analyses the principles and policy directions, strategies, recommendations for regional cooperation and collaboration, and mechanisms for monitoring and review. Each of the seven BMF

Priority Areas are analysed in detail, with discussion of the implications for action in the Pacific context. The seven priority areas are:

- Self-help organizations of persons with disabilities and related family and parent associations.
- Women with disabilities.
- Early detection, early intervention and education.
- Training and employment, including self-employment
- Access to built environments, including information, communications and assistive technologies.
- Poverty alleviation through capacity-building, social security and sustainable livelihood programmes.

These areas were selected for further priority action as a result of the evaluation of progress achieved during the first Asian and Pacific Decade, and also include emerging areas of importance areas that were not previously addressed. The BMF requires that actions to achieve the targets set in these areas must be conducted within a national policy framework that comprises a rights-based approach, upholds the right to development for persons with disabilities, and ensures their protection from discrimination. The importance of a special focus on children with disabilities, and their families and supporters, is emphasized in the recommendations.

The review reports on recent regional developments which have seen disability issues raised on the agendas of the UNESCAP Seventh Session of the Special Body on Pacific Islands Developing Countries, held in Bangkok in May 2002, the Forum Education Ministers Meeting, held in Suva in December 2002, and the Forum Officials Committee Pre-Forum Session, held in Auckland in August 2003. All of these meetings resulted in significant commitments being made by Pacific Island Governments to uphold the rights and improve the situation of persons with disabilities in Pacific island countries. Some actions have already been taken as a result of recommendations adopted at these meetings.

The recommendations are made with the clear understanding that progress can only be made when all Pacific disability stakeholders work together in a real spirit of partnership and cooperation. The role of civil society, NGOs and INGOs, United Nations agencies, inter-agency organization and the donor community must be to support people with disabilities and Governments in their determination to implement the BMF in the Pacific region.

The Country Profiles have attempted to indicate the current situation in terms of progress towards achievement of the principles and priority areas of the BMF. Information presented in this report is based on that which was available at the time of writing, but may be updated. Progress is uneven across countries but there is evidence of development in most countries. The model policy presented and the detailed recommendations made will provide a framework from which decisions can be made as to the next steps to be taken to advance the situation of persons with disabilities in all countries of the Pacific region.

## SUMMARY OF MAJOR RECOMMENDATIONS

### A. National Level

In order to implement the BMF:

1. Governments need to explicitly guarantee the rights of the rights of persons with disabilities, as they do for all other citizens, and to ensure that they are included in all national development initiatives.
2. Governments need to determine a focal point for disability located within an identified Ministry within Government, but with the clear understanding that disability is a multi-sectoral issue.
3. Governments need to establish a National Coordination Council on Disability (NCCD) or a National Disability Council (NDC). The Council will include multi-sectoral representation from all areas of Government, and representatives of organizations of persons with disabilities, including organizations of women with disabilities, and all other relevant NGO disability stakeholders.
4. There must be a national focal point for persons with disabilities. The BMF requires that Governments support the development of persons with disabilities, including women with disabilities, and their representative organizations. They must be represented on NCCD mechanisms and they must be included in all decision-making on national policy and other disability-related issues.
5. A National Disability Policy  
Government needs to develop a National Disability Policy. This is the statement which embodies the commitment of the Government and its people to the disability sector in the community. It affirms the Constitutional, legal or other basis under which the rights of persons with disabilities will be upheld. It defines the nature of an inclusive and barrier-free society in the particular national context and designates the structures and responsibilities within Government which have been established to implement disability policy and address disability issues. It provides a statement of vision, goals, and a series of specific objectives, supported by identification of tasks or actions which must be undertaken in order to achieve each objective, and the overall goal of an inclusive society. The National Disability Policy must be developed in full consultation with persons with disabilities and their organizations, and all other disability stakeholders and partners.
6. A 5 year Action Plan comprising a list of priorities for achievable targets. The BMF recommends 5 year time-frames for National Action Plans. This document should set out the priority areas for action, together with the strategy for achieving the objectives, with defined budgetary support and a clear statement of expected outcomes.

## 7. Legislation

Legislative protection to ensure equal opportunities and equal treatment, and to prevent discrimination, is the first principle of the BMF. Enactment of legislation is an important goal of the BMF and for Pacific Governments. In practical terms the establishment of a national council and national policy should not be delayed until legislation is passed. A related goal that should also receive attention is that disability dimensions should be included in all new laws, and when existing legislation is reviewed, any discriminatory clauses or examples of denigrating language should be revised.

## 8. A reporting and monitoring process for evaluation of achievements.

Governments should establish a regular monitoring and reporting process to ensure the proper implementation of disability policy and programmes, possibly on an annual basis. National governments have obligations under the BMF to report to UNESCAP on a biennial basis, with a mid-Decade review in 2007.

## 9. Priority areas essential for action at national level

Detailed discussion of the BMF priority areas, with recommendations for possible action by national governments is in Section V of this report. All policy areas are important but some areas must be considered priorities in all PICs. These include:

- Government support to establish or strengthen DPOs, including organizations of WWD.
- Government action to develop systems for disability-related data collection and analysis to produce relevant statistics and usable information to support policy-making and programme planning.
- Focus on children, with attention on support to families, by means of community-based programmes involving health and disability workers which will assist with early detection, early intervention and transition into pre-school and school for children with disabilities.
- Focus on children, with the particular goal of ensuring that children with disabilities have access to education in their local village or community school, with support and improved teacher training for teachers.
- Focus on youth with disabilities, ensuring that they are included in any national youth strategies,
- Focus on children and youth to ensure that children and young people with disabilities are included in all community activities, with special reference to leisure and cultural activities.
- Focus on improved access to the physical and built environment and transport as this is one of the major barriers which prevent the participation of Pacific people with disabilities in many aspects of community life.

10. National Governments need to seek assistance and support in establishing policy and programmes, where necessary, from regional agencies such as EPOC, DPI Oceania, Pacific Disability Forum and INGO agencies such as Inclusion International, Vision Pacific Trust and others detailed in the report, in partnership with donor agencies.

## INTRODUCTION

The purpose of this Review is to provide a regional overview of policy and legislation on disability in Forum Island Countries, and to provide examples of good practice and model policy that could be replicated in countries of the Pacific region..

As is the case throughout the developing world, persons with disabilities in Pacific island countries (PICs) are among the poorest and most marginalised members of their communities. According to World Bank estimates they are over-represented in statistics on people living in poverty, making up at least 20 per cent of the world's poorest people.<sup>1</sup> Failure by Governments to collect data or information on their populations of persons with disabilities contributes to the continued neglect of their rights and needs. Unless very specific actions are taken to address this issue, disability will continue to limit access to education and employment and other basic social services. It leads to economic and social exclusion. Persons with disabilities and their families face prejudice, discrimination and rejection. It is the considered view of the World Bank that including persons with disabilities in national development strategies has both social and economic benefits. Concern for their rights has become an international issue, along with an increasing realisation that effective action can only be taken when persons with disabilities are fully represented in decision-making, and a consultative partnership is formed with government and all sectors of civil society.

The fourteen countries of the Pacific Islands Forum (PIF) under review are: Cook Islands, Federated States of Micronesia (FSM), Fiji, Kiribati, Niue, Palau, Papua New Guinea (PNG), the Republic of the Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. Clearly, although these countries have many qualities in common as a result of their Pacific identity, they differ on a number of significant dimensions. These include size of physical land mass and extent of scattered outer islands, population, level of development, resources, wealth and social cohesion, to name only a few. One other important dimension is the extent to which they have acknowledged the existence and issues of people with disabilities in their communities, and have taken steps, by means of legislation, policy and programme implementation, to address their obligations in terms of upholding their rights and meeting their specific needs.

Australia and New Zealand have been excluded from this list but their policies will be briefly reviewed, and their role as key partners in development, through their role as members of the Forum and as donor agencies, will be addressed.

One of the tasks of the review is to identify priority policy initiatives for all PICs, including LDCs, remaining mindful of the challenges presented by populations based both in urban settings and remote scattered outer island communities, and limited financial resources. Building on the historical situation in which NGOs have been at the forefront of developing disability initiatives, the review will attempt to identify possible areas for fruitful collaboration between Government, NGOs and the broader community. Some examples of successful collaborative initiatives will be outlined.

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<sup>1</sup> World Bank, *The World Bank and Disability* (<<http://wbln0018.worldbank.org/hdnet/hddocs.nsf>>)

The final requirement of the review is the presentation of model policy on disability that can be shared by Pacific island countries, and replicated or modified, as necessary to meet local contexts and local situations. This seemingly daunting task has been made easier by past and present disability-specific initiatives at regional and international levels, particularly events that have occurred during the last decade in the Asian and Pacific region. PICs, and the Pacific Islands Forum (PIF) itself have been increasingly engaged with these initiatives which have significantly pushed issues of persons with disabilities to a higher priority in the regional and national social development agenda.

Towards the end of the first UNESCAP Asian and Pacific Decade of Disabled Persons, 1993-2002, a resolution was passed to extend the Decade for a further ten years, from 2003-2012. At the High-level Intergovernmental Meeting to Conclude the Decade, held in Otsu, Japan, in October 2002, member Governments, including those from PICs, adopted the Biwako Millennium Framework For Action (BMF). The BMF is a policy document and blueprint for action to achieve an inclusive, barrier-free and rights-based society for persons with disabilities in Asia and the Pacific. It outlines a set of principles, strategies, goals, targets, and directives for action, and forms a comprehensive set of guidelines for countries to use in developing policies and planning and implementing programmes for persons with disabilities.

The BMF builds upon the platform which guided the first Asian and Pacific Decade of Disabled Persons, (1993-2002), the Agenda for Action. It takes as its theme the recurrent emphasis on equality of human rights and opportunities for persons with disabilities, and embodies the outcome of the gradual paradigm shift which has taken place during the past 15 year, moving the disability issue from a charity and welfare concern to one of human rights. It has as one of its central strategies support for the international move towards a comprehensive and integral international convention to promote and protect the rights and dignity of persons with disabilities.

An outcome of the human rights approach to disability has been increased emphasis on the central importance of the role played by persons with disabilities and their organizations. Support for organizations of persons with disabilities is the first priority area of the BMF. This trend has been evident in Pacific island countries, with the emergence of strong advocacy by and for persons with disabilities, in a variety of formats and contexts. Together with regional partners they were instrumental in having the issue of disability raised for the consideration of Pacific Forum Leaders in 2003.

In the terms of reference for this review special focus was placed on the important role that was increasingly being played by DPI Oceania, an NGO representing persons with disabilities and their national organizations throughout the Pacific Region. It will therefore be designated a Disabled Persons' Organization or DPO, to distinguish it from the many NGOs which deliver support or services to persons with disabilities, but which do not give them decision-making power . In July 2004 a new regional disability organization, the Pacific Disability Forum (PDF), will formally adopt its Constitution, and, with DPI Oceania as a foundation member, will become the regional mechanism and

focal point for individuals and organizations involved in the disability sector. The importance of the development of close, cooperative working relationships between organizations of persons with disabilities and government and civil society organizations will be emphasized further during the review.

At the Pacific regional level disability was placed on the agenda of the Pacific Islands Forum for the first time at its Forum Officials Committee Pre-Forum Session, in August 2003. The Communiqué of the 2003 Pacific Islands Forum contained the following statements:

*50. Leaders endorsed the Biwako Millennium Framework for Action as providing a set of goals and targets that Pacific island countries could work towards over the next ten years. They acknowledged that immediate priorities for Pacific Governments should be to address policy that would dismantle barriers and improve access and coordination for the disabled.*

*51. Leaders also encouraged regional and international organizations to continue coordinated research that would assist policy development and enhance awareness in Pacific communities.*

The current review is a first step towards implementation of article 51 of the Communiqué.

The review will attempt to provide information on historical and constitutional matters, United Nations disability mandates, regional disability initiatives, the response and current status of PICs, and the significant role played by NGO partners and other stakeholders in disability developments. The review will analyse significant policy areas of the Agenda for Action, as well as the BMF, to identify priority areas for inclusion in PIC and regional disability policy. Examples of model policy and disability initiatives will be described, again emphasizing partnerships between NGO, INGOs, organizations of persons with disabilities (DPOs), governments and regional United Nations agencies and other inter-governmental bodies. Recommendations for future action by governments and other major stakeholders in the disability sector will be made, emphasizing the critical importance of the coordinating roles of regional institutions such as PIFS and the newly formed Pacific Disability Forum.

## I. CONSTITUTIONAL AND LEGISLATIVE MATTERS

### A. Pacific Island Country context

In order to assess the extent to which persons with disabilities have been well-served by their Constitutions it is necessary to understand the historical context in which the Constitutions of Pacific island countries were adopted. The attitudes to persons with disabilities today, explicitly emphasizing that they have the same rights as all other citizens, and that these rights should be granted and upheld, were not held in the Pacific when independence was achieved in Samoa in 1962 through to 1994 when Palau achieved independence. All Constitutions contain extensive guarantees of human rights, but there was no acknowledgement that these rights applied to persons with disabilities.

All Pacific Forum countries have membership in the United Nations either directly or indirectly. The processes in the Pacific followed a pattern, in that assistance to frame a new Constitution, usually based on the Universal Declaration of Human Rights, was given to the emerging countries by the governing country or protective power. Constitutions tend to have similar characteristics although it could be said that the later the independence, the more individual the Constitution.

Rights guaranteed under the Universal Declaration of Human Rights include:

- The right to equality in dignity and rights (Article 1);
- All the rights and freedoms under the Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (Article 2);
- The right to life, liberty and security of person (Article 3);
- The right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment (Article 5);
- The right to recognition everywhere as a person before the law (Article 6);
- The right to equal protection of the law without any discrimination (Article 7);
- The right to marriage, and to found a family (Article 16);
- The rights to freedom of thought, opinion, expression, assembly and participation in civil affairs (Articles 18, 19, 20 and 21);
- The right to social security (Article 22);
- The right to work, in just and favourable conditions, and to protection against unemployment (Article 23);
- The right to an adequate standard of living, including medical care and necessary social services and the right to security in the event of disability (Article 25);
- The right to education, compulsory and free at elementary stages (Article 26).

Australia and New Zealand have comprehensive human rights laws and mechanisms, but New Zealand does not have a single document Constitution, into which most other countries have incorporated the fundamental rights listed above.

Current attitudes to disability at the time most Constitutions were formulated serve to explain the lack of any explicit reference to persons with disabilities in the constitutional documents. Disability was not recognized as an issue by most Governments and communities. Persons with disabilities were largely neglected and rejected, and where their concerns were raised at all it was within the framework of a charitable and welfare approach. Charitable NGOs were more likely to be concerned with providing services to persons with disabilities than were Governments of the region.

Internationally, and particularly in developed countries, the paradigm shift towards a human rights approach to the situation of persons with disabilities was gaining ground in the 1980s and early 1990s but Pacific island countries had been slow to become engaged with international and regional disability initiatives. Detailed analysis of the initial Constitutions of the 14 countries which are the subject of this review revealed that only in the Solomon Islands Constitution (1968) was there a clause on anti-discrimination which specifically cited disability within the groups named for protection. New legislation is currently being drafted in the Solomon Islands which will strengthen the rights of persons with disabilities.

Constitutional revision is unusual unless necessitated by conflict or political unrest. The 1997 Constitution of Fiji reflected both changing attitudes to disability and the influence of advocacy from a strong national organization of persons with disabilities, the Fiji Disabled Persons Association (FDPA), who were also represented on the Fiji National Council of Disabled Persons (FNCDP), the national coordinating committee on disability established by an Act of Parliament in 1994.

Within the 1997 Constitution of the Republic of the Fiji Islands, the Bill of Rights contains the following significant provisions:

- Every person has a right to equality before the law (38.1)
- Prohibits people from unfairly discriminating, directly or indirectly, against other persons on a number of grounds, including disability (38.2)
- People with disabilities have a right of access to all public places (38.4)
- Proprietors of public places must facilitate reasonable access to all public places
- Every person has the right to basic education and equal access to educational institutions, including people with disabilities who cannot be discriminated against on the basis of their disability and refused access to or admission accordingly to a place of education.

The major significance of these provisions has been that they have been used as a basis for strong advocacy to secure further positive consideration for persons with disabilities, including children with disabilities, when later legislation was being considered. The Social Justice Act 2001 establishes affirmative action programmes to assist disadvantaged groups achieve equity of access. Two specific programmes are prescribed for persons with disabilities. The first is the improvement of educational opportunities for students with disabilities to be implemented by the Ministry of Education resulting in the formulation of a Blueprint for Affirmative Action on Special Education. Second is

the coordination of care and rehabilitation of persons with disabilities, to be implemented by the Ministry of Women, Social Welfare and Poverty Alleviation.

A number of countries have passed disability-specific legislation primarily in areas relating to education, accessibility, equal opportunities in employment. In reports to the United Nations Economic and Social Commission (UNESCAP) on achievements made during the first Asian and Pacific Decade of Disabled Persons, a number of Governments stated that priorities for further action included anti-discrimination legislation, legislation to protect the rights of persons with disabilities, and revision of existing legislation to remove discriminatory clauses. Papua New Guinea stated the intention of re-submitting to Parliament draft disability legislation that had previously been rejected.

A Human Rights Commission has been established in Fiji in 1999, and under the Act disability is a prohibited ground for discrimination, particularly in the fields of employment and access to and participation in education. Fiji, Cook Islands, Samoa, Solomon Islands and Vanuatu have an Ombudsman, who in general terms has discretionary power to investigate acts of Government Departments and officials to determine whether actions have been reasonable. The Ombudsmen have power to make recommendations as to whether remedial action is required, but do not have executive power. Three quarters of the Forum States have systems of legal aid or public defenders, which theoretically should allow impecunious litigants to bring matters to a Court, but in practice this avenue has not been utilised by persons with disabilities.

The current situation would suggest that in many Pacific island countries persons with disabilities live under Constitutional provisions which are not disability specific. Where guarantees have not been implemented in domestic law for persons with disabilities, these wide principles are unenforceable in practical terms. The dichotomy between the existence of Constitutional and other legal rights, and the implementation and enforceability of those rights is not a problem exclusive to persons with disabilities. However, for persons with disabilities, potential advantage from these rights decreases exponentially because of lack of access to education, information, resources and technology, problems of poverty, physical barriers, and simple lack of support or personal power. These factors become more marked with geographical isolation and gender discrimination. Children with disabilities are the most vulnerable.

Denial of the human rights of persons with disabilities worldwide has given rise to a move by the international disability community to develop a comprehensive and integral United Nations Convention to Promote and Protect the Rights and Dignity of Persons with Disabilities. This initiative will be discussed further in the section on International Mandates.

#### B. The Australian and New Zealand context

The role of Australia and New Zealand in supporting development for persons with disabilities in PICs has been predominantly as regional donor nations. In this capacity their contributions will be addressed in a later section. Here it is intended to look very

briefly at the strategies these two major developed Pacific countries have adopted to address disability issues. Both countries have social protection systems of benefits to support persons with disabilities, which are arguably not feasible for PICs, but other aspects of their legislation, policies and approaches may be useful for consideration.

Australia established disability services within a framework of legislation with the Disability Services Act in 1986, followed by the Disability Discrimination Act, (DDA) 1992. The DDA prohibits direct and indirect discrimination on the grounds of disability and provides a complaints and reconciliation mechanism under the Human Rights and Equal Opportunities Commission (HREOC). Under the DDA Disability Standards are being developed in the areas of employment, education, public transport services, access to premises, accommodation and administration of Commonwealth laws and programs. This legislation has been adopted as a model by other countries in the Asian and Pacific region. Australia played a significant role in developing the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities.

The Commonwealth Disability Strategy<sup>2</sup> is based on a commitment to human rights and full access for persons with disabilities, to enable them to live, work and be fully included in all aspect of community life. The focal point for disability is in the Ministry of Family and Community Services (FACS). The National Disability Advisory Council, established in 1996 as the national disability coordination mechanism, provides the Ministry with independent policy advice, and its members include organizations of persons with disabilities (DPOs), their families and carers, and disability service providers.

Accountability, monitoring and evaluation statutes require that the Disability Strategy and its Action Plans are reviewed every 5 years. The last review of the Strategy included particular emphasis on the right of persons with disabilities to participate on an equal basis in all decision-making processes that affect their lives, and on their right to access information in appropriate formats.

New Zealand enacted legislation in 2000, by means of the New Zealand Public Health and Disability Act, which required the development of a New Zealand Disability Strategy. The New Zealand Disability Strategy was completed in 2001. Prior to this the focus of attention to disability matters had been limited to social protection and distribution of benefits and assistance, based on a number of separate laws which did not form a coordinated disability policy, but provided some support to some categories of children and adults with disabilities.

The New Zealand Disability Strategy<sup>3</sup> embodies a human rights approach to disability issues. Its explicit vision and goals include changing New Zealand from a disabling to an inclusive society, removing barriers and creating a society that highly values the lives of persons with disabilities and enhances their full participation in all aspects of community

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<sup>2</sup> Commonwealth Disability Strategy, <http://www.facs.gov.au/disability/cds/htm>

<sup>3</sup> New Zealand Disability Strategy, <http://www.odi.govt.nz/nzds/index.html>

life. At the forefront of a rights-based approach to addressing disability the Disability Strategy is committed to:

- Developing a meaningful partnership between disabled people, their families, friends and supporters and Government;
- Government leadership taking responsibility for influencing the attitudes and behaviour of society as a whole, so that the issues and aspirations of people with disabilities are considered within a fully inclusive society.

The focal point for the New Zealand Disability Strategy is the Office For Disability Issues, which serves as the national coordination mechanism, within the Ministry for Social Development. There is a Minister for Disability Issues. The Strategy has 15 objectives and specifies actions for their achievement. It is a user-friendly document, written in simple and easily understood language. The Strategy requires that all government departments must develop annual Disability Strategy implementation Work Plans and an annual progress report.

The 15 objectives are presented below in order to allow comparison with other regional frameworks, such as the BMF, which will be discussed in a later section of the paper.

- Encourage and educate for a non-disabling society
- Ensure rights for disabled people
- Provide the best education for disabled people
- Provide opportunities in employment and economic development
- Strengthen leadership by disabled people
- Foster an aware and responsive public service
- Create long-term support systems for the individual
- Support quality living in the community for disabled people
- Support lifestyle choices, access to recreation and culture
- Collect and use relevant information about disabled people and disability issues
- Promote participation of disabled Maori and Pacific peoples
- Enable disabled children and youth to lead full and active lives
- Promote participation of disabled women to improve their quality of life
- Value families, whanau and people providing ongoing support

The Minister for Disability Issues is required to report annually to Parliament on progress in implementing the strategy. Among the key points from the work plans submitted for the period 1 July 2003 to 30 June 2004 are the goals of:

- Working to foster leadership by disabled people
- More consultation between agencies and the disability community
- Directly involving disabled people in policy development.

There may be elements from both these Disability Strategies that would inform decision-making by PICs as they consider the most appropriate action to take in developing disability strategies in their local contexts.

## II. INTERNATIONAL MANDATES AND INITIATIVES

The basic human rights of all people, including persons with disabilities, are grounded in a human rights framework based on the UN Charter, the Universal Declaration of Human Rights, international covenants on human rights and related human rights instruments. These human rights instruments address the rights of persons with disabilities either generally or specifically. The Universal Declaration of Human Rights is general and makes no specific reference to persons with disabilities.

In the mid-1970s two disability specific Declarations were made, and in 1976 the decision was made to declare 1981 the International Year of Disabled Persons (IYDP). IYDP was the turning point for attention on the situation of persons with disabilities throughout the world, including in Pacific island countries. IYDP was followed by the United Nations World Programme of Action Concerning Disabled Persons (1983-1992). The World Programme began the process of transforming the disability issue from one of social welfare to a focus on integrating the human rights of persons with disabilities into the development process. Key mandates included prevention of the causes of disability, rehabilitation of disabled persons and equalization of opportunities for persons with disabilities.

A series of disability-relevant declarations, conventions, summits and frameworks have emerged between 1970 and 2004. Many are disability-specific and others have implications for persons with disabilities.

- 1971 Declaration on the Rights of Mentally Retarded Persons
- 1975 Declaration on the Rights of Disabled Persons
- 1983 ILO Convention 159 on Vocational Rehabilitation and Employment of Disabled Persons
- 1989 Convention on the Rights of the Child  
Has specific clauses relating to children with disabilities  
Ratified by all countries with the exception of USA
- 1990 Recommendation 18 on “Disabled Women” adopted for the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979).
- 1990 UNESCO World Declaration on Education For All
- 1992 UNESCAP Declaration of the Asian and Pacific Decade of Disabled Persons (1993-2002)
- 1993 Standard Rules on the Equalization of Opportunities for Persons with Disabilities.
- 1994 Salamanca Statement and Framework for Action on Special Needs Education
- 1995 World Summit for Social Development  
Persons with disabilities included only within reference to disadvantaged groups.
- 1995 Beijing Declaration and Platform for Action  
Recommendations on women with disabilities were included.
- 1996 Preparatory Committee for UN Conference on Human settlements  
Recommended affirmative government action for persons with disabilities.

- 2000 UNESCO Dakar Framework for Action on Education For All  
Limited emphasis on children with disabilities.
- 2000 United Nations Millennium Development Goals
- Eradicate extreme poverty
  - Achieve universal primary education
  - Promote gender equality and empower women
  - Reduce child mortality
  - Improve maternal health
  - Combat HIV/AIDS, malaria and other diseases
  - Ensure environmental sustainability
  - Develop a global partnership for development
- No reference was made to persons with disabilities
- 2001 Informal Consultative Meeting on International Norms and Standards for Persons with Disabilities.
- To further promote the rights of person with disabilities
  - To consider proposals for a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities.
- 2002 UNESCAP resolution to extend the Asian and Pacific Decade of Disabled Persons 2003-2012.
- 2002 UNESCAP High-level Intergovernmental Meeting to Conclude the Asian and Pacific Decade 1993-2002.
- Adoption of the Biwako Millennium Framework for Action Towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific (BMF).

It is obvious that the many conventions, declarations and frameworks listed above have not had the desired effect of achieving a world in which the rights of people with disabilities are universally upheld. Where people with disabilities are not mentioned in specific terms they are most commonly not included in measures to achieve the goals of the particular Convention or Declaration. But it is probably true to say that progress has been incremental and as attitudes have changed over time more attention has been placed on the importance of achieving social justice for persons with disabilities.

The Millennium Development Goals (MDG) (2000) reflects the most serious intent of the world community to address the problems of developing countries and the most disadvantaged groups within their communities. To the disability community it was therefore highly significant that although these goals were drafted in the first year of the new millennium there was still no reference to persons with disabilities. This indicated clearly the continuing failure to address the rights of persons with disabilities, including their right to be included in development. As will be seen in the next section, the BMF addresses this issue, by re-defining the MDGs to make them inclusive of children and adults with disabilities in the Asian and Pacific region.

In December 2001 a resolution was adopted by the General Assembly to establish an Ad Hoc Committee to consider proposals for a comprehensive and integral international

convention to protect and promote the rights and dignity of persons with disabilities. The Ad Hoc Committee has held two meetings, the first from 29 July to 9 August 2002 with focus on procedural issues, the second from 16-27 June 2003 at which it was agreed that there should be a new convention. A Working Group was charged with the task of producing a Draft Treaty Text, which will be presented to the third session of the Ad Hoc Committee in May-June 2004. The process is long and arduous but it is hope that the outcome will be a definitive, binding document which will enshrine and uphold the comprehensive rights to which persons with disabilities are entitled. This has not been achieved by the piecemeal mandates listed above, and the inadequate and unenforced protection afforded by national Constitutions and other limited legislation.

There is ongoing Pacific engagement with the process and the Working Group which produced the Draft Treaty Text was chaired by New Zealand. Representatives from Australia, Fiji, New Zealand, Samoa and Vanuatu have attended earlier regional meetings and sessions of the Ad Hoc Committee, including government, regional representatives and representatives of accredited disability organizations.

### **III. ASIAN AND PACIFIC REGIONAL DISABILITY MANDATES**

#### **A. The first Asian and Pacific Decade of Disabled Persons, 1993-2002.**

The Asian and Pacific Region was the only region to promote a specific regional initiative in the area of disability at the end of the first United Nations Decade of Disabled Persons in 1992. Reviews of progress towards the end of the World Programme for Action indicated that the major achievement of the Decade had been a world-wide increase in disability awareness but that this awareness had not translated into action. It was recognized that there was a need for another decade to consolidate and extend the gains achieved so far.

UNESCAP proclaimed the Asian and Pacific Decade of Disabled Persons, by resolution 48/3 in April 1992. The Proclamation was adopted at the meeting to launch the Decade in Beijing, December 1992. The Government of Fiji was represented at this meeting, and was one of the first Pacific countries to sign the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region, together with the Federated States of Micronesia and Australia, in 1993.

The Agenda for Action for the Asian and Pacific Decade of Disabled Persons was adopted by the Commission in 1993. This document provided the blueprint for action, to guide governments in their policy development, planning and implementation of programmes concerning persons with disabilities. To a greater extent than was the case with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (1993, the Agenda for Action was framed with a particular focus on developing countries. Two thirds of the world population live in the Asian and Pacific region. This includes an estimated 400 million of the world's 600 million persons with disabilities. 55 of 62 member and associate member states of UNESCAP are developing countries. This includes 14 of the 16 Pacific Islands Forum countries.

The Agenda for Action consisted of 12 major policy areas:

- National coordination
- Legislation
- Information
- Public awareness
- Accessibility and communication
- Education
- Training and Employment
- Prevention of the causes of disability
- Rehabilitation
- Assistive devices
- Self-help organizations
- Regional cooperation

Regional evaluation of progress towards the achievement of the goals and targets of the Asian and Pacific Decade of Disabled Persons was undertaken by UNESCAP in 2001-

2002. A survey was conducted by means of questionnaires sent to government focal points, seeking information on major achievements in the implementation of the 12 policy areas of the Agenda for Action, and identification of priority areas for further action. An independent review was carried out by the Regional NGO Network (RNN), which had worked throughout the Decade in a collaborative partnership with UNESCAP. In addition, a specific review of the situation of persons with disabilities in PICs was conducted by UNESCAP Pacific Operations Centre (EPOC), for presentation as an agenda item at the seventh session of the UNESCAP Special Body on Pacific Island Developing Countries. Detailed results and recommendations adopted at this meeting will be discussed in the next section on Pacific disability mandates, initiatives and progress.

The evaluation process revealed that although significant gains had been achieved in some countries, and in some of the policy areas, progress had been uneven. Many PICs had only become engaged with the Decade agenda relatively recently, and were at early stages of development. Areas of major concern included the continuing lack of comprehensive data on persons with disabilities and the extremely low rate of access to education for children with disabilities throughout the countries of the region. Failure to reach persons with disabilities in rural areas was a further area for concern, as was the lack of barrier-free environments and equal access to information. It was concluded that there was a need for significant further action within the region to reverse this situation. By resolution 58/4, May 2002, the decision was taken to extend the Asian and Pacific Decade of Disabled Persons for another Decade, from 2003-2012.

In October 2002 a High-level Intergovernmental Meeting to Conclude the Asian and Pacific Decade of Disabled Persons was held at Otsu, Japan. Representatives from Pacific island countries included Australia, Cook Islands, Fiji, New Zealand, Samoa, Vanuatu, and was also attended by the Pacific Islands Forum Secretariat (PIFS). Pacific participants played a very active role in the meeting, and sessions were chaired by Ministers of the Governments of the Cook Islands and Fiji. The highlight of this meeting was the adoption of the Biwako Millennium Framework for Action towards an Inclusive, Barrier-free and Rights-based Society for Persons with Disabilities in Asia and the Pacific (BMF). The BMF is the policy document, to guide decision-making and action to achieve an inclusive, barrier-free and rights based society for persons with disabilities in countries of our region by 2012. It is designed to guide action by governments at all levels including local government, regional United Nations agencies, intergovernmental bodies, international, regional and national NGO agencies, international, regional and national organizations of persons with disabilities and their families, civil society organizations, and individuals.

#### **B. BIWAKO MILLENNIUM FRAMEWORK FOR ACTION (BMF).**

The PREAMBLE to the BMF refers to the estimated 400 million persons with disabilities in the Asian and Pacific region. It emphasizes their capacity to contribute to society and to act as agents of change within it but that fulfilment of their potential is prevented by

exclusion from basic social services, particularly but not limited to, health, education and employment opportunities.

It acknowledges the international and regional mandates and initiatives that have resulted in improved opportunities and quality of life for some persons with disabilities.

It calls on governments of the region to actively implement the paradigm shift from a charity-based to a rights-based approach, and to uphold and implement the right to development for persons with disabilities.

The PRINCIPLES and POLICY DIRECTIONS of the BMF are designed to promote the goals of an inclusive, barrier-free and rights-based society for persons with disabilities. In order to achieve these goals the BMF recommends the following actions:

- Legislation should be passed and enforced and disability policies developed and implemented to ensure equal opportunities and treatment of persons with disabilities and their rights to equity in all areas of social service provision and national development.
- Disability dimensions should be included in all new and existing laws, policies, plans, programmes and other initiatives.
- National coordination committees on disability should be established to coordinate policy development, programme implementation and monitoring. There must be effective participation from organizations of and for persons with disabilities in all decision-making.
- Governments should support the development of persons with disabilities and their organizations, including women with disabilities, and include them in national policy decision-making on disability issues.
- Persons with disabilities must be an integral part of efforts to achieve the MDGs, particularly in the areas of primary education, youth employment, gender equity and poverty alleviation.
- Strengthened national capacity in data collection and analysis on disability statistics to support policy formulation and programme implementation must be effected.
- A special multi-sectoral focus on children with disabilities, with the provision of early intervention services from birth to 4 years.
- Strengthen community-based approaches as a cost-effective means of providing services and equal opportunities to children and adults with disabilities and their families.
- Adopt the concept of universal and inclusive design in rural and urban infrastructure.

Based upon the findings from the evaluation of the first Asian and Pacific Decade for Disabled Persons the following PRIORITY AREAS FOR ACTION were identified as necessary to achieve the goals of the second decade:

- Self-help organizations of persons with disabilities and related family and parent associations.
- Women with disabilities.

- Early detection, early intervention and education.
- Training and employment, including self-employment
- Access to built environments, including information, communications and assistive technologies.
- Poverty alleviation through capacity-building, social security and sustainable livelihood programmes.

The priority areas of the BMF have been framed with:

- Critical issues discussed for each priority area
- Disability-inclusive modifications to Millennium Development Goals, where applicable
- Targets to achieve the BMF goals within the Decade time-frame, 2003-2012.
- Actions required in order to achieve the targets.

STRATEGIES to achieve the targets of the BMF have been identified, to support collaborative action by Governments and civil society partner organizations. These include:

- Development of a five-year comprehensive national plan of action, with inclusive policies and programmes for integrating persons with disabilities into mainstream national development plans and programmes.
- Promotion of a rights-based approach to disability issues, that will address issues of non-discrimination, incorporation of the rights of persons with disabilities into the work of human rights institutions, consultation with organizations of persons with disabilities in the framing and amendment of legislation, and collaborative participation with them in support for the work of the Ad Hoc Committee of the UN General Assembly on the elaboration of a convention to protect and promote the rights of persons with disabilities.
- Development of systems of disability-related data collection and statistics and analysis to support policy-making and programme planning.
- Development and strengthening of community-based approaches to prevention of causes of disability and to provide rehabilitation and other services for the empowerment of children and adults with disabilities.

A focus on COOPERATION and collaboration were seen as essential to the effective implementation of the BMF, to provide a mechanism for sharing experiences, problems and initiatives. Cooperation and collaboration were envisaged at:

- Subregional level
- Regional level
- Interregional level

A MONITORING AND REVIEW mechanism was specified, with initiatives recommended at subregional and regional levels.

#### IV. PACIFIC DISABILITY MANDATES, INITIATIVES AND PROGRESS

In Pacific island countries response to IYDP and the World Programme for Action, in the 1980s and early 1990s was primarily made by the NGO sector. With financial assistance provided by AIDAB (AusAID) and NZAID, as well as other donors and agencies active in the Pacific, Red Cross and many small local NGOs, began initiatives to provide some services, particularly for children with disabilities. Community-based rehabilitation (CBR) programmes were started in Vanuatu, Solomon Islands, and Fiji, some of which were eventually incorporated in Government services. CBR programmes were the only means of providing services to persons with disabilities in rural areas and outer islands. The decade since IYDP resulted in increased disability awareness in some countries, led by people with disabilities themselves and active NGOs and saw the beginning of moves to establish (DPOs).

The Asian and Pacific Decade of Disabled Persons was proclaimed in 1993. Table 1 shows the status and date of engagement of Pacific island countries with the Decade and its Agenda for Action.

Pacific signatories to the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region	
Date signed	Country
1993	Australia Federate States of Micronesia Fiji
1994	Solomon Islands
1995	New Zealand
1996	
1997	Niue Palau Republic of the Marshall Islands
1998	Samoa
1999	Kiribati Tonga Vanuatu
2000	Cook Islands
2001	
2002	
2003	Papua New Guinea
Not signed	Nauru Tuvalu

Table 1. Pacific island countries signatory to the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region, 1993-2002 and 2003-2012.

As can be seen in the table above, Pacific Island countries were slow to begin participating in the initiatives and activities of the Decade, but by the end of the Decade all Pacific Forum countries had signed, with the exception of Nauru and Tuvalu. Inevitably some countries have been more active than others, and progress towards achieving the goals of the Agenda for Action has been uneven, but some significant improvements have taken place in most countries, and disability is now an issue on the regional agenda.

Pacific island countries have been constrained by many factors, not the least of which was the distance from Bangkok, where UNESCAP is based and most Decade-related training and other activities take place. Further constraints included cost of participation and an inadequate flow of information to the Pacific region. But a critical factor has been limited knowledge about disability issues combined with limited commitment by government to the disability sector. This was evident at both national and regional level. As services have been provided, persons with disabilities have become more visible in their communities and public awareness and concern for disability issues has risen. However, the act of signing the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region is an expression of commitment by national governments, and has usually, but not always, resulted in an improvement in the situation of disabled people in the country.

More recently there has been enormous progress in the formation of organisations of persons with disability (DPOs) at national level and in 2000 the Disabled Peoples' International Oceania Subregional Office (DPIOSO) was formed at regional level, giving birth to DPI Oceania, which has become the voice of disabled people in the region. This has raised the level of self-advocacy to a degree that has begun to have significant impact on many decisions and initiatives in Fiji, where it is currently based, and in the wider region. Leading disability activists from this organisation have played a critical role in the regional disability developments reported below. They worked in full partnership and collaboration with EPOC and UNESCAP to prepare landmark disability documents outlining the current situation of adults and children with disabilities in the Pacific region for presentation at the UNESCAP Seventh Session of the Special Body on Pacific Islands Developing Countries May 2002, the Forum Ministers of Education meeting, December 2002, and the Forum Leaders meeting in 2003. Their unprecedented presence and impassioned and informed advocacy at what is normally a "Government delegates only" UNESCAP meeting was the catalyst for a chain of events which has seen disability placed on the Forum agenda in 2003, resulting in the impetus for this review.

At the regional level, disability was not an issue on the agenda of either the Pacific Islands Forum or the Secretariat of the Pacific Community (SPC) until 2002. The Prime Minister of Vanuatu raised the issue for the first time at the 2002 Pacific Islands Forum meeting, as a result of the recommendations that were adopted by Pacific island government representatives at the UNESCAP Special Body Meeting in Bangkok in May 2002. Issues in basic education for children and youth with disabilities were subsequently considered by the Forum Education Ministers' meeting, held in Suva in December 2002,

and disability in the Pacific region was addressed by means of an issues paper presented at the Pre-Forum Session of the Forum Officials Committee in Auckland, August 2003.

The catalyst for regional attention to disability matters by the Pacific Islands Forum was the outcome of the Seventh Session of the Special Body on Pacific Islands Developing Countries, held by UNESCAP in Bangkok, May 2002. The topic of “Participation of persons with disabilities in Pacific island countries in the context of the Asian and Pacific Decade, 1993-2002, and beyond” had been selected to focus the attention of Pacific Governments on the situation of persons with disabilities in Pacific countries at the end of the first Asian and Pacific Decade. The purpose of the meeting was to provide an opportunity for government representatives to become better informed about disability issues and to adopt recommendations with a view to developing national and regional priorities for action. This outcome was achieved with the adoption of a series of recommendations at both national and regional levels.

At national level key recommendations were that:

- Disability issues should be included in all national development policy
- National disability policy and legislation should be formulated within a human rights based context, fully informed by adequate and comprehensive disability data.
- The focal point for disability issues should be a national coordination mechanism with organizations of persons with disabilities (DPOs) playing a key role in decision-making. Formation of DPOs should be supported and empowered to fulfil this decision-making role.
- Children with disabilities should be a priority focus for governments. They should have equal access to education and be included in national education plans. Special services to identify children with disabilities from birth should include early intervention and support for families.
- Issues of access to the built environment, vocational training, employment and opportunities for persons with disabilities to be included in information and communications technologies initiatives must be addressed.

Three of the recommendations at regional level have been, or are in the process of being addressed:

- Place disability on the Pacific Islands Forum agenda.
- The Forum Education Ministers Meeting should address the issue of access to education and support for teacher training with a view to having all children with disabilities attending school, with appropriate support.
- Convene a regional meeting to develop and adopt strategies for the implementation of the framework for action (BMF) with a view to strengthening regional cooperation among Pacific island countries.

At the Forum Education Ministers meeting, held in Suva in December 2002, the issues of access to education and teacher training were addressed, and three key recommendations adopted:

- A target of 75% should be set for achieving access to primary school education for children with disabilities by 2010
- The Forum Secretariat should review regional teacher training and curriculum for special needs teachers, with a view to strengthening regional teacher training opportunities.
- The Forum Secretariat should, in collaboration with donors, develop a regional programme to develop capacity that will provide inclusive education for children with disabilities.

Articles 50 and 51 of the Forum communiqué, quoted in the Introduction were the outcome of the attention to disability by the Forum Leaders, at their meeting in August 2003. The statements confirmed:

- The commitment of the Pacific Islands Forum to the implementation of the goals and targets of the BMF during the next decade.
- Forum support for regional and international coordinated research to assist policy development and enhanced disability awareness.

Clearly the outcome of these three meetings represents a major breakthrough for the disability community and its partners in obtaining significant support at regional level for disability concerns in Pacific island countries. Important recommendations have been adopted and commitments made for actions that, if implemented, will lead to significant improvements in the lives and opportunities of people with disabilities in PICs. As more countries have begun to address disability issues at national level it has become increasingly obvious that disability is a common issue across the region and that real benefits are to be gained by sharing information and collaborating in efforts to find partners and generate the necessary resources to find Pacific solutions to achieve the goals of the BMF, to build fairer and more inclusive societies within the region.

Individual countries are at different stages of development in addressing disability issues, have different levels of resources, and will have different priorities, but efforts at national level will be supported and strengthened by a regional agenda on disability. At present, few countries have developed comprehensive disability policies or strategies, or national coordination mechanisms with clearly defined responsibilities for consultation with the disability community, multi-sectoral implementation of programmes, and mechanisms for monitoring progress. Those countries which have made progress have often done so in isolation, and the lessons they have learned are not readily available to others who may be facing similar problems and seeking similar solutions.

The adoption of a shared framework to guide development on disability issues at national and regional level would establish a common approach that should facilitate decision-making and the sharing of information. The BMF has been adopted by the Pacific Islands Forum for this purpose. In the next section the principles and priority areas of the BMF will be presented in more detail to examine their usefulness as a guide for action at national and regional level.

## **V. BIWAKO MILLENNIUM FRAMEWORK FOR ACTION (BMF) – BLUEPRINT FOR DISABILITY POLICY DEVELOPMENT IN THE PACIFIC**

The BMF was built on the foundation laid by the Agenda for Action, which was the policy guideline document for the first Asian and Pacific Decade of Disabled Persons. The policy areas in the Agenda for Action maintain their validity, particularly for countries at early stages of development in addressing disability concerns. Many aspects of the Agenda for Action are incorporated into the BMF as principles or strategies. Some are incorporated into the seven priority areas which represent areas where inadequate progress was made during the first Decade, such as the education of children with disabilities, and new areas which were not previously addressed, such as new technologies and poverty.

The discussion below will look at the principles, priority areas and strategies of the BMF, as well as the issues of cooperation and support, monitoring and review. An attempt will be made to clarify the implications for policy that arise from each area, to help Pacific island governments and civil society partners to determine how they can use this information to formulate their own approaches to addressing disability concerns in their various agendas.

Information will be provided on the progress that has been made in individual countries, and by individual agencies, where it is available. More detailed information may be found in the individual Country Profiles in Annex 3.

### *A. Principles underpinning the BMF*

1. The development of persons with disabilities must be actively implemented within a human rights-based approach.

This principle requires that governments acknowledge that persons with disabilities have the same rights as all other citizens and that they take the necessary steps to see that these rights are upheld. In particular it means accepting and ensuring that persons with disabilities, and their particular needs, are included in all aspects of national mainstream development. Barriers to their inclusion and full participation, such as neglect, rejection and discrimination need to be identified and removed and equal access provided to health, education and all other areas of programme delivery. The New Zealand Disability Strategy takes this one step further and says that government will take the responsibility to educate the community and the public service to ensure that everyone in the society accepts and values persons with disabilities. It has been suggested that a “disability lens” should be applied to all national policy and programmes, in much the same way that a “gender lens” is applied to ensure gender equity in national development in many countries.

2. Disability legislation must be enacted and enforced, a national coordination mechanism established, and disability policy and action plan developed and implemented.

The BMF principles set out the steps that must be taken when a government has made a commitment to address disability as part of national policy development. Examples from PICs suggest that it is possible to develop national coordination mechanisms and disability policy without enacting legislation first. Legislation normally establishes the right of equal opportunities for persons with disabilities and lays down the focal point for responsibility for disability issues within government and the structure for developing and implementing disability policy, most commonly a national coordination committee. This committee should be multi-sectoral and should include representatives of all disability-relevant organizations. Persons with disabilities and their organizations must have a key role on the committee and a significant voice in all decision-making.

The Cook Islands, Federated States of Micronesia (FSM), Fiji and Palau all have national coordination mechanisms. Only in Fiji (1994) and FSM were they established by means of legislation. The Cook Islands is the only PIC to have developed a comprehensive National Policy on Disability and a five-year National Action Plan (2003-2008) with targets for achievement of its goals. The first objective in their national plan is to enact legislation to promote and protect the rights of people with disabilities so that they can participate fully in community life.

The critical factors are government commitment to action, determination of the focal point for responsibility for disability issues, a coordination mechanism which incorporates the views of all disability stakeholders, and gives a primary role to DPOs in consultation and decision-making, and the development, by means of full consultation, of a National Disability Policy or Strategy, with an Action Plan that will be implemented with budgetary allocation, monitored and evaluated at regular intervals. The detailed process by which this is achieved will probably vary from country to country.

3. Include disability dimensions in all new and existing laws, policies and plans and programmes.

All new legislation should include disability dimensions, which should be specified explicitly where appropriate. The insertion of clauses on the rights of persons with disabilities in the 1997 Constitution of Fiji provided the basis for the inclusion of the needs of children with disabilities in national education policy in Fiji. It is important for Pacific Governments to examine and amend existing legislation, when opportunities for general reviews or amendments occur.

4. Millennium Development Goals (MDGs)

Persons with disabilities must be included in all initiatives directed towards the achievement of the MDGs, with particular focus on access to primary education, youth employment, gender equity for women with disabilities, and poverty alleviation. This must be included monitoring and reporting requirements.

The remaining principles refer to disability data collection and statistics, early intervention, community-based approaches to programme delivery, and issues of

accessibility. These will be discussed in subsequent sections on the BMF Priority Areas and Strategies for their achievement.

#### Regional collaboration

The BMF calls for sub-regional cooperation and collaboration. It would seem that the endorsement of the BMF by the Forum is a strong step in this direction. However, as is also suggested, there must be other structures such as DPOs to work in collaboration with Governments and the Forum. The Pacific Disability Forum, a peak body of Pacific organizations representing persons with disabilities and their partners will fulfil this function. The range of organizations engaged in the disability sector will be discussed in section VI on Pacific Disability Stakeholders and partners. Both governmental and non-governmental bodies should liaise and work closely with counterparts in the wider region.

#### Monitoring and review

The BMF calls for periodic reviews of progress. The BMF calls for biennial meetings to review progress towards the goals of an inclusive and barrier-free society, and this procedure may be adopted by the Forum as it determines the implications of the adoption of the BMF.

### *B. Priority areas of the BMF.*

#### **1. Self-help organizations of persons with disabilities and related family and parent associations (DPOs)**

The change from a welfare approach to a human rights approach to issues of persons with disabilities is perhaps most clearly seen in the shift to active leadership and participation of persons with disabilities in all aspects of their affairs. In order to achieve this persons with disabilities have formed organizations at local, national level and regional level. At national level the initial tendency to develop single-disability organizations for deaf or blind persons has given way to cross-disability organizations, who can speak with one voice. This is particularly important in countries with small populations spread across remote areas, as is the case in PICs.

On the global scene this has resulted in the formation of the International Disability Alliance (IDA). IDA represents seven international disability organizations - the World Blind Union, the World Federation of the Deaf, Disabled Peoples International, Inclusion International, World Federation of the Deaf-Blind, the Association of the Users and Survivors of Psychiatry, and Rehabilitation International. IDA has consultative status with the United Nations and is consulted by agencies such as the World Bank on disability policy and initiatives.

It is perhaps of symbolic significance that in the Agenda for Action for the first Asian and Pacific Decade of Disabled Persons the policy category of Self-help organizations was 11<sup>th</sup> out of 12 whereas in the BMF it is the first of seven priority areas. While policy areas have not been deliberately ranked in order of importance it does reflect a shift in

attitude. Disability issues are no longer considered to be the primary concern of service providers. The slogan of Disabled Peoples' International (DPI) "nothing about us without us" reflects the direction of thinking in the new Decade and the determination of persons with disabilities to take responsibility for their concerns and to work collaboratively with government and other partners to achieve their place in inclusive and barrier-free societies. In order for this to be effective governments and other civil society agencies need to support DPOs to carry out these responsibilities.

In the Pacific context services have been provided in a piecemeal manner, by organizations focused on service delivery and managed by non-disabled people, who adopted the view that persons with disabilities must be cared for, protected and segregated. Persons with disabilities were regarded as passive recipients of goodwill – unable to make their own choices or manage their own affairs, dependent on small NGO or international NGO service providers and, in some cases, the willingness of government to become involved, to pay teacher salaries in separate schools for disabled children, for example, or to maintain CBR programmes in the community as has occurred in Fiji and the Solomon Islands.

Lack of knowledge and lack of attention to the issue of disability has meant that most countries have had no real idea of the prevalence, nature or causes of disabilities within their communities. Only recently have surveys been conducted in the Cook Islands, Samoa and Kiribati. Health systems have not addressed their needs, access to education for children with disabilities has been limited to small numbers of children who live in urban areas where they may have attended small separate mostly NGO run schools. Problems of access remain an on-going challenge for persons with disabilities, and employment opportunities, training for self-employment or income-generation are extremely limited and non-existent in most PICs. Finally, custom and tradition are difficult to displace with more complex human rights concepts about a section of the population that has traditionally been regarded as having no value and where responsibility for less fortunate family members has always been taken by the strong Pacific extended family.

As a result of these and other factors, persons with disabilities, particularly those with congenital and intellectual disabilities, have tended to remain hidden in island communities. Those who survived, often in the absence of interventions that are available elsewhere, have been isolated by and within their communities. Persons with disabilities have not had a voice, have not received education, have not had a job nor participated in community or public affairs.

The task of achieving change in PICs in the face of these daunting conditions has been enormous. The major impetus towards change has been the actions and advocacy of persons with disabilities themselves, and their organizations (DPOs), in some cases working together with NGOs, parents of children with disabilities and other supporters. This has required considerable courage and sacrifice and persistent determination to work towards seemingly unobtainable goals, in the face of negative attitudes, indifference and problems in obtaining the resources to continue, The quite significant progress that has

been made in the past decade can be attributed to their capacity for organization, the intensity of their advocacy, the absolute commitment of their leaders and the justice of their cause.

The last ten years has seen the birth of many single and cross-disability organizations in the Pacific region. It has also seen the rise of the first regional organization of persons with disabilities, DPI Oceania. This is an umbrella organization with the capacity to provide support to national organizations, and the capacity to provide leadership training and encouragement to PICs as they strive to establish their own association of disabled persons. DPOs were formed in Fiji and the Solomon Islands in 1993 and were beneficiaries of UNESCAP training for the empowerment of persons with disabilities and support for the development of self-help organizations. Guidelines were published in 1991.<sup>4</sup> A subregional workshop on the management of self-help organizations was held in Suva in 1996, directed at enhancing capacity to play an effective and cooperative role in developing national policies and programmes on disability issues. Fiji Disabled Persons Association (FDPA) has grown into a strong organization with branches at district and grass-roots level and membership on the semi-autonomous Fiji National Council for Disabled Persons (FNCDP) which was established in 1994. FNCDP is in the process of re-generation, with determination by the Minister for Women, Social Welfare and Poverty Alleviation, the focal point for disability in the Fiji Government, to make it more effective, representative of, and responsive to, the needs and rights of disabled people in Fiji. The Disabled Peoples Rehabilitation Association (DPRA) in the Solomon Islands was an effective mechanism for a number of years, advising the Ministry of Health on the jointly implemented Government/NGO programme to train and deploy rehabilitation aides in rural and remote areas of the Solomon Islands. It too is in the process of re-building after problems which were compounded by political instability and funding constraints.

The organizations of persons with disabilities formed in Vanuatu, Cook Islands, Samoa and Papua New Guinea since 2001 have all benefited from the leadership and encouragement of DPI Oceania. In a region of vast distances and small scattered populations DPI Oceania has built an effective networking system capable of overcoming isolation and lack of information, support and encouragement. By mobilizing funding support it has been able to carry out leadership training in Vanuatu and in PNG with participation of many other countries on each occasion.

The BMF states clearly that persons with disabilities are the most qualified and best equipped to support, inform and advocate for themselves and other persons with disabilities. Their input into the proper design and implementation of policy, legislation and strategies will ensure their full participation in social, economic, cultural and political life and enable them to contribute fully to the development of their communities. Communities which encourage this process will in turn be enriched. The BMF recommends that:

- Governments and their funding partners should provide resources to support the formation and development of DPOs

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<sup>4</sup> ESCAP. Self-help Organizations of Disabled Persons (ST/ESCAP/1087) 1991.

- Governments and civil society organizations should fully include DPOs in all decision-making processes which affect their lives, by means of increased consultation through the national coordination mechanism

However, it must be recognised that for this to be achieved there will be a need for training in advocacy and participation in decision-making processes for persons with disabilities who may not yet have these skills. So far in the Pacific the only training has been provided by DPI Oceania with funding support from NGO and INGO and donor sources. There has been no support from national governments. Many of the underlying problems facing persons with disabilities also impact in this area. Prominent among these are lack of education and training, and access to information and communications. The practical problems of funding and resources, and available and committed personnel are huge impediments to progress. Many local and national organisations of persons with disabilities expend a disproportionate amount of time and energy to raise funds to continue to exist. They compete for funds potentially available for other community services. They cannot adequately pay themselves or staff, or pay for administrative requirements or the cost of communication and obtaining information. As a result, their effectiveness is dramatically reduced, both in respect of provision of services to their members, as advocates and as resources to Governments.

It is suggested that national Pacific Governments should more actively support DPOs, directly or indirectly. The extent and method of that support may well vary, but should as a minimum consist of:

- The cost of establishment or formation of a DPO, creation of a Constitution, the cost of incorporation where required and annual fees if applicable. This is not an onerous request, and can easily be supported throughout the region. A model Constitution can be made available for use throughout the Region, as virtually all countries have an underlying base of English law, and overall, this initial phase should be inexpensive.
- Premises. There should be provision for modest accommodation, either by payment or contribution to rent, or provision of premises themselves, preferably with or near the Government Department responsible for disability issues.
- Basic administrative costs. Governments should be able to provide in cash or kind the basic administration costs, such as a telephone line, and essential stationery. They may also be prepared to provide a computer, photocopier and fax, or assist with these components.
- Some support could be provided toward staffing

Experience has shown that donors are not keen on supplying funding to be used for administrative purposes, wanting to see a more demonstrable outcome for their money. If assistance as just suggested were available from Governments, immediate and obvious benefits would result. From the point of view of DPOs, half the burden of fundraising will have been lifted, and secure in their position, the real tasks can receive the attention they deserve. From the point of view of Government, their obligations towards the disability community will have been met to a standard that is realistic in terms of

economic capacity. Governments will benefit from informed collaboration in policy development and implementation, in an area where they frequently lack expertise. Examples of support exist within the wider region. The Malaysian government has a programme of supporting DPOs. In NZ, schemes such as Community Organisations Grants Scheme (COGS) provide some assistance to DPOs.

Government support for and collaboration with DPOs will result in well informed policy and a strong partnerships for implementation of programmes, with expertise provided by persons with disabilities. It is essential that DPOs be supported to achieve this outcome. .

#### Family and parent associations

Children with disabilities are dependent on their families for survival and future development. The birth of a disabled child can be a traumatic event for any family and in societies where there is little concern for persons with disabilities there is no source of support or expertise to turn to and families face their difficulties in isolation. The situation is compounded when the disabilities are severe or met with particular prejudice as can be the case with intellectual and severe behavioural disabilities. This situation has given rise all over the world to the formation of parent and family self-help groups, initially to meet their own needs and to share their experiences. In many situations these associations have grown into strong organizations and have advocated to governments, NGOs and DPOs to achieve the services and attention that they need to raise their children and give them the best opportunities to develop the potential that they have.

In Pacific communities the extended family plays a very important role. In some communities families and their disabled children are accepted, integrated and included. But even where this is the case, families often need expertise not readily available, and they need access to pre-schools and schools, which may not be prepared to accept their children and may not have the skills to teach them.

In New Zealand and Australia organisations of parents of children with disabilities have grown into powerful service delivery agencies, and in Kiribati, where government is not yet providing education to children with disabilities, the parents' group is actively involved in managing and supporting the non-government educational centre for children with disabilities. In Pacific countries such as FSM, and Palau parent advocacy has been successful in influencing government to include their children, and to develop programmes to make sure the education is appropriate and teachers trained.

Moves to encourage the formation of parent groups should taken by government and other agencies concerned with the rights of children. These groups can grow into effective partners and resources for health and education initiatives, particularly in community-based approaches. It is necessary to recognise that many parents may not be aware that their children are capable of learning, have the right to education or that schools and communities may welcome their inclusion. It is necessary to provide awareness training and support to parents to enable them to encourage, support and

advocate for their children. This point is addressed in the targets of the BMF area on early detection, early intervention and education.

DPOs need to be particularly responsive to the needs of children with disabilities, to welcome and strengthen parents and family organizations as partners, and to fight together for the rights and services that will ensure that the next generation of children with disabilities will grow up healthy and well-educated, integrated into their communities and contributing to them.

## **2. Women with Disabilities (WWD)**

Concern for WWD expressed in the BMF states that they are one of the most marginalised groups in society, as they are multiply disadvantaged through their status as women, as persons with disabilities, and are overly represented among persons living in poverty. It states that women and girls with disabilities face discrimination within their families are denied access to health services, education, training, and employment. While they are excluded from social and community activities they are at increased risk of abuse and personal isolation.

Human rights developments such as the Convention on Elimination of all Forms of Discrimination against Women, CEDAW and other initiatives have led to improvements in the situation of non-disabled women but those changes have not been reflected for women with disabilities. CEDAW is an important international instrument, and one which women with disabilities can cite with confidence in pursuing human rights for themselves and families. In the Convention, State parties agree to condemn and eliminate discrimination against women in all its forms and to actively promote equality between men and women, using legislation to achieve these objectives. There are articles referring to public and private lives, citizenship and nationality issues, education, employment, marriage and relationships, health, parenthood and maternity issues, and women in rural and isolated areas. The BMF objectives include many of the CEDAW concepts. Of the countries in this Review, 10 out of 16 have ratified CEDAW but are clearly not implementing Recommendation 18 which addresses the specific issues of WWD. It should also be noted that Constitutional guarantees of equality exist in all countries.

The BMF requires Governments to establish anti-discrimination measures to safeguard rights of women by 2005, and for women to be included in mainstream gender organizations. It seems unlikely that specific anti-discrimination legislation will be instituted anywhere by the target date. Ministries or Departments of Women's Affairs exist in a number of Pacific countries, and gender equality question are being addressed, notwithstanding custom. It is necessary for this concern to be extended to WWD. However to date it has been more likely to occur through advocacy of women with disabilities themselves, rather than by action taken by means of gender equity policy.

The third requirement of BMF is addressed to DPOs, to ensure that they adopt policies which will promote full participation and equal representation in their organizations, including access to training. Evidence from the evaluation of the first Asian and Pacific

Decade suggested that WWD are not adequately represented in DPOs and have fewer opportunities to participate in leadership and other forms of training. Of the 9 Pacific governments which reported to UNESCAP in 2002, Fiji was the only country to provide information about the status of WWD. FDPA has a long history of concern for WWD and has had a long-standing programme to empower WWD through supported training in independent living, including skill acquisition for income generation. WWD in Fiji are actively engaged with the mainstream gender movement, and have membership in the Fiji National Council of Women. They have the capacity to provide leadership on this issue in the region, and have recently taken steps to do this.

In August 2003, UNESCAP held a Workshop in Bangkok to promote the full participation of women with disabilities in the process of the elaboration on an international Convention to promote and protect the rights and dignity of persons with disabilities. This was attended by several disabled women from Pacific countries, and was followed by the first regional conference of WWD in the Pacific region.

The Women with Disabilities Pasifika Forum was held in Suva in December 2003. This conference was organised by DPI Oceania, sponsored by the Global Funds for Women, and with support from PWD Australia, the Vision Pacific Charitable Trust. The Forum was attended by women from Australia, Cook Islands, Fiji, Kiribati, New Zealand, Samoa, Solomon Islands and Vanuatu. The broad goal of the Forum was to build the capacity of Women with Disabilities in the Pacific and to promote their equal treatment and full participation in the development and implementation of national, regional and international initiatives pertaining to women and disability.

The meeting was held end-on with a meeting of the newly formed Pacific Disability Forum (PDF), the peak disability advocacy Forum for the Pacific region. This enabled the women to present the outcome of their meeting, the “Suva Declaration<sup>5</sup>” to the Pacific Disability Forum, at a time when it is still in the process of determining its structures and Constitution. In keeping with the targets of the BMF, the Declaration upheld the importance of having a distinctive voice of WWD in the PDF, demanding that the issues of Pacific WWD should be included in the strategic plan, implementation and monitoring procedures of the PDF. They further demanded that training of WWD must be a high priority in the training programme of PDF, and that all submissions made by PDF must fully include and address issues of WWD. Finally they demanded Constitutional safeguards to ensure the inclusion of WWD in the decision-making and management processes of PDF.

Perhaps an immediate goal of the Women with Disabilities Forum could be to join with other Women’s Groups to advocate for adoption of Recommendation 18 of CEDAW where this has not yet happened, and to advocate for progress towards implementation elsewhere, as well as the inclusion of WWD in the monitoring process. A project of this latter nature has been undertaken in Vanuatu.

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<sup>5</sup> For the full text of the Suva declaration see Annex 1

### **3. Early Detection, Early Intervention and Education**

Priority area 3 of the BMF addresses the issues of children, emphasizing the importance of early detection of disabilities from birth or as soon after birth as is possible, early intervention with support to families and full access to appropriate education.

The situation of infants and children born with disabilities in PICs is one of desperation for them and their families. Parents are given no information or guidance when they are sent home from hospital. Health workers, particularly on outer islands, do not have the training to provide guidance to the family but more importantly many of them hold the attitude that “the disabled” are not their concern and nothing can be done for them. Young disabled children may lie on a mat on the floor, receiving no stimulation, frequently malnourished because the transition to solid foods is not made if the child does not progress through the normal milestones of development. Without stimulation and simple exercises contractures and secondary disabling characteristics become irreversible. Even where disabilities are less severe, intellectual or physical, the children and their families may be rejected by the community, and the chance to attend pre-school and school denied. These children are then at risk for lives lived in poverty on the edge of their communities. They may be accepted by their families but denied the opportunity to participate in community activities and obligations. Without education children with disabilities cannot achieve economic or social independence and almost inevitably become an economic burden on society and on their families. This situation needs the most urgent attention of Pacific island Governments and other agencies.

Education is a basic human right for all children, including children with disabilities. This right has been enshrined in the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the World Declaration on Education for All, the Dakar Framework for Action on Education for All and the Millennium Development Goals. The Convention on the Rights of the Child is the most widely ratified human rights treaty in the history of the United Nations and has been ratified by all countries in the Pacific region. It mandates that States make primary education compulsory and available free to all children on the basis of equal opportunity, with protection from all kinds of discrimination, including discrimination on the basis of disability. It also requires that children with disabilities have access to and receive education in a manner conducive to the child’s achieving the fullest possible social integration and individual development.

It is essential that these factors and the rights described above are taken into account by Pacific Governments. The cost of providing education must be assessed in terms of the cost of creating generations of young people who are denied an opportunity to contribute to their societies and the sense of shame for societies that persistently neglect this multiply disadvantaged group of young citizens.

Evidence from the evaluation of achievements of the first Asian and Pacific Decade suggest that some very good developments are taking place in PICs. There has been a movement towards including children with disabilities in regular schools, although separate NGO provision is still the only education available in some countries, such as Solomon Islands, Kiribati and Tonga. In many countries education is available only to children in urban centres and only to children with less severe disabilities. The Cook

Islands and FSM have passed legislation mandating the inclusion of children with disabilities in regular schools. Palau has an integrated education system with modification to the curriculum, and PNG has a plan for an integrated system but not yet fully implemented. Samoa has made significant progress in making education available to children with disabilities, has conducted a survey of all children with disabilities and is providing education in Special Needs Units with trained teachers in village schools. Fiji, as was mentioned earlier, has developed a Blueprint policy for Special Needs Education and has quite extensive provision in special schools as well as accepting increasing numbers of disabled children into regular school. More Governments are including children with disabilities in national EFA plans.

The importance of early identification and early intervention cannot be separated from the importance of providing education to children with disabilities. Whereas non-disabled children can enter school and start learning, for young disabled children it is essential that they have special help and stimulation from as early as their disabilities are identified. This is to make sure that they do not develop secondary disabilities and that they learn to use the potential that they have. Families need support and training to learn how to best help their young children develop. Clearly there is a need for collaboration between health and education sectors in this area. Several PICs have some early intervention services but these seldom reach children and families in rural areas. Fiji has an early intervention Centre in Suva that has been linked to rehabilitation aides who worked with families in many provincial districts. The Solomon Islands has also introduced early identification into the training of Mother Child Health Workers, who refer children to the Rehabilitation section of the Health Department, with links to the rural CBR programme. Samoa has recently identified all its children with disabilities throughout the country, with a view to providing support and early intervention to families. In Tonga the pre-school teaches sign-language to all children. Family members can become service providers in CBR programmes and DPOs need to support parent and community groups to enable these programmes to be developed. The formation of DPOs and parent support groups will create a community resource for support. At the grassroots level, DPOs make support available to new parents of children with disabilities.

The issues of training and capacity building are critical for PICs and it is important that developments made in one country can be shared with others. It is also important that regional training resources be used to best effect. Early intervention and community-based approaches have been covered in distance courses available from the Distance Education section of the University of the South Pacific. USP also conducts teacher training for teachers who will work with children with disabilities. Many PICs have teacher training institutions and opportunities need to be created for sharing and learning from each other and strengthening the resources already available. Fiji School of Medicine (FSM) has considered the inclusion of CBR in its curriculum. The training of nurses and health workers needs to be extended to cover the early development of children with disabilities and doctors need to learn about disability.

There is a need for all teachers to have training to enable them to teach children with disabilities, with additional more specific training provided for some teachers. Schools must be made accessible and have decent facilities available. There will be a need for some specialist educational equipment. The principle of inclusive education is important

for the future, and with development of EFA plans, and specific national plans for education for children with disabilities, the direction must be to move towards including children with disabilities in main stream schools, rather than in special or segregated schools.

The Pacific Regional Initiative for the Delivery of Education PRIDE is an exciting recent development, directed to basic education, in accordance with the Forum Basic Education Plan. The programme will be conducted from the Institute of Education at the University of the South Pacific, and is funded by the European Union and NZ Aid. It is primarily intended to ensure that all Pacific Island Forum countries have high quality education plans, and subsequently, to provide technical assistance towards implementation of these plans. Again, education for children with disabilities is not specifically mentioned, but given that the Forum Basic Education Plan now contains recommendations concerning the inclusion of children with disabilities, it is essential that every effort be made to ensure that PRIDE will include children with disabilities in its initiatives..

The first target of the BMF refers to the inclusion of children with disabilities in the MDGs to have all children receive a primary education by 2015. As has already been noted the Forum Education Ministers have recommended that a target of 75% should be set for achievement in PICs by 2010. The third and fourth targets require that all infants and young children will be able to receive community-based early intervention services, with support and training for their families, and that procedures for early detection are put in place.

The Education Ministers have recommended a review of teacher training and curriculum with a view to strengthening regional teacher training quality. And they have recommended that donor assistance must be found to develop a regional programme of inclusive education for children with disabilities.

Pursuit of these recommendations will go a long way to seeing real improvements in the lives of children with disabilities and their families, and of their communities.

Combined with determination to address early identification and early intervention, this would constitute a policy to fully develop the potential of all disabled children in the Pacific region, and so change the situation for persons with disabilities for generations to come. Where limited resources are available, a prioritised focus on children may provide the best outcome that will in time impact on all other areas of development.

It could be noted here that the New Zealand Disability Strategy has an objective to enable disabled children and youth to lead full and active lives in addition to objective 3 which is to provide the best education for disabled people. This provides a valuable model for PICs in the area of children and education. Pacific children are entitled to a happy childhood, fully accepted in their families and communities and participating in all aspects of social and cultural life.

#### **4. Training and Employment**

This is an area which requires attention in all PICs, and must build on a focused approach to improving the educational level of children and youth with disabilities. Youth with

disabilities have limited access to training and employment and discrimination is still widespread in the employment area, sometimes at surprisingly high levels of government, even in the face of high level of qualifications of job applicants with disabilities. Job opportunities are hard to find for non-disabled youth, so youth with disabilities are extremely disadvantaged.

Where education has been mandated, as in FSM, there are transition and vocational training programmes in schools to assist high school students with disabilities to achieve employment. Palau has similar work training and placement programmes. Fiji has long had a Vocational Training Centre, accredited by the Ministry of Education. This is currently in the process of being upgraded. Recently, ACROD in Australia have made an appointment for an overseas aid officer, with a view to linking organisations for employment of persons with a disability in Australia with those in the Pacific, specifically with Fiji in the first instance. In Samoa an innovative strategy of the United Nations Volunteer Programme is integrating youth with disabilities into mainstream vocational training programmes, in rural and urban areas. Samoa also provides scholarships for youth with disabilities to study at tertiary level, and is considering setting targets for placement of persons with disabilities. In Fiji steps have been taken to make USP more accessible to students with disabilities.

The BMF promotes the ILO concept of decent work for persons with disabilities, ratification of ILO Convention 159, and it sets targets for the inclusion of persons with disabilities in vocational training programmes. It also targets collection of reliable data to measure employment and self-employment of persons with disabilities.

In larger and more developed countries, there are many industries and enterprises where niches exist where persons with disabilities can participate in income generating occupations. In Hong Kong, for example, groups of persons with disabilities have succeeded in obtaining a contract to manufacture one set of components in a total assembly process. These persons, as individuals, are slower than their counterparts, but by working in a co-operative, with larger numbers of persons, can nevertheless sustain the required level of output. Obviously, the income from the contract has to be divided among a greater number of persons, but they nevertheless earn more than they otherwise would have done. There are a number of reports of groups of persons with disabilities having contracts to clean police, emergency or municipal vehicles. Not only do these persons gain decent and meaningful work, but the persons for and with whom they work gain knowledge and insight about persons with disabilities, the ideal of a community partnership with mutual benefits.

In 2003, the ILO held a Technical Consultation on Vocational Training and Employment of Persons with Disabilities in Asia and the Pacific. Nine countries had been involved in a study prior to the meeting. Fiji was the only Pacific country involved. Countries were asked to consider ratification of ILO Convention 159, and the Vocational Rehabilitation and Employment (Disabled Persons) Convention 1983. In some Asian countries legislation exists which requires employers over a certain size to employ a quota of persons with disabilities, with sanctions by way of fines if they did not do so. This

approach has relevance in the Pacific context too and in Fiji a draft Industrial relations Bill will be discussed in Parliament in 2004. This Bill contains provisions for persons with disabilities, including reasonable accommodation and a two per cent quota system. PNG has indicated that introduction of a quota system is a priority.

There were a number of conclusions from this Consultation, and those applicable to Pacific countries are listed below.

- If legislation is enacted, it must be implemented, with enforcement provisions and mechanisms.
- Data is critical in informing the establishment of any policy.
- There should be tripartite consultation between Government, DPOs and Trade Unions if "mainstream "employment programmes are considered.
- Governments may have duties to assist persons with a disability to find decent work but employers too have an important role in making decent work available.
- Any vocational training programmes must have linked employment opportunities.
- Many persons with disabilities adapt well to technical industries such as IT developments. This is an emerging area in the Pacific, and Governments should be alert to offering appropriate opportunities.
- Sheltered employment aggregations are not realistic options.
- Self or group employment schemes are ideal for persons with disabilities, allowing self-determination.
- Tax or other incentives or subsidies may assist, but are not traditional methods in this Region.
- Specialist knowledge is required, to identify opportunities and define training parameters.

Employment and training issues are important, but are linked to the provision of education and the development of transition programmes from school to training and work. Some excellent examples are available in FSM and Palau. Partnerships are necessary to make progress in this difficult area, with Government, DPOs, the private sector and local communities, particularly in outer islands and remote locations, working together to find solutions. Availability of small scale loans to promote self-employment has been effective in many places.

## **5. Access to Built Environments and Public Transport**

The inability to have access to buildings and to move about by public and/or private transport represents one of the major barriers which prevent persons with disabilities from actively participating in social and economic activities. They cannot transact business, access education facilities, pursue recreational opportunities, visit friends and family and get to shops and markets. The BMF recognises these factors, and recommends progress towards a system of Universal/Inclusive design, to benefit not only persons with disabilities but others such as elderly persons.

Developed Forum countries, Australia and New Zealand, have passed legislation and developed standards which would meet the requirements of this Priority Area in relation to physical access to major buildings but accessible transport, and basic access in many rural areas would still be on their agenda. It is acknowledged that the situation is more difficult in small PICs, with many villages in remote locations, and less well developed infrastructure. The rough paths and roads present problems for wheel-chairs, exacerbated by lack of curb-cuts in urban areas where inaccessible taxis or min-vans prevent disabled people from engaging in the most ordinary daily tasks, such as going to the markets or to public buildings.

The BMF targets require the adoption and enforcement of accessibility standards for planning public facilities, infrastructure and transport, including in rural areas, that all new transport systems be made accessible, and that international and regional funding agencies should require universal design in their infrastructure loan criteria.

Most governments have acknowledged that progress has been very limited in this area. However FSM reported that legislation had been drafted, policy developed in Samoa and in Palau some new buildings were accessible. PNG reported that legislation had been passed but was not enforced. In 2003 the Fiji Government has endorsed in principle a Building Code prescribing access provisions for persons with disabilities, using universal design and standards. This problem was highlighted in Fiji recently, with demonstrations by disability advocates to draw attention to the extreme difficulties they faced in moving around Suva. UNESCAP has provided a series of training workshops in this area, targeting government infrastructure personnel, architects and disability advocates. This work is being continued by the Asia Pacific Development Centre on Disability (APCD), a regional disability and empowerment agency, jointly founded by the Governments of Japan and Thailand, to continue the work of the Asian and Pacific Decades for Disabled Persons. It is another area where collaborative solutions need to be sought but the primary responsibility is that of government, and enforceable legislation and standards are strongly recommended.

Governments can gradually introduce a series of initiatives leading towards legislation or Regulations requiring access for all.

- Access standards should apply to all building regulation, and should be enforced in the process of scrutiny by central or local government before permission to build is given. A primary regulatory system already exists, with a built in "prior permission" implementation/enforcement system.
- Information about compliance standards must be readily available, to governments, architects and builders.
- A process can be promulgated for initial voluntary compliance, with compulsory compliance to be introduced at a known future date. New Zealand introduced its current practice in this way, so that developers, architects and builders had lead-time to prepare for compliance.

- Governments can expect considerable public credit and even international recognition by implementing accessibility legislation.

In respect of local land-based transport, there are small initiatives that would have considerable benefits. These include equipping minivans to transport persons with disabilities by using simple ramps, but can range to hydraulic hoists. Most Pacific urban centre should have such transport where taxi-vans are a common method of public transport. In Port Vila, as in many other centres, none are adapted or have space for persons with disabilities, particularly those with wheelchairs. If however, in this or similar situations, a Government, a local authority, a DPO or perhaps even a sponsor were willing to purchase simple metal channel ramps and restraints and provide a small subsidy for business otherwise lost, the whole disability community and supporters would become willing clients. The area is one where assistance from suppliers of vehicles may be possible. Developed countries provide disability parking. For the cost of a sign and a pot of paint, Governments and local authorities could put a sign outside their premises. Apart from the facility itself, this is a visible demonstration of commitment to disability issues. If Governments set an example, then businesses may be persuaded to provide facilities, and if one does, then their competitors will also be obliged to do so.

National airlines will want to ensure that their planes and facilities are accessible, in the interests of tourism and their own image. They should be asked directly to ensure that their aircraft and facilities are accessible. Persons with disabilities, DPOs and NGOs would certainly assist with input into possible solutions in their own countries. Similarly, providers of sea transport must provide access wherever conditions allow. It should be compulsory for sea transport originating from main centres.

Accessibility is an area in which significant advances are urgently needed and a multi-faceted approach is required to ensure that small improvements are achieved while the development of Standards and legislation are in process. There will be benefits to the entire community, but particularly to persons with disabilities who face such significant barriers in ill-designed communities.

## **6. Access to Information and Communications including Assistive Technology (ICT)**

The many benefits from ICT growth have not spread evenly through the world, and the vast area of the Pacific, together with small economies, have not experienced uniform progress in communications. Costs are still high by comparison. The benefits available from ICT to persons with disabilities have not been as great as they have been for their counterparts in more developed countries. However ICT has the potential to create many positive advances for persons with disabilities, providing solutions to problems arising from isolation and difficulties in communication. This is particularly true for deaf-blind and blind persons and those with severe cerebral palsy.

Problems in the Pacific start from basic problems of electricity supply and telephone communication. Computers themselves are extremely expensive, and in many cases, Access to communication and information is vital for DPOs to be able to communicate

with and assist their members, but access to the Internet is too costly for expenses to be met by local fundraising. The benefits of computer use, web and e-mail access provide a myriad of opportunities to get information for members, to tap information available elsewhere, to get specific advice, to network and cement friendships. All this assumes that individuals have had training, or learning opportunities, and can afford to communicate in this manner. Training is a critically important issue.

The BMF is concerned with the divide between the ICT literate and those who are not able to access this powerful medium for exchange of information, education, support, advocacy and other essential activities. At the global level extensive advocacy has been carried out to ensure that persons with disabilities are included in all initiatives in the development and dissemination of the benefits of ICT. More importantly, accessibility standards for persons with disabilities should be incorporated in international ICT standards. The targets aim for access to the internet for disabled people, for inclusion of persons with disabilities in national ICT policies, standardization of sign language, and systems for training sign-language interpreters, Braille transcribers and encouraging their employment.

Most Governments of the region will be involved in ICT development, internally and for external relations. In making plans, Governments should consult with persons with disabilities to ensure that ICT developments include accessibility for persons with disabilities. This should be a particular feature of Government websites designed to give community information. Immediate action that can be taken should include access for children with disabilities to education where young people are being prepared for the wide use of the new technologies.

Individuals and DPOs, DPI Oceania and the newly formed PDF are all heavily reliant on e-mail networks for their communication. Support of these networking activities at national level, and by the Pacific Forum, would be a very constructive step towards ensuring that persons with disabilities have the same access to the benefits of electronic communication as others in the Pacific. Communication with outer island and remote locations can reduce their isolation and allow them to participate fully in the business of their organizations and networks.

UNESCAP has provided training to persons with disabilities in the area of ICT, with very great benefits, but inclusion of persons with disabilities in local and national training should be undertaken. Vision Pacific Trust, a New Zealand based NGO is providing training in computer technology and other aspects of ICT to persons with disabilities in New Zealand and other countries of the Pacific region. Expertise to manage and run the PDF Network has been provided to staff at DPI Oceania. This is a very significant initiative, where people with disabilities have established an organization to provide much-needed expertise and training to disabled people and their organizations in an area of cutting edge technology, which will enhance their chances of being on the right side of the digital divide in an information age.

## **7. Poverty alleviation through Capacity Building, Social Security and sustainable livelihood programmes**

There is strong evidence of the link between poverty and disability, with persons with disabilities over-represented in poverty statistics. The lack of data on persons with disabilities and their low priority in international and national agendas has meant that they have not been included in poverty reduction and alleviation strategies.

In its discussion paper on poverty on the Asian Development Bank Pacific Strategy 2005-2009<sup>6</sup>, ADB has stated that the Pacific is falling behind other regions, economic growth has not kept pace with population growth and the private sector has failed to create jobs for increasing numbers of young people. The ADB estimates that it is likely that more than 25% of the populations of Fiji, Kiribati, FSM, PNG, Solomon Islands, Timor Leste and Vanuatu are living in poverty in terms of being unable to meet their basic needs, rather than not having enough to eat. In the same survey the ADB determined that the priorities of the poor in PICs are:

- They want access to income-generating opportunities and
- They want access to social services, especially primary education and health care

Lack of data on persons with disability masks the situation of this population sector and allows government to make policy decisions without any consideration for disability issues. Recent initiatives to conduct disability surveys in Cook Islands Samoa, Kiribati and Vanuatu , with the possibility of extending coverage to Fiji, Tuvalu, Solomon Islands and Niue, is making a significant contribution to knowledge about persons with disabilities and is providing governments with detailed information on their situation. If persons with disabilities had been included in the ADB surveys referred to above their priorities would probably have been identical to those of the non-disabled Pacific poor. ADB recommendations in response to their findings were that carefully targeted programmes should be carried out with very specific objectives and performance indicators.

The primary recommendations to governments on this combined issue are that:

- Persons with disabilities should be specifically included in all programmes designed to address poverty,
- Positive steps should be taken to see that health and education services are responsive to the needs of children with disabilities
- Full access to health and education services is guaranteed as a matter of right.

The BMF highlights the MDG which aims to halve the number of people living in poverty by 2015, and demands that persons with disabilities be included in programmes, data collection and monitoring of this issue. In targeting rural poverty it recommends government support for the formation of self-help groups of persons with disabilities to help develop their capacity for mutual support, advocacy and participation in decision-making.

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<sup>6</sup> ADB. Discussion Paper. ADB Pacific Strategy 2005-09: Responding to the Priorities of the Poor, April 2004.

Addressing poverty is a complex and obviously increasing problem in PICs. It is important that disability is seen within the context of this problem and must be addressed within the strategies identified for national and regional action. Close consultation with DPOs will assist governments in making constructive decisions about the most appropriate strategies to help persons with disabilities who are living in poverty, and they may form part of the solution in developing community-based initiatives to strengthen the skills of disabled people and to help them form small organizations for mutual support.

### *C. Strategies for achieving the goals of the BMF*

The BMF gives very clear guidance on strategies needed to achieve the goals of the second Decade.

1. All countries should develop five-year national plans of action with inclusive policies to integrate persons with disabilities into mainstream development.
2. Disability issues should be integrated into the agenda of human rights institutions, and consideration should be given to enacting legislation to protect their rights, including non-discrimination legislation.
3. Systems for disability-related data collection and analysis should be introduced to support policy-making and programme planning. Some countries have recently undertaken disability surveys, as previously mentioned.
4. Community-based approaches to rehabilitation and many other aspects of disability service need should be developed and strengthened as a practical and powerful means of addressing many needs of disabled people and their families in the community context. People with disabilities can play an important collaborative role in planning and managing these services, with particular impact in outer island and remote locations.

### *D. Regional Cooperation*

#### 1. Pacific cooperation.

PIF has adopted the BMF and needs to take responsibility for its implementation and review in the Pacific region. There will be responsibility at national level but it should be coordinated with an overall policy and set of priority objectives. Many priority areas will require regional initiatives, such as the issue of education, with attention on teacher training and coordination of Pacific resources, and structured opportunities for sharing strategies, problems and solutions. Regional expertise should be used for these purposes.

There is a need for a Forum meeting to agree on model policy and regional priorities which must be pursued within an agreed time-frame, in addition to priorities determined at national level.

### *E. Monitoring and review*

A format and time-table for review, monitoring and evaluation must be set with reporting obligations clearly laid out, on a biennial basis. This should be coordinated with the mid-point review of the BMF by UNESCAP.

Links with the wider Asian and Pacific region should be strengthened, requesting regional representation at UNESCAP review and evaluation meetings, with strong advocacy to UNESCAP for increased Pacific participation in all planned training initiatives, and for some of these to be held in the Pacific region.

Strong links with EPOC should be formed, and encouragement of its role in supporting PIF and national level disability developments.

## **VI. PACIFIC DISABILITY STAKEHOLDERS AND PARTNERS**

The history of the development of concern for people with disabilities and their issues has clearly shown that the initial action was taken by NGO in partnership with donor agencies, accompanied by the steady development and strengthening of organizations of persons with disabilities. However Pacific Governments have increasingly been taking responsibility for disability policy and action in many countries, working in partnership with DPOs, NGOs and donor agencies.

In determining strategies and patterns for future development it is important to identify the major stakeholders and partners in disability development in Pacific countries. Key agencies have been identified and in many cases additional information provided on achievements and examples of good practice which may provide models or act as catalysts for further initiatives within the region.

### **A. GOVERNMENT**

#### **1. National level**

Government has ultimate responsibility for safeguarding the rights of all its citizens, including citizens with disabilities. In adopting the BMF Pacific Governments have committed themselves to including persons with disabilities in all national development initiatives, to developing national policy in disability in full collaboration with persons with disabilities, and their organizations, by means of an instituted national coordination mechanism within government, with representation of all disability stakeholders, including DPOs and NGOs. They have also committed to providing protection from discrimination.

Disability data collection is an essential task of government but must be undertaken in a manner which reflects the real situation of disabled people and their families, and allows accurate analysis of their needs, to assist with policy development. DPOs can assist with this process, but national Statistics Departments should be strengthened in this area, and regular data collection introduced, with disability included in national census but also with more detailed survey methodology. Inclusion International in partnership with NZAID is experienced and committed to this process. The Australian Bureau of Statistics has regionally recognized expertise in this area.

#### **2. Regional level**

##### **Pacific Islands Forum Secretariat (PIFS)**

PIFS is the regional body representing all governments of the Forum Island Countries. As such it is the body responsible for working with relevant stakeholders to implement decisions that are taken by the Forum.

However, it should be noted that when Leaders adopted the BMF, implementation is at the national level and the onus is on member countries. Since the BMF is a UN initiative, monitoring is primarily the responsibility of UNESCAP.

B. ORGANIZATIONS OF PERSONS WITH DISABILITIES (DPOs), including organizations of WOMEN WITH DISABILITIES (WWD).

### 1. National level development

DPOs have been developing over a period of more than a decade in PICs. National cross-disability DPOs are established in:

- Cook Islands – includes 9 outer island disability committees
- Fiji – includes organizations at district level
- Kiribati
- Palau
- Papua New Guinea
- Samoa
- Solomon Islands
- Vanuatu

Parent associations have been formed in:

- FSM
- Kiribati
- Palau

WWD organizations have been formed in:

- Fiji

These organizations have worked tirelessly to improve the situation of persons with disabilities in their countries, have advocated to and worked with government, where government has been responsive, and have worked with local and regional NGOs, and benefited from programmes that have been provided by these agencies.

They are the key partners to work with government in a consultative and cooperative role in determining policy and programmes, and the means by which disability will be integrated into all national development agenda. They have the expertise to advise government in the area of disability issues. They need to prioritize their concerns and acquire the skills to advocate, consult, advise and work in partnership with government to develop policies and programmes, which they may play a key role in implementing and monitoring.

### 2. Regional level voice of persons with disabilities

#### a) DPI Oceania

DPI Oceania is the Pacific regional organization of DPI, one of the seven global disability organizations that make up the IDA, previously referred to. It is one of several

sub-regional offices in the Asian and Pacific region, under the regional office which has its headquarters in Bangkok. DPI Oceania therefore represents all national level DPOs in the Pacific region, and has the responsibility of assisting people with disabilities in PICs to form national and grass-roots organizations. DPI Oceania was formed in March 2000, based in Suva. It has played an increasingly active and significant leadership role in disability issues throughout the region at many levels since it was formed.

DPI Oceania has conducted Regional Leadership Training Seminars in Vanuatu (2001) and Papua New Guinea (2002) and has provided expertise and support to disability developments and projects in the Cook Islands, Fiji, Tonga, Samoa and the Solomon Islands. These have included institutional strengthening in the Solomon Islands and input and expertise provided to support the Cook Islands Awareness Raising Workshop which gave rise to the formation of the National Cook Island Disability Council. It has developed a Regional Capacity Building Framework with Pacific regional NGOs. As a direct result of the establishment of DPI Oceania Subregion Office in Suva, persons with disabilities in four Forum countries, Cook Islands, Papua New Guinea, Samoa and Vanuatu were assisted to form their own DPOs and were accepted as full member national assemblies of DPI during the World Assembly held in Sapporo, Japan, in October 2002. DPI Oceania produces a regional Newsletter, has managed the e-Network of the Pacific Disability Development Network (PDDN), founded in 2001 and transformed into the PDF e-Network in 2002. The Network is funded by Inclusion International, with training provided by Vision Pacific Trust

DPI Oceania has been engaged in consultation and possible project development with many agencies, including regional outreach from the Australian Council on Rehabilitation on Disability (ACROD) and the ILO in the area of vocational training, and the Asia-Pacific Development Center on Disability on the empowerment of persons with disabilities in Pacific countries. In 2003 DPI Oceania and its constituent members in a number of countries concentrated on lobbying their individual Governments and PIFS. As a result it has been invited to be a member of the PIFS CROP Working Group on Health and Population. It has played a high-profile role in broader regional affairs, coordinating input to documents presented to UNESCAP meetings, and meetings of the PIFS and the Forum Ministers of Education, as detailed earlier in this paper. It was in large part responsible for the placement of disability on the Forum agenda which resulted in the adoption of the BMF and endorsement of its goals for action in 2003. DPI Oceania attended the high-level meeting to conclude the first UNESCAP Decade, and has chaired UNESCAP meetings on the move towards the development of a UN Convention on the rights of persons with disabilities. It has been an active member of the coordination mechanism to assist UNESCAP implementation and monitoring of the first and second Decades for Disabled People, the Thematic Working Group on Disability-related Concerns. DPI was instrumental in organizing the first ever Forum on WWD in the Pacific. Representatives also attended the Pacific Congress of Inclusion International in Melbourne (2002).

Since its formation as a separate entity, DPI Oceania has had a considerable effect on promotion of disability issues, providing a focal point for the voice of people with

disabilities, leadership, training and capacity building opportunities for persons with disabilities, utilising the experience and expertise of leaders who are persons with disabilities themselves from Fiji, Australia and New Zealand as resource persons. It has extended membership to most countries and is in contact with those who have not yet formally joined, so it can be said to be representative of all countries. It has created a mechanism for communication, and provided an international perspective at the extremely important meetings throughout the region. DPI Oceania has provided a stalwart example of the advantages of leadership, advocacy and a collective voice, all the more remarkable because of its very small staff and huge commitment on a voluntary basis. DPI Oceania created the Pacific Disability Forum in December 2002, to take over some of the roles that have been assumed by it in the absence of an independent regional mechanism and focal point for individuals and organizations involved in the disability sector within the region. The Pacific Disability Forum will be discussed below.

b) Pasifika WWD Forum

This organization held its inaugural meeting in Suva in December 2003. The goal of the Forum is to build the capacity of women with disabilities in the Pacific and to promote their equal treatment and full participation in the development and implementation of national, regional and international initiatives concerning women with disabilities. The Forum has active members from Australia, Cook Islands, Fiji, Kiribati, New Zealand, Papua New Guinea, Samoa, Solomon Islands and Vanuatu. It has the objective of extending membership to all Forum countries. It has a constitutionally guaranteed role in PDF, and membership of the wider Asian and Pacific WWD Network.

c) Pacific Disability Forum (PDF)

The Pacific Disability Forum was formed at a meeting organized by DPI Oceania, in December 2002, attended by individuals and representatives of many organizations involved in disability work in the region. It was formed to serve as the regional mechanism and focal point for individuals and organizations from within the region actively engaged in the disability sector. In December 2003 a planning meeting for PDF was held in Suva, Fiji, to determine the structure, Constitution, and goals of the organization and to discuss draft plans and programmes. A meeting to officially launch PDF, with adoption of its Constitution and election of Council members, will be held in July 2004.

The purpose of PDF as a regional mechanism is to:

- Advocate for the full participation, fair treatment and equal recognition of persons with disabilities and their organizations
- Sensitize and work in consultative partnerships with governments and regional institutions on disability-related concerns and initiatives
- Represent the views of organizations of and for persons with disabilities to relevant regional and international meetings
- Provide a Pacific-based, culturally-sensitive, informed and collective approach to disability initiatives at regional and international levels

The PDF sees itself as an appropriate, valuable and enthusiastic partner to other civil society organizations, United Nations bodies, aid and development agencies, and other interested groups in the region and beyond, concerned with disability work in the Pacific.

PDF has the potential to become the civil society disability sector counterpart to PIFS in terms of disability rights and issues.

d) Vision Pacific Trust

Vision Pacific trust is an incorporated charitable trust, governed and managed by Pacific and Maori disabled people, for the benefit of disabled people. The vision and goal is for an equitable society, free from discrimination and inclusive of people with disabilities. Among their many aims is the promotion of self-determination of disabled people through participation in the design, formulation, implementation and evaluation of policies, programmes and services. Vision Pacific Trust has particular expertise in the area of information and communication technologies, and has provided extensive training to people with vision impairments, as well as computer networking and management skills to DPI Oceania, in support of the PDF e-Network. It has the expertise to assist DPOs in the region to build capacity in accessing, storage, usage and dissemination of information in accessible formats. These skills will be increasingly in demand and Vision Pacific Trust is a unique addition to regional organizations of people with disabilities providing expertise to persons with disabilities in the Pacific.

## C. UNITED NATIONS AGENCIES

### 1. UNESCAP Pacific Operations Centre (EPOC)

The EPOC office is currently based in Vanuatu but a recent review has recommended its transfer to Fiji, which was confirmed at the 60<sup>th</sup> session of the UNESCAP Commission, held in Shanghai in April 2004. The EPOC office and the Social Development and Planning regional Adviser have been active in disability support and cooperation for a number of years. While its traditional role is providing support to Government, during recent years it has formed a very strong partnership with DPOs and disability-related NGOs, assisting with development of policy, problem solving, and documenting the situation of persons with disabilities for consideration by Pacific Islands Forum Education Ministers (2002) and Forum Island leaders (2003), as well as UNESCAP Special Body on Pacific Island Developing Countries. EPOC has recently worked in the Cook Islands, assisting in the consultations and drafting of the Cook Islands National Policy on Disability (2003) and the National Action Plan (2003-2008). The Government of the Solomon Islands has requested assistance to revitalise their policy and service provision on disability, to identify effective strategies and to begin the process of planning for the development of a disability policy, which commenced in March 2004.

A recent review of EPOC has indicated that it may have an increased capacity in cooperation with UNESCAP office in Bangkok to develop and support disability projects in PICs and with PIF.

## 2. UNESCAP

UNESCAP has been the focal point and driving force behind the development and implementation of both the first and second Asian and Pacific Decades for Persons with Disabilities in the Asian and Pacific region. It was responsible for the development and adoption of the BMF as a regional policy blueprint to guide action to achieve the goal of inclusive, rights-based and barrier-free societies in all countries of the region, including PICs.

It has been active in the past conducting training in the Pacific region, and strong advocacy should be applied to maintain this trend, as well as seeking strong Pacific representation at meetings and workshops scheduled in Bangkok.

## 3. UNICEF, WHO, UNFPA, UNESCO, UNDP, FAO

Many UN agencies are represented in the Pacific, and some have been engaged in disability-related work. Funding for small projects may be available and advocacy for the inclusion of a disability dimension in all their work should be undertaken.

## D. REGIONAL DISABILITY DEVELOPMENT CENTRE

The Asia-Pacific Development Centre on Disability (APCD) Project is a technical cooperation project between the Government of Japan and the Government of Thailand, which started in Bangkok in August 2002.

The Overall goal of the APCD project is to promote the empowerment of people with disabilities and a barrier-free society in developing countries in the Asia and Pacific Region. The Center was established as a legacy to the first Asian and Pacific Decade for Disabled Persons. Although Pacific countries are part of the focus of the work of APCD, and very few participants from Pacific countries have attended training on non-handicapping environments, information and communication technology and website design. Missions to Fiji and Vanuatu have been undertaken with a view to determining the most appropriate forms of support to Pacific persons with disabilities and their organizations.

## E. NON-GOVERNMENTAL ORGANIZATIONS (NGOs and INGOs)

### 1. National level

Local and national NGOs have made significant contributions to improving the situation of children and adults with disabilities in many PICs over a number of decades, but most noticeably since IYDP. Trends over time have resulted in closer collaboration with each other and with DPOs to strengthen the voice presented to Government for action to place disability on the national agenda, at the same time as they have been actively engaged in service delivery. This has been particularly successful in Samoa.

## 2. Regional level (INGOs)

Many INGOs have been active in the Pacific region over a long period of time; among them World Blind Union, Sight Savers, Christoffel-Blinden-mission (CBM), Inclusion International, and Red Cross.

### a) Inclusion International (II)

Inclusion International is a worldwide non-governmental human rights organisation which advocates for and supports persons with intellectual disability and their families. Persons with intellectual disability are among the most marginalised of all disabled groups, and even in many developed countries they have been institutionalised and denied their human rights. This has given rise to strong organizations of families and supporters of children and adults with intellectual disabilities whose members have not wished to abandon their children into institutionalised care, and have advocated for increased services and access to facets of life available to all others. In an example from New Zealand, the Intellectually Handicapped Children's Society has become a multi-million dollar service delivery agency, with substantial assets in the form of housing in the community throughout the country, amongst other enterprises. From this group, and similar groups world wide, self-advocacy by persons with intellectual disabilities themselves has emerged, and self determination is now a realistic option for many persons with intellectual disability.

Inclusion International has members in 116 countries, and works through 5 world regions, including Asia Pacific. Inclusion is a member of IDA, the International Disability Alliance accredited to the United Nations. Inclusion's regional operations are coordinated from New Zealand. It has been active regionally and internationally in the process leading to the proposed United Nations convention.

In its work in the Pacific Island states, Inclusion International recognized that disability awareness cannot viably focus on a single disability category, although groups with single disability focus such as the World Blind Union do exist. In the Pacific, Inclusion International has proceeded on a cross-disability basis on behalf of all persons with disabilities. It has retained a strong focus on persons with intellectual disabilities, as experience has demonstrated that their concerns are frequently ignored within the context of broad concern for disability issues.

Inclusion International has played a particularly significant role in recent years, in partnership with NZAID, working in many Pacific countries, at all levels from grass-roots to government, but always in strong partnership with local and regional DPOs and DPI Oceania. In 1998, NZODA conducted a survey of persons with disabilities and their families in 7 countries to identify the needs in Pacific countries. For the last 3 years, Inclusion has worked intensively with NZ Aid, in implementing recommendations from that initial survey. It initiated the development of the first Pacific Disability Development Network in 2001, which has since been incorporated into the PDF Network. The e-Network, funded since 2001 by Inclusion International, has made a significant contribution to the mutual support and sharing of information between persons

with disabilities and their organizations, supporters and partners, including UN agencies and government officials within the region and beyond.

In 2002-2003 a legislative review was undertaken as part of an NGO contribution towards summarizing the achievements of the first Asian and Pacific Decade of Disabled Persons. Guidelines were produced for Pacific countries which need or want to promote change in their current legislation as it relates to disability. Key issues included:

- Changes to antiquated and devaluing language with regard to people with disabilities eg idiot, imbecile
- Lack of human rights promotion and protection
- Lack of procedural laws to cover inheritance, marriage, property , that include people with disabilities
- Need to repeal discriminatory legislation, especially that which applies to the restriction of women and children

A major focus of Inclusion International's work has been Disability Identification Surveys. In conjunction with advocates in the countries concerned, Inclusion has designed a survey process, adapted it to the unique situation in each country, run pilot or initial surveys to test that process, and then proceeded to complete surveys in the Cook Islands and Samoa. In Samoa an initial survey was carried out of children from birth to 14 years of age. This information is being used by Ministries of Health and Education to plan support and early intervention to families of young disabled children, and inclusion of children with disabilities in village schools, with forward planning for trained teachers, such as skill in teaching young deaf children where this need is identified. Subsequently a survey of all adults with disabilities was carried out with a view to informing disability policy and services. Projects are under way in Vanuatu and Kiribati. In Vanuatu, a survey has been completed on one of the larger islands, training of workers found to be necessary in that process has been undertaken, and meetings conducted to plan a country-wide survey, for which additional funding has been arranged. In Kiribati, visits have lead to renewed activity in the DPO and parent support groups, and a committee has been formed to conduct the survey, with an experienced coordinator appointed. Initial visits and contacts have been made in Niue, the Solomon Islands and Tuvalu. In Tonga, the success of the programme has been demonstrated with representatives of the Samoan DPO conducting initial planning visits and instructing Tongan counterparts, transferring the expertise learned from their experience in Samoa to a neighbouring country.

The identification of children and adults with disabilities, and collection of meaningful data by means of a collaborative survey process involving people at the grass-roots level, DPOs and Government provides the basis for informed policy-making and programme planning. The information must be thorough and specific and must be made available to all relevant Government departments

The process undertaken by Inclusion can be seen to have worked from "the bottom up", starting with the philosophy of assisting persons with intellectual disabilities, and moving to support all persons with disabilities. Generic needs have been identified, and parent support groups established to respond and provide support. These have joined with

currently existing DPOs, or acted as catalyst for their formation, to strengthen self-advocacy, within communities and with Governments, with the potential to attain a voice on the regional international stage.

The committed partnership between Inclusion International and NZAID provides a very valuable resource and source of expertise within the region.

b) Fred Hollows Foundation.

In 2002, the Fred Hollows Foundation established a Programme Office in New Zealand to extend the work of the Foundation to Fiji and Polynesia. The Foundation works with local blindness prevention agencies in 29 countries to establish mechanisms to treat and prevent avoidable blindness. In the Pacific they have worked in Tonga, the Cook Islands, Fiji, Papua New Guinea, Samoa, the Solomon Islands and Vanuatu. The objective of the Foundation is to develop a national eye care plan unique to each particular country. Funding for the programme has been raised in New Zealand with assistance from AusAID.

c) Femlink Pacific

Femlink Pacific is the first example of a mainstream women's organization adopting and including issues of women with disabilities in its agenda. Its primary concern has been with the inequitable portrayal of women in the mainstream media as a whole. The response has been to develop community media to redress the balance, driven by social objectives rather than profit motive, to empower people rather than to treat them as passive consumers. It is committed to human rights and social justice, and is inclusive of women, youth and other marginalised groups, including women with disabilities. It welcomes these groups as partners, to work together to produce their own media. Femlink Pacific has offered ongoing support to ensure that the portrayal of, coverage on, and representation of women with disabilities, is undertaken in a respectful and consultative manner. The power of the media in changing attitudes is well recognized, and the alliance between Femlink and WWD Pasifika may see important usage of the media for disability advocacy in many PICS in the years to come.

## F. INTERNATIONAL AND PACIFIC REGIONAL DONORS

Bilateral aid is the most common form of aid to PICS but multi-lateral aid projects have been undertaken in the disability area over time. The predominant donor agencies also vary from time to time in line with their changing priorities. AusAID and NZAID have long histories of funding disability initiatives in the Pacific region, many of them small scale.

### 1. AusAID.

AusAID's current stated focus of activity in the Pacific is on good governance but disability and special or inclusive education is still issues of concern. In the 1990s AusAID funded a four year project on Childhood Disabilities, with activities aimed at strengthening small-scale NGO centres for children with disabilities in Fiji, Cook Islands, Samoa, Tonga, Tuvalu, Kiribati, and the Solomon Islands. A course in early intervention

was conducted in Fiji, and teachers from other PICs spent some time gaining experience at the Early Intervention Centre in Suva, Fiji. Expertise was provided to the Ministry of Education and assistance given in developing the curriculum for regular and special education training at the Lautoka Teachers Training College. Short-term intensive teacher training funded for teachers at NGO schools and pre-school in Tonga, and support for CBR training in Solomon Islands and southern group outer Cook Islands was carried out. Continuing projects have included the placement of disability volunteers, currently at FDPA in Suva, and youth ambassadors have been placed in several countries, with a disability-specific focus. AusAID has developed and implemented a framework for including sensitivity to disability issues in all projects, in the same way that all projects are required to be gender-sensitive. A project for supporting children with disabilities in Nauru has been under consideration since 1993.

## 2. NZAID

NZAID has been the most generous and the most consistent supporter of disability initiatives in PICs extending over a period of more than decade. This has included funding CBR training for outer island health and disability workers, and a national workshop on disability which resulted in the formation of a National Disability Council in the Cook Islands. Particular support has been provided more recently, as was noted, in partnership with Inclusion International. However the availability of aid is currently constrained by the need for disaster relief, but both Government and NGO funding coordinators have included disability issues within their parameters.

Other agencies currently active in the region include Japanese International Cooperation Agency (JICA), Canada Aid, USAid, European Union, Peoples Republic of China, and Taipei, China. The Nippon Foundation supported the founding of DPI Oceania.

## 3. Inter-agency organizations

The Asian Development Bank is currently focused on poverty alleviation in the Pacific region. In a recent report it emphasized that the poorest people identified in Pacific countries stated that their highest priority was for increased access to social services, health and education in particular. Although persons with disabilities were not specifically identified, there is evidence from World Bank studies that persons with disabilities are over-represented in poverty statistics. It is important that advocacy to ADB by all agencies should request specific attention to persons with disabilities in poverty initiatives.

Many problems have been faced in the quest for donor assistance. Donors may feel that countries with relatively small populations and indeterminate numbers of persons with disabilities warrant less attention than larger countries, perhaps closer to home. Specialist organisations, of which there are many in the disability sector, may decide to cater for people with a particular category of disability but not provide assistance in the wider context. There is evidence that approaches to seeking aid for disability-specific projects are becoming more focussed, and with more clearly articulated outcomes and longer-term objectives. DPOs are more likely to be partners in the process rather than recipients of a charitable relationship. They must be aware that INGO, NGO and donor agencies and

organisations will require well defined projects, with measurable outcomes if they hope to attract overseas aid. Joint projects with government are more likely in the future.

Persons with disabilities in the Pacific can and should expect more specific and focussed aid from traditional and redirected sources, from NGOs and international partners. They can also expect that as Governments adopt policy on disability there will be an increase in budgetary resource allocation from within their own countries, as the collaboration between Governments and persons with disabilities becomes a reality.

Pacific countries, due to their relative isolation, may be unaware of some of their exceptional achievements. With the relatively small populations in the island states, there have been recent activities and advances which may be difficult to achieve in more densely populated countries. Small projects can be remarkably successful and provide models of what can be achieved to neighbouring countries, and shared beyond the region. The strong and coherent leadership of DPOs provides an example that could usefully be followed by more developed countries within and beyond the region. The Pacific states should not hold back from planning developments and seeking implementation assistance, even if only for small pilot projects that can be tried and then replicated in similar programmes elsewhere. There have been some very successful projects carried out in recent years which have the potential to develop into models which may well provide examples for both developed and developing countries to follow. They show the involvement of Governments, directly and by provision of funding. They show examples of progress by careful and direct planning by committed organisations and they show increasing involvement of persons with disabilities and their families and supporters.

## VII. MODEL POLICY

This section will provide an example of recent model policy and initiatives from the Cook Islands. The Cook Islands is the only country which has developed a comprehensive policy and five year action plan, within the framework of the Biwako Millennium Framework for Action. This process was in progress when the BMF was adopted for implementation by the Pacific Forum leaders at their meeting in August 2003. The Cook Islands National Policy is a rights-based policy with the goal of building an inclusive society, and with the determination to dismantle barriers which impede progress towards this goal. Because it was developed recently it has the advantage of being able to utilise information and guidelines from both the Agenda for Action and the BMF, and has incorporated some aspects of the New Zealand Disability Strategy.

Many countries have examples of good policy and practice in many areas of disability concern, some initiated by Government and some initiated by national and regional DPOs. Fiji has an equally long history of concern for disability issues, but the Fiji National Council for Disabled Persons, formed in 1994, has failed to demonstrate the continuous multi-sectoral commitment necessary to result in a Government initiated National Disability Policy and National Action Plan. Recent disability initiatives and progress in Fiji have resulted from outstanding leadership and advocacy by Fiji Disabled Peoples Association and DPI Oceania. This situation has allowed the Cook Islands to become the first country to develop an overall Government initiated national policy framework, and to identify the tasks that must be undertaken to achieve the goals set within the policy.

### Cook Islands

#### History

The Cook Islands has a long history of concern for disability issues. In 1989 a survey of persons with disabilities was conducted by EPOC, but the results of this survey were not utilised by Government. Programmes for youth and young adults and early intervention for infants and young children were started by local NGO agencies during the 1980s. The early intervention programme was extended to include school aged children. In 1993 a Special Unit was established in a local Primary School, with Ministry of Education support for teacher salaries, and scholarships for special teacher training in New Zealand. A Centre for children with disabilities was established on one outer island, and community-based training provided to health workers and disability volunteers in early identification, intervention and home-based support to families with young disabled children. One of the outcomes was an increased willingness of pre-schools and schools to accept children with disabilities, and a call by teachers for more training to increase their skills for this work.

#### Education

In 1997 the Cook Islands ratified the Convention on the Rights of the Child. The development of the Special Needs Education Policy and its adoption by the Ministry of Education in 2000, was a direct response to honour this ratification. A Special Needs

Education Adviser was appointed to the Ministry to assist with the implementation of the Policy in all schools and to facilitate professional development of teachers in educating students with special educational needs in regular schools. In 2001 the “Cook Islands Disability Identification Survey” was carried out, organized by Inclusion International and funded by NZODA. The report on this survey, released in January 2002, provides specific data about the number, type and location of students of school age with disabilities, and provides recommendations for the education sector. It was found that 50% of school age children with disabilities were not receiving any formal education. The education plan recommends the use of teacher aides and resource teachers, and in accordance with budgetary implications, will be implemented in stages. Outer islands would continue to be serviced by the Special Needs Adviser and resource teachers based in Rarotonga until phasing in of resource teachers and aides on outer islands.

Government response to the Asian and Pacific Decade for Disabled Persons (1993-2002). The Government of the Cook Islands was the last government to sign the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific region before the Decade ended in December 2002. Since it made the decision to sign the Proclamation, the Government has taken a series of systematic steps and initiatives towards fulfilment of the goals and targets of the Agenda for Action and the BMF. Preliminary steps include the following:

- In 1999 preliminary consultations were held on a national disability policy
- In 2000 consultations were extended to the outer islands
- In July 2000 the Cook Islands signed the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific region and became party to the adoption of the Agenda for Action for the first Asian and Pacific Decade
- In 2001 initial background research and an initial draft of the policy was completed
- March 2001 the Cook Islands National Disability Council was formed, following a national awareness raising workshop, bringing together representatives of the disability sector from the outer islands and Rarotonga. Self-help organizations have been formed on nine of the eleven outer islands. The National Disability Council has established a strong partnership and collaborative relationship between Government and organizations of people with disabilities.
- In 2001-2002 funding was allocated under the budgets of the Ministries of Internal Affairs and Health to assist organizations of people with disabilities, as well as funding assistance towards vulnerable individuals, including people with disabilities. Funding was also allocated within the Ministry of Education for the implementation of the Special Needs Education Policy.
- In 2001-2002 the Cook Islands participated in the review of achievements of the Asian and Pacific Decade for Disabled Persons, and agreed to the extension of the Decade and the adoption of the BMF. This committed the Cook Islands to take positive action to promote the rights and advancement of people with disabilities and to ensure their full participation and equality in the development processes of the country.

In 2003 the Cook Islands National Policy on Disability (2003) and National Action Plan (2003-2008) was developed by means of widespread consultation with the disability sector. The process was facilitated by EPOC, both in developing the first draft and assisting to produce the final document. The process of extensive consultation started in 2001. It has been actively supported by the Minister of Health, Internal Affairs and Social Services, members of the National Disability Council, Heads of Ministries and staff. The policy was completed with the support and inspiration provided by many individual people with disabilities, their families and supporters.

The Cook Islands National Policy in Disability (2003) has:

- Affirmed that the Constitution of the Cook Islands provides the overall framework for developing national policy on disability as it includes reference to fundamental human rights and freedoms, that these rights apply to persons with disabilities, and that they have the right to development and a legislative framework to protect the most vulnerable;
- Defined an inclusive society to mean a society for all, and a barrier-free society to mean a society free from physical and attitudinal barriers, as well as social, economic and cultural barriers that exclude people from being full participants in society;
- Designated the Ministry for Internal Affairs as the focal Ministry for disability issues within government
- Appointed a Disability Officer to coordinate the disability programmes and act as the focal point for disability issues within Government
- Established a National Coordination Committee on Disability
- The stated PURPOSE of protecting and promoting the rights and dignity of people with disabilities, and dismantling barriers that stop or inhibit the participation of people with disabilities in day to day activities; upholds the enjoyment of the full range of civil, cultural, economic, political and social rights embodied in the Cook Island Constitution and international human rights conventions and declarations on an equal basis with other people.
- The VISION of a society which will be inclusive when people with disabilities can say they live in '*a society that recognises and highly values our lives and continually enhances our full participation in all aspects of the community*'.
- The GOAL of promoting and protecting the rights of people with disabilities so that they can participate fully in community life
- A DEFINITION of disability which recognises that *disability is the outcome of the interaction between a person with an impairment and the environmental and attitudinal barriers he/she may face*
- 14 OBJECTIVES, a rationale for each objective and a set of TASKS for the achievement of each objective. The OBJECTIVES are to:
  1. Raise awareness of families and island communities throughout the Cook Islands on human rights and disability issues and to ensure that all have access to information on disabilities.

2. Encourage the participation of people with disabilities in all levels of family, community, island and national life.
3. Support the development of self-help groups and organisations for people with disabilities.
4. Improve the position of the most disadvantaged and vulnerable of those with disabilities, particularly women and girls.  
Enact legislation to protect the most vulnerable and include protection from all forms of discrimination and mandate the provision of equal opportunities in education, health and employment.
5. Improve access of all children and youths with a disability to education and vocational training to the highest level.  
This objective is underpinned by Article 2 and Article 23 of the CRC.
6. Develop early intervention measures for children from 0 to 4 years old.  
Provision of early intervention should be a combined effort of the Ministries of Education and Health, particularly Public Health nurses, and the Ministry of Internal Affairs (Welfare and Disability officers)
7. Development of more disability prevention measures.
8. Further develop and strengthen rehabilitation services.  
Community-based approaches are particularly recommended and linked to early intervention services, with maternal child health workers trained in early identification and referral of infants with disabilities in rural and urban areas.
9. Make more assistive devices available of improved quality.  
A CBR approach must ensure an equitable situation for persons with disabilities in outer island and rural areas.
10. Improve access to buildings and public places.
11. Improve livelihood and income generation opportunities and the delivery of life skills training programmes, actively involving people with disabilities.
12. Strengthen the gathering of information (and data) in all sectors on the prevalence of disability and related issues and ensure that this information is accessible by all and utilised in policy making.  
A particular focus on ensuring that statistics and data from all sources are coordinated and included in “island profiles,” and made available to Office of Islands Administration and other government ministries;
13. Increase support to Care Givers.  
Recognition that the family is at the heart of community life and the first source

of support and caring for people with disabilities, and that they need support from the wider community, including training and resources, information and equipment.

14. Improve the coordination of services of both government and non-government organizations.

The Objectives of the National Policy have been further developed into a 5 year National Action Plan, with specification of outcomes, means of verification and identification of risk factors. Time-lines have not been set for the achievement of the objectives outlined and it is clear that this must be a first task, indicating priorities for action over a defined time period.

The Cook Islands National Policy on Disability (2003) and the National Action Plan (2003-2008) is the most comprehensive model available within the Forum countries, and may well serve as an example and a catalyst for similar development in other PICs. Each country will take into consideration the different context, current state of development and national priorities in the disability area. The Cook Islands Government has already received one request for a copy of the Policy and Action Plan documents from another PIC, to guide its deliberations towards development of a national disability policy.

Most notable in the example from the Cook Islands has been the fact that each commitment made to an international or regional mandate has been followed by action to fulfil national obligations under that mandate. The actions taken have been supported by budgetary allocations to enable the development of the necessary programmes. This provides a very good model for other PICs to follow.

## **VIII. RECOMMENDATIONS TOWARDS THE DEVELOPMENT OF MODEL POLICY AND ACHIEVEMENT OF BMF GOALS IN THE PACIFIC REGION**

Government has the ultimate responsibility for safeguarding the rights of all its citizens, including citizens with disabilities. By adopting the BMF at the Leaders' Forum in 2003, national Pacific Governments have committed themselves to specifically including persons with disabilities in their national agendas and national development initiatives. Regional responsibility for overseeing and monitoring progress rests with PIF. But clearly disability is an issue for the whole Pacific community. The list of stakeholders in section VI was extensive, and it was clear that progress will only be made towards achieving inclusive communities if all concerned groups work in partnership together. Therefore in the recommendations section it will be seen that action is required at both national and regional level, by Governments, persons with disabilities and their organizations, regional agencies such as PIF, PDF, EPOC, UNESCAP, as well as committed NGOs, INGOs and the donor community.

The Terms of Reference for this study call for model policy that identifies the critical components necessary for the development of national disability policy across PICs. An example of model policy was presented in the previous section. The first part of this section will identify and analyse a set of parameters or critical components which underpin the foundation of national disability policy. The general principles and essential first steps specified will enable each country to identify its current position and determine what action must be taken, within the context of its current state of progress, national customs and character, to build an inclusive society and remove the barriers which prevent persons with disabilities from enjoying the same rights as all other citizens.

The second section will look at the role and actions required of regional leadership to ensure that consistent progress is made in implementing the BMF, in keeping with the Forum decision to adopt the Framework, and include the issue of disability as one of the serious issues within its agenda. This section will address leadership by PIFS in partnership with the newly formed PDF, EPOC and other important agencies and organizations. Recommendations for regional level action will be made, with identification of particular policy areas for priority action, such as strengthening education and health for children and youth with disabilities, in an effort to change positively the situation of future generations of persons with disabilities in our Pacific communities. The value of creating opportunities for learning from each other, sharing information, experiences and achievements will be addressed.

### **A. Recommendations at National level**

In order to implement the BMF each national Government needs to take steps to develop:

1. A Government statement of commitment to the rights of persons with disabilities
2. A focal point for disability within the Government.
3. A National Coordination Council on Disability (NCCD) or a National Disability Council (NDC)

4. A national focal point of contact for persons with disabilities (DPO).
5. A National Disability Policy
6. A 5 year Action Plan comprising a list of priorities for achievable targets.
7. Legislation
8. A reporting and monitoring process for evaluation of achievements.

#### 1. Government statement of commitment to the rights of persons with disabilities

The first step is for each national government to acknowledge that persons with disabilities have the same rights as other citizens, including the right to be part of all mainstream development policies and initiatives. This is the philosophical base upon which disability policy will be made and implemented. It may be framed within the terms of the Constitution, as in the case of the Cook Islands, with a decision to pass specific disability legislation at a later stage. It is the starting point for setting in place the structures and policy to support the Government's commitment to persons with disabilities within the framework of national development.

#### 2. Focal point for disability within Government

A decision needs to be made about the location of the focal point for disability issues within Government. Traditionally this has been within Ministries of Social Welfare, as is the case in Fiji, (Ministry of Women, Social Welfare and Poverty Alleviation). In Australia it is the Ministry of Family and Community Services, in the Cook Islands the Ministry of Internal Affairs. New Zealand has provided a new model with a named Minister for Disability seated within the Ministry for Social Development. However, the creation and maintenance of a Ministry is an expensive exercise, and generally requires enabling legislation. The examples cited above with the creation of a "desk" within a Ministry, or within the responsibilities of a Minister, will most likely be adopted by PICs currently anticipating taking this action.

#### 3. Establishment of a National Coordination Council on Disability (NCCD)

The National coordination mechanism must involve relevant government Ministries and disability organizations. Disability cannot be the concern only of the Ministry which is designated as the focal point. It is a multi-sectoral issue across government, and must function in major partnership with persons with disabilities themselves, their local level and national DPOs, as well as other relevant NGO stakeholders. The BMF requires that there must be effective participation from organizations of and for persons with disabilities. The structure and functions of the NCCD must be determined. In Fiji, this was established by legislation, with the Fiji National Council of Disabled Persons Act (1994) but in the Cook Islands it was by ministerial decision.

#### 4. National focal point for persons with disabilities

The BMF requires that Governments support the development of persons with disabilities, including women with disabilities, and their representative organizations.

They must be represented on NCCD mechanisms and they must be included in all decision-making on national policy and other disability-related issues. DPOs will become the key advisers to government on disability policy and concerns, and their expertise will make a significant contribution to the effectiveness of government programmes and initiatives. They will identify problems and priorities of the disability community and provide a channel of communication from Government to members of DPOs.

As was noted earlier DPOs, including one WWD organization and 3 parents associations already exist in 9 of the PICs under consideration. DPOs in the Cook Islands, Fiji, Vanuatu and the Solomon Islands have associations which represent many organizations of disabled people, including those on outer islands and in rural areas. In Papua New Guinea, Kiribati and Samoa single entity DPOs have been formed relatively recently and attention will need to be placed on forming groups in isolated villages and rural areas. This is a particular challenge for Papua New Guinea. In Vanuatu there is a service delivery organization for Disabled People, and in Fiji there is an association of WWD. DPI Oceania is working to assist persons with disabilities in countries where a DPO has not yet been formed and, to this extent, is working in partnership with governments to develop strong representation of persons with disabilities, capable of membership on all national coordination committees.

Reference has been made in an earlier section to the BMF requirement that governments should promote the establishment of DPOs and provide support to them, including training in management and advocacy skills, to enable them to fulfil their consultative role with government effectively. Lack of action by Government in some, but not all, PICs over the last decade has been the result of ignorance about disability issues, and the measures which could be taken to address them. Providing support to organizations of persons with disabilities ensures that a reciprocal partnership is formed, with mutual benefit to both parties. It should be noted that in the Cook Islands example budgetary funding was allocated from two Ministries to support organizations of persons with disabilities in the biennium preceding finalisation of the National Disability Policy.

## 5. National Disability Policy

The National Disability Policy is the statement which embodies the commitment of the Government and its people to the sector in the community who are people with disabilities. It affirms the Constitutional, legal or other basis under which the rights of persons with disabilities will be upheld. It defines the nature of an inclusive and barrier-free society in the particular national context and designates the structures and responsibilities within Government which have been established to implement disability policy and address disability issues. It defines the population in question in functional terms, with due reference to disabling social and environmental factors, rather than only in medical terminology. It further provides a statement of vision, goals, and a series of specific objectives, supported by identification of tasks or actions which must be undertaken in order to achieve each objective, and the overall goal of an inclusive society. The National Disability Policy must be developed in full consultation with persons with disabilities and their organizations, and all other disability stakeholders and

partners. It must have multi-sectoral representation within government and ensure that the voice of those disabled persons and their families who live in rural and outer island locations is included. Sufficient time should be allocated for this process, as was observed in the Cook Island example. The selection of principles and specific objectives in each national policy will reflect the values, culture, context and prioritized concerns of each individual PIC. Analysis of the objectives in the Cook Island policy reflect a mixture of areas selected from the Agenda for Action for the first Asian and Pacific Decade and the BMF. Some policy areas are common to both frameworks, such as legislation, disability data and information, support for DPOs, WWDs, early intervention, education and training, accessibility issues, strengthening rehabilitation with a focus on community-based approaches, while others such as public awareness raising, disability prevention, provision of assistive devices are from the Agenda for Action. In addition the policy has what may come to be considered a unique Pacific emphasis on children, families and caregivers, with “recognition that the family is at the heart of community life and the first source of support and caring for people with disabilities”. Some BMF policy areas such as information and communications technology have not been addressed but this area may be relevant in another PIC, at a different stage of technological development, and may be included in the next 5 year plan of the Cook Islands.

The policy document must be a statement of real commitment, and must be translated into an action plan which will be implemented and supported by budgetary allocation.

## 6. National 5 year Action Plan

The BMF recommends 5 year time-frames for the National Action Plan. This document should reflect the priorities, which may in part be driven by budgetary considerations but must address some of the most immediate concerns of the disability community. The disability action plan should form an essential component in every budget round, an obligation which arises out of the adoption of the BMF. Unless this is pursued diligently no progress will be made. It is essential that each Government be seen to be actually contributing, rather than only endorsing programmes undertaken and resourced by others. This may require a paradigm shift within some Governments. The Action Plan should state the strategies planned for the achievement of each objective, the expected outcome and how this will be verified, and it should be set with prescribed time-lines.

All Governments will obviously be under some constraints in providing services to persons with disabilities. Some initiatives in the health and education areas, for example, may require lead-time before implementation. However, as previously noted, the opportunity now exists for the negotiation of more specific assistance between governments, NGOs and other donors. The BMF has a ten-year life span, with intermediate reporting envisaged. It may be unlikely that any of the Pacific countries will meet all the targets envisaged by 2012, but all countries are capable of making significant advances in many of the priority areas. In recent years, and since the adoption of the BMF, significant progress has already been made in many Pacific countries.

A greater regional commitment, with the adoption of BMF by PIF, has been made than anywhere else in the broader Asian and Pacific Region. In order for this progress to

continue, planning must be realistic and consultative, with careful consideration of resource input and resource mobilisation.

## 7. Legislation

Legislative protection to ensure equal opportunities and equal treatment, and to prevent discrimination, is the first principle of the BMF, and the second priority of the Agenda for Action. Seven Pacific Governments identified enacting non-discrimination legislation as an area for priority action at the end of the first Asian and Pacific Decade. Where legislative protection exists, as in the 1997 Constitution of Fiji, the outcomes for children with disabilities in terms of education have been very positive. However the Act by which the Fiji National Council for Disabled Persons was established did not include non-discrimination protection. In the Cook Islands, National Policy has been established first, with legislation the first goal of the national Action Plan. In practical terms the establishment of a national council and national policy should not be delayed until legislation is passed. The quickest way for Governments to demonstrate their commitment to their citizens with a disability, their commitment to the BMF, and their underlying commitments in their Constitutions, international Conventions and domestic statutes is to institute a collaborative process leading to the development of a National Disability Policy.

Enactment of legislation is an important goal of the BMF and for Pacific Governments. A related goal that should also receive attention is that disability dimensions should be included in all new laws, and when existing legislation is reviewed, any discriminatory clauses or examples of denigrating language should be revised. Examples are quoted in Annex 2.

## 8. A reporting and monitoring process for achievements.

Accountability is an important aspect of commitment. At national level the NCCD or NDC should be required to report to the Ministry and Parliament on a basis to be determined. It is suggested that the New Zealand model requiring an annual report on progress towards achievement of the goals and targets of the Disability Action Plan be adopted. This should include detailed reporting from all sectors of Government and their DPO and NGO partners. National governments have obligations under the BMF to report to UNESCAP on a biennial basis, with a mid-Decade review in 2007. National disability reports should be widely publicized, to contribute to raising awareness in the community about the commitment of Government to the concerns of their disabled citizens. Now that disability issues are on the agenda for the Forum, national reports should be tabled as the precursor to discussion in the Forum. The role of PIF will be discussed below.

## 9. Priority areas essential for action at national level

Detailed discussion of the BMF priority areas, with recommendations for possible action by national governments is in section V of this report. All policy areas are important but some areas must be considered priorities in all PICs. These include:

- Government support to establish or strengthen DPOs, including organizations of WWD.
- Government action to develop systems for disability-related data collection and analysis to produce relevant statistics and usable information to support policy-making and programme planning. Disability should be included in the national census, but more comprehensive information can only be obtained by means of detailed disability surveys. The surveys completed in the Cook Islands and Samoa, and currently on-going in Vanuatu and Kiribati, in partnership with Inclusion International, provides an excellent model for other PICs to follow.
- Focus on children, with attention on support to families, by means of community-based programmes involving health and disability workers which will assist with early detection, early intervention and transition into pre-school and school for children with disabilities.
- Focus on children, with the particular goal of ensuring that children with disabilities have access to education in their local village or community school, with support and improved teacher training for teachers.
- Focus on youth with disabilities, ensuring that they are included in any national youth strategies, such as the UN Volunteer programme in Samoa which is integrating youth with disabilities into a national programme on vocational training.
- Focus on children and youth to ensure that children and young people with disabilities are included in all community activities, with special reference to leisure and cultural activities.
- Focus on improved access to the physical and built environment and transport as this is one of the major barriers which prevent the participation of Pacific people with disabilities in many aspects of community life.

National Governments are urged to seek whatever support and assistance is necessary to take the next step in developing national disability policy and a national action plan, with clearly established priorities and time-frames for implementation. Many previous initiatives have been established in partnership with a range of agencies providing expertise and guidance, and in some cases financial resources. EPOC has been engaged by different countries to develop national policy and to assist with other disability-related problems and issues, and may have increased capacity to respond to requests for support in the future. DPI Oceania has provided leadership training and support in many PICs, working with people with disabilities and with Government, as they did in the Cook Island Awareness- raising Workshop, which resulted in the launch of the Cook Island National Disability Council. The work of Inclusion International in conducting disability surveys and providing support to disabled people and their families has been referred to on many occasions. The results of this approach have been a data base that is useable by Government for planning and policy implementation, as in the case of developments in

education in Samoa, extending access to village schools for children with disabilities. An additional benefit of this approach has been the empowerment of disabled people involved in the village surveys, the formation of disability groups which have the potential to grow into organizations or DPOs, but starting at the grass-roots level. Other agencies listed in section VI on Pacific Disability Stakeholders and partners should be consulted when considering requests for support. PDF may prove a valuable addition to the disability partners already active in the Pacific region.

## B. Recommendations at Regional level

Three regional organizations have the responsibility to work in partnership to achieve the implementation of the BMF in the Pacific region. They are:

- ESCAP Pacific Operations Centre (EPOC)
- Pacific Islands Forum (PIF)
- Pacific Disability Forum (PDF)

### 1. EPOC

EPOC is the Pacific Operations Centre for UNESCAP in the Pacific region. As such it represents UNESCAP and the UNESCAP initiatives. These include the Asian and Pacific Decades for Disabled People and the BMF, the framework for action for the achievement of the goal of inclusive, rights-based and barrier-free societies in the Pacific. It therefore has responsibility for facilitating BMF implementation by supporting and assisting individual Governments, DPOs and the regional organization, PDF.

One of the outcomes of the EPOC review (2003) has been the development of a closer relationship between UNESCAP and EPOC, with the potential for increased autonomy for EPOC. The BMF requirement that cooperation and collaboration at subregional level be strengthened has resulted in a closer UNESCAP-EPOC relationship and the indication that EPOC may have an increased capacity to develop and support disability projects in PICs. Evidence of the effectiveness of EPOC's contribution to individual PICs and the regional disability agenda has already been presented in earlier sections.

EPOC is a valuable partner and source of expertise on the disability agenda at national and regional level.

### 2. PIF

The fact that the Leaders of Forum Island Countries have included disability issues as part of their consultative agenda, and have endorsed the BMF is extremely significant. In taking these actions Leaders have accepted responsibility for ensuring that the BMF goals and targets are implemented in their countries.

In February 2004, there was a meeting in Wellington to consider a reform plan prepared by an eminent person's group from Forum participant countries to consult on how the Forum might become more effective as a Regional body. It was reported that more

regional initiatives were to be explored, and that the role and mandate of the Secretary General was to increase. According to the New Zealand Prime Minister, and the Secretary General, issues identified included better governance, greater transparency, humanitarian issues, the environment, and practical ideas for increasing co-operation across the Pacific. The agenda of persons with disabilities and the priority areas of the BMF fit well into these broad concerns.

There is a need for the development of a regional disability policy and a set of priority objectives. In some policy areas it may be necessary to develop regional strategies to ensure progress and to harness regional institutions and their expertise to assist in the process. Some possible initiatives could include:

- The development of model policy which includes regional priority areas, but allows for additional policy areas to be addressed at national level according to individual PIC status and local areas of concern.
- Setting an agreed time-frame for the development of National Disability Policy in all PICs.
- Determining a format and time-table for review, monitoring and evaluation of national progress by the Forum, with reporting obligations clearly specified, on a biennial basis.
- Identifying education for all Pacific children and youth with disabilities as a major objective and project focus, in keeping with the commitment made by the Ministers of Education (2002) that “a target of 75% should be set for achieving access to primary school education for children with disabilities by 2010”. This would require project development and resource mobilization. It would require the upgrading of teacher training and curriculum to better prepare teachers in regular community and village schools to teach children with disabilities, and dissemination of this knowledge to all PICs. This could be carried out in partnership with the USP, and the National University of Samoa, which has developed particular expertise in this area. It would also require a review of the current status of education in all PICs, and a mechanism whereby expertise and examples of good practice already in place could be shared and used to demonstrate strategies which have proved effective in some countries where education for children with disabilities is more advanced.
- Project focus on health and early detection of children with disabilities, with community-based early intervention and support for families. Negotiation with the Fiji School of Medicine and other health worker training facilities is necessary to ensure curriculum modification to include disability, early identification and community-based approaches to service delivery. FSM has made some advances in these areas. Capacity to transfer the knowledge to all PICs must be developed. Community-based approaches to rehabilitation can serve to address many disability concerns. People with disabilities can play an important role in planning and managing CBR programmes, with particular impact on outer island and remote locations.
- Project focus on the generation of expertise in systems of disability information and data. The disability surveys carried out in cooperation with Inclusion International in some PICs provide a model that should be extended across the

region. Particular benefits of this approach include the partnerships formed between DPOs and Government, the empowerment of person with disabilities through engagement in the data collection process, the formation of DPO groups where none previously existed, and the generation of expertise which can be transferred across countries, as has occurred with a DPO from Samoa providing assistance to persons with disabilities in Tonga to help them initiate the survey process. Expertise also needs to be developed in census and survey techniques. The Australian Bureau of Statistics has worked extensively with UNESCAP in providing training in this area. Advocacy for training in the Pacific region, with support from AusAID should be made.

- The PIF needs to work in close partnership with EPOC and UNESCAP, and to advocate for resources and expertise to support meetings and projects addressing the implementation and evaluation of the BMF in the Pacific region.
- PIF needs to explore additional sources of support for the regional disability agenda. Many INGOs and agencies listed in section VI may provide expertise and resources for this purpose, including APCD, Inclusion International, Vision Pacific, ACROD, possibly ADB in connection with poverty initiatives, and others.
- PIF should encourage the integration of disability issues into the agenda of human rights institutions at national level, and further encourage PIC Governments to support the United Nations initiatives to develop a comprehensive and integral convention to promote and protect the rights and dignity of persons with disabilities.
- PIF should form a close working partnership with the Pacific Disability Forum, become a member of the PDF, and seek to develop strategies and solutions to disability issues in the Pacific region, through consultation, cooperation and collaboration with this peak disability organization. PDF was formed out of DPI Oceania to serve as the regional mechanism and focal point for individuals and organizations which are actively engaged in the disability sector. It is the only organization capable of representing all stakeholders in the sector, from disabled individuals and DPOs to PIFS, from national Governments to UN agencies, local to international NGOs, and national, regional and inter-agency donor organizations.

### 3. Pacific Disability Forum

The PDF held its inaugural meeting in Nadi, Fiji in July 2004. At this meeting PDF adopted a Constitution and elected the first Council of the Pacific Disability Forum. The purpose of the PDF is to promote and facilitate Pacific regional cooperation on disability-related concerns for the benefit of Pacific people with disabilities. Among the 12 objectives specified in the PDF draft Constitution, PDF shares one objective with PIF, to promote, support and monitor the implementation of the BMF. A further objective is to promote cooperation and joint activity in respect of disability-related concerns among Pacific regional DPOs, UN agencies, Pacific Governments including PIF, Pacific regional human rights institutions, intergovernmental bodies, donor and development agencies and other relevant bodies. There is an obvious synergy between the structures

and purpose of PIF and PDF in terms of the Pacific disability agenda. The partnerships between Governments and DPOs at national level would extend to a corresponding partnership between PIF and PDF at regional level. In terms of their joint commitment to a shared objective it is important that both PIF and PDF work very constructively to make this partnership effective and fruitful for the improvement of the situation of women, men and children with disabilities in the Pacific community.

PDF has the potential to represent the interests of Pacific people with disabilities, and all other disability-related agencies at such events as UNESCAP meetings, seminars and training events, which would help to overcome the perennial problems of obtaining funding for representatives from individual countries. Such a situation would require a follow-up mechanism to ensure sharing and dissemination of information, to be made available to all partners and members of PDF, including governments, PIF and all others.

PDF, with its diverse membership and wide range of expertise, has the potential capacity to develop and implement projects, either alone or in partnership with other agencies, in a lead role, or supporting initiatives promoted by others, such as PIF, with its concern for the implementation and monitoring of the BMF within the region.

With financial support from Inclusion International, PDF has established and managed the PDF Network since early 2003. Initial expertise for this e-Network was provided by Vision Pacific. The Network has members in most countries of the Pacific, extending beyond the boundaries of Forum membership and communicating with international and broader Asian and Pacific network groups, including networks of WWD, within the Pacific and beyond. This Network has the capacity to become a very important tool in the achievement of the joint goal of implementing the BMF. As has been described earlier in this paper, there are extensive examples of good disability initiatives and practices which have been and are being implemented by a variety of partners, including government, in many of the Forum PICs. At present only a fraction of this information is being shared and frequently it is not disseminated in a manner which would enable replication in another context. In a small resource-poor region such as the Pacific this is incredible wasteful.

The strongest recommendation is made for support for this Network to enable it to develop a data-base not only of people engaged with disability in the region, but of projects, experiences, policy and practices, legislation, codes and standards for practice in relation to access issues, teacher training curriculum, outcomes, donors and all the diverse and valuable information which is at present not coordinated and stored in a usable manner within the region.

The combined resources and expertise of PIF and PDF provide the most optimistic outlook for real progress to be made in the region towards achieving many of the goals of the second Asian and Pacific Decade of Disabled Persons by 2012 and beyond.

## ANNEX 1 LEGISLATIVE AMENDMENT

Together with fundamental changes in attitudes towards persons with a disability, it is suggested that the language of law and policy need to reflect recognition of the human rights and dignity of persons with a disability. A simple example is to examine archaic language found in the laws of many countries, and to bring them up to modern standards. It is also important to recognise distinctions, for example between intellectual disability and mental disorders, and to particularise reasons for excluding visitors or immigrants who are persons with a disability, so they may move between countries in the same way as all others. Legislation about the right to vote needs careful scrutiny on this and a more fundamental basis.

Examples of denigrating language currently found in statutes in Forum countries are: -

"unlawful carnal knowledge" and "idiot or imbecile". (Eight countries)

"persons of unsound mind" (Seven countries)

"mentally defective" (Six countries).

"incompetent"

"natural mental infirmity"

"severely subnormal"

"natural imbecility"

"disadvantaged"

"mentally defective persons whose cases call for segregation"

"insanity"

"retarded class of persons"

"mental handicap"

"idiot or insane"

"feeble minded" .

Almost universally, this terminology can be traced to old English legislation and legislation from countries from whom independence was obtained, and from whom large tracts of law were taken upon independence.

It is a relatively simple matter to identify and update this terminology. Countries should examine their criminal law, immigration law, health and education provisions, and make the necessary adjustments. The process to amend statutes is simple. To date, neither the English, Australian or New Zealand legal systems have seen fit to define terms such as "severely subnormal" or "unsound mind", so in most instances, it will not be necessary to include complex definitions, if for example terms such as "intellectual disability" or "physically disabled" are used.

This suggestion is another simple process, which costs little except the time of a researcher and draftsman. It is a process that can be undertaken in one Bill, or progressively as other amendments occur. Many of the words cited above appear in criminal legislation, to which there are frequent amendments. Countries should make a commitment to making these adjustments at the earliest opportunity.

## **ANNEX 2 COUNTRY PROFILES.**

### *Introduction*

This section consists of reports in relation to each country in the Review.

The statutory material used was initially collected in a survey done at the University of the South Pacific Emalus Campus, Port Vila Vanuatu, in May 2002, together with material available on line from the Law School. Therefore, reliance was placed on the materials held in either the library or on line. To the extent that the University acknowledged that its material was not complete, it is not possible to guarantee accuracy, as most countries have not published their statutes on line. There have been some changes in the intervening period, but in that regard, it has been necessary to rely on hearsay accounts and personal knowledge of where changes have occurred. Because of these constraints, there may be omissions.

The task of collection of policy is of course, much more difficult, as there is no system or process for this. Reliance has been on information from individuals.

Information reported by Pacific Government to UNESCAP, at the conclusion of the first Asian and Pacific Decade of Disabled Persons, 1993-2002 has been used extensively.

For all these reasons, and since in reality there is little directly relevant legislation, and in some cases, none apart from Constitutional provisions which might be applied, there has been some random selection of law which might apply to persons with a disability. The Priority Areas in the BMF provided a framework on which reports could be founded. To these have been added comments on Constitutional matters and Human Rights issues, in keeping with international commitments and the spirit of the Biwako Millennium Framework.

## **THE COOK ISLANDS**

### **Constitution**

Constitution date 1964. From this time, the Cook Islands obtained self-governance with internal autonomy with defence and foreign affairs remaining the responsibility of New Zealand. In 1965, the Cook Islands exercised its right of self-determination and entered into a relationship of free association with New Zealand. The relationship has remained an evolving one of partnership, freely entered into and freely maintained, with both countries respecting the right and freedom of the other to pursue their own national policies and interests.

Under successive governments and in cooperation and with the assistance of New Zealand, the Cook Islands has developed in many different ways over the years. Consonant with its growing experience and expertise in foreign affairs matters, the Cook Islands has increasingly assumed direct responsibility for its own international relations, bilateral and multilateral, regional and global. In so doing, it has itself become a Party to multifarious treaties and a full member of a wide range of regional and multilateral organisations.

### **Human Rights**

Part IVA Cook Islands Constitution provides for Fundamental Human Rights and Freedoms. Although there is no specific mention of the rights of persons with disabilities, or no prohibition of discrimination on the grounds of disability, all individuals have a right of equality before the law and a right of protection by the law. The Constitution specifically forbids the imposition of cruel and unusual treatment or punishment. The Constitution guarantees freedom of peaceful assembly and association and freedom of speech and expression.

The Cook Islands has an Ombudsman Act 1984. Actions or inaction by governmental bodies may be reviewed by an Ombudsman, who has power to make recommendations as to remedial action. The decision as to whether a review should occur is discretionary. The jurisdiction includes review of improperly discriminatory action.

The Electoral Amendment Act 1998 makes provision for electors who are physically disabled to register as electors. Special provision is also made for blind, disabled or illiterate electors or those who are of old age or who are ill to vote.

The Electoral Amendment Act 1999 provides for special consideration for blind, disabled or illiterate electors. Section 8L of the Act provides that where for the purpose of a petition, any elector is blind or is unable to read or write (whether because of physical handicap or otherwise), his declaration may be signed by the Presiding Officer. Section 8M of the Act further provides that electors by reason of old age, illness or disability are unable to attend a place for the conduct of a petition, may be registered as a special care elector. This section also applies to blind, disabled or illiterate electors.

## **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Proclamation signed in July 2000.

### **Disability Specific Legislation**

The first objective of the Cook Islands National Disability Action Plan is to pass legislation upholding the rights of persons with disabilities and protecting them from discrimination.

### **Focal Point on Disability within Government**

2000 - Ministry of Internal Affairs

### **National Coordination Committee or National Disability Council**

In 2000, the Cook Islands appointed a Disability Officer within the Ministry of Internal Affairs.

In 2001 the Cook Islands Disability Council was established.

### **National Disability Policy or Strategy**

In 2003 the Cook Islands developed a National Disability Policy.

This was achieved by a process of extensive consultation, begun in 1999, and with assistance of EPOC in the consultation and drafting process.

The National Disability Policy provides a framework to address the fundamental rights of persons with a disability, and reflects the spiritual dimension to cultural and social life in the islands.

### **National Disability Action-Plan**

The first 5 year National Disability Action Plan was developed in 2003.

### **Disability Statistics and Data Collection**

1989 - A disability survey was conducted by EPOC in southern group islands.

2001 - Disability was included in the National Census.

2001 - A survey was conducted of all persons with disabilities in the Cook Islands.

This process was facilitated by Inclusion International with NZODA funding.

### **Self-Help Organisations**

The Cook Islands Disabled Peoples Organization (DPO) was established in 2001 and became a member of DPI in 2002.

Nine Disability Committees have been formed on outer Cook Islands, encouraged by the Cook Islands Disability Council. The Government is represented on each of these Committees, and provides some financial support.

### **Women with Disabilities**

After consultation with the Cook Islands, New Zealand ratified the UN Convention on Elimination of all Forms of Discrimination against Women in 1985, and extended it to apply to the Cook Islands. There is a representative from the Cook Islands on the Pasifika WWD Forum, which held its first meeting in Suva, Fiji, in December 2003.

### **Early Detection, Early Intervention and Education**

1989 - An Early Intervention Centre was established in Rarotonga.

The Ministry of Health Act 1996 establishes a Ministry, with prescribed functions, including "to foster the preservation of health and life among the people of the Cook Islands, recognising that the physical and social environment is an important determinant of health..". There is no specific mention of disability, but the Act also requires the Ministry to ensure that each individual has access to appropriate preventive, therapeutic, and rehabilitative services and care. There are no formal rehabilitative services

### **Education**

1989 - Education compulsory for all children between ages of 5-15.

1993 - A Special Needs Unit was established in 1 primary school in Rarotonga.

1997 - The Cook Islands ratified the Convention on the Rights of the Child.

2001 - Ministry of Education mandates the inclusion of children with disabilities in the school system

2001 - Special Needs Education Policy developed and adopted by the Ministry of Education. A Special Needs Education Adviser was appointed to the Ministry, with responsibility for coordinating teaching and learning programmes for children with special needs, as well as training of teachers in the education system.

2001 - The "Cook Islands Disability Identification Survey" was carried out. 2002 Report on data on children with disabilities provides specific data about the number, type and location of students of school age with disabilities, and provides recommendations for the education sector. It was found that 50% of school age children with disabilities were not receiving any formal education. The education plan recommends the use of teacher aides and resource teachers, and in accordance with budgetary implications, will be implemented in stages. Outer islands would continue to be serviced by the Special Needs Adviser and resource teachers based in Rarotonga until phasing in of resource teachers and aides on outer islands.

### **Training and Employment**

An adult training centre has been set up to assist with life skills programmes.

It is run on a voluntary basis but with some support from the Ministry of Health.

### **Access to Built Environments and Public Transport.**

The Building Controls and Standards Act 1991 sets up a Building Controller and permits system, but says nothing in relation to access for persons with a disability. There is an intention to introduce legislation to require Government buildings, and public places to be accessible, and to provide appropriate parking for persons with disabilities.

### **Access to Information and Communications.**

There is wide access to information about social and cultural issues provided by schools, public libraries and the media.

## **Poverty Alleviation**

There are no generic social security provisions. The Welfare Act 1989 provides child benefit, old age pension, destitute and infirm persons' relief. There is a statutory Committee to make provision for assistance for persons who are unable to support themselves permanently.

PARTIV of the Welfare Act 1989 interprets 'Destitute person' and 'Infirm person' as any person unable permanently to support himself by his own means or labour and includes persons with dependents where such dependants are unable through infirmity or age to support themselves by their own means or labour.

The Welfare Amendment 1989, No.34 (a) defines 'blind persons' as a person so blind as to be unable to perform any work for which eyesight is essential and

(b) 'Infirm persons' also includes any blind person

There is a benefit for all children up to age 10.

There is a Workers Compensation Ordinance 1964, under which employers have a liability for compensation in case of death or incapacity arising from accidents at work or occupational disease.

## **Criminal Law**

Criminal Codes There is a presumption of sanity until proved otherwise. No person may be convicted if he was labouring under natural imbecility or disease of the mind to such an extent to render him incapable of understanding the nature and quality of the act or omission or of knowing that the act or omission was morally wrong.

There is an offence of having sexual intercourse with a woman or a girl who is an 'idiot' or 'imbecile'.

Legal aid is provided by the Ministry of Justice at the discretion of the Registrar. It is provided for criminal cases only and certain criteria apply.

## **Other Law**

Under PART III of the Entry, Residence and Departure Act 1972, it is unlawful for any person who, in the opinion of the Director of Health, is mentally defective to enter the country.

(Note: Not all statutes were available at USP, in particular 1997 or anything after 1999).

## **FEDERATED STATES OF MICRONESIA**

### **Constitution**

The Constitution was adopted in 1975. It provides that all shall have equal protection of the law. It declares that all persons have the right to education, health care and legal services, and that the National Government shall take every step reasonable and necessary to provide these services.

### **Human Rights**

The Constitution guarantees equal protection of the law. There are a number of grounds whereby equal protection may not be denied, but disability is not specifically mentioned.

The Government has created an Office to co-ordinate services and programmes for persons with a disability and NGOs have had input into a State Implementation Plan for persons with a disability.

### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Proclamation signed in 1993.

### **Disability Specific Legislation**

PL 8-21 passed requiring:

- Interagency collaboration and partnership for all agencies providing services to people with disabilities
- All children with disabilities to receive free and appropriate education and services to enable them to become productive citizens.

### **Focal Point on Disability within Government**

Office on Disability located within Government

### **National Coordination Committee Or National Disability Council**

Creation of the Office within the levels of government to coordinate programmes and services for disabled persons.

Creation of a National Advisory Council to advise the Executive Director of Special Education programme on issues related to persons with disabilities.

### **National Disability Policy**

National Policy developed

### **National Disability Action-Plan**

A State Implementation Plan on Disability has been formulated, with input from NGOs

### **Disability Statistics and Data Collection**

Information on services and programs required to be submitted to the National Office for planning and other purposes

**Self-Help Organisations**

Parents and families have formed four State NGOs in response to Government initiatives about public awareness and self-help.

The Constitution guarantees freedom of expression, peaceable assembly and association.

Disabled people have input into national disability planning

**Women with Disabilities**

There is a legislative Child Abuse Policy set out in Chapter 5 Title 41, where specified personnel are required to report abuse. This policy does not refer specifically to children with disabilities but would cover abuse of such children.

**Early Detection, Early Intervention and Education**

All children are required to be immunised against diseases which may cause disability. There are education programmes in relation to diabetes and similar disability-creating diseases, and education programmes for young parents.

The Government runs Rehabilitation Centres, and therapists visit children with disabilities in their homes. Some grants towards assistive devices are made from the USA.

There is provision for treatment of persons with a mental disorder or illness, or insane persons. These laws refer to such persons as "incompetents", without further definition.

The law provides that "education shall be provided and shall be compulsory for all children, including children with disabilities.... until the age of 14 years." Attendance is compulsory from the age of 6. Chapter 1 Title 40 Para 107 requires the Secretary of Education to establish "a procedure to ensure the ongoing identification, diagnosis, certification, and education of children with disabilities, consistent with the policies and requirements of the FSM Special Education Act 1993." The policy statement in Title 40, Ch 2 Para 232 states that the policy is to provide free education for children with disabilities, and insofar as is appropriate disabled children should receive necessary supplementary services in regular classrooms. Consulting services are also to be provided to regular classroom teachers. There is a comprehensive definition of "children with disabilities". Para 234 establishes a Special Education Program, with provision for an annual plan, and reporting, and authorisation for an annual appropriation.

There is also a National Advisory Council to advise the Executive Director of Special Education. A tracking system for identification of children with disabilities is said to be underway.

There is a FSM Special Education Program for Pacific Island Entities (SEPIIE).

1999-2000 600 new students identified; 84 new special education teachers; increased places in secondary education; updated State Implementation Plans on basis of monitoring and priorities established

### **Training and Employment**

Vocational training has been provided in some schools and transitional training provided for secondary school students. Limited craft type programmes have been provided for adults.

### **Access to Built Environments and Public Transport**

Legislation is in progress to require Government buildings, sidewalks and businesses to be accessible.

### **Access to Information and Communications**

There is a dedicated Disability Day and media publicity to raise awareness.

### **Poverty Alleviation**

No information available.

### **Criminal Law**

There is a defence to an allegation if the Court upon competent medical advice or other evidence decides that the accused was so insane that he did not know the nature and quality of his act. A person is not responsible for criminal conduct if he lacked capacity as a result of physical or mental disease, disorder or defect.

It is a crime to deprive persons of their civil rights.

There is an offence of aggravated sexual assault where the victim was mentally or physically incapable of resisting.

## **FIJI**

### **Constitution**

Fiji became independent in 1970, and became a republic in 1987, with the current Constitution, which includes a Bill of Rights, dating from 1997. This Constitution guarantees equality before the law, and prohibits unfair discrimination on a number of grounds, including disability. It states that persons with a disability have a right of access to public places, to which reasonable access must be provided. The Constitution gives the right to basic education, with specific guarantees of access for persons with disabilities.

### **Human Rights**

Fiji passed a Human Rights Commission Act in 1999. This Act specifically prohibits discrimination on the grounds of disability, particularly in employment-related areas, housing and education.

Fiji has enacted the Fiji National Council for Disabled Persons Act 1994, under which is the national coordinating body known as the Fiji National Council for Disabled Persons. There are advisory committees for health, education, legal matters, housing transport and environment, vocational training and employment and sports and recreation.

An EEO Policy exists within the Public Service Commission.

The Social Justice Act 2001 establishes affirmative action programmes for persons with disabilities, with Ministerial responsibilities allocated.

The Fiji Islands has an Ombudsman set up in its Constitution Chapter 11 Pt 2. Actions or inaction of Governmental bodies are subject to review at discretion of Ombudsman, who may make recommendations for corrective action. The jurisdiction includes review of improperly discriminatory action. There is an additional Ombudsman Act 1998.

Persons certified to be suffering from mental disorder or to be a mental defective are prohibited immigrants if their presence in Fiji would be a danger to the community.

### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Proclamation signed in 1993

### **Disability Specific Legislation**

1994 - Fiji National Council for Disabled Persons Act

1997 - Inclusion of the Bill of Rights under the Constitution of Fiji

1999 - Fiji Human Rights Act, Section 17 concerning employment and training of persons with disabilities.

### **Focal Point on Disability within Government**

The Ministry for Women, Social Welfare and Poverty Alleviation, has responsibility for disability issues, including the care and rehabilitation of persons with disabilities and is responsible for FNCDP.

### **National Coordination Committee or National Disability Council**

Fiji has enacted the Fiji National Council of Disabled Persons Act 1994 under which is the national coordinating body known as the Fiji National Council for Disabled Persons. There are advisory committees for health, education, legal matters, housing transport and environment, vocational training and employment and sports and recreation. District Committees are also established around the country with District Officers as Chairpersons and Social Welfare Officer providing Secretariat services.

FNCDP is included in all national planning in health, education, national forums for children, Task Force on women

### **National Disability Policy**

Currently in preparation

### **National Disability Action-Plan**

In preparation

### **Disability Statistics and Data Collection**

Fiji National Statistics Bureau collects data on persons with disabilities

The national census has included questions on disability following advocacy from the National Council in 1996,

FDPA and JICA have compiled a country profile.

Fiji does not as yet have comprehensive survey information.

### **Self-Help Organisations**

The National Council for Disabled Persons Act 1994 promotes affirmative action for persons with disabilities. The Ministry of Women, Social Welfare and Poverty Alleviation administers the Act. There are District Disability Committees and all local NGOs become affiliated to the National Council. The National Council has been involved in national planning issues such as for health, education, a national forum for children and a Task Force for Women.

Fiji Disabled Peoples Association (FDPA) was formed in 1988 and has been an active force in advocating for and upholding the rights of persons with disabilities. There are other single disability organizations of persons with disabilities in Fiji.

The International Day for Disabled Persons is celebrated nationwide annually.

The DPI Oceania Sub Regional Office is located in Suva, and has wide ranging functions in Fiji and the Pacific region. This office also hosts the PDF list serve network.

### **Women with Disabilities**

Fiji is a signatory to CEDAW.

FDPA has an active group of Women with Disabilities

WWD Fiji is a member of the National Council for Women.

WWD runs a support group for women with disabilities to assist them to live independently and to gain vocational skills.

WWD Fiji is a key player in the WWD Pasifika Network.

### **Early Detection, Early Intervention and Education**

The Education Act has a general principle that children should be educated in accordance with the wishes of their parents. There is compulsory education to an age specified by Ministerial Order. Under the 2001 Social Justice Act, there is an affirmative action programme for improvement of educational opportunities for children with a disability. However, most education for children with disabilities remains in NGO hands, with the Government paying for teacher training, salaries and some expenses.

Fiji has a Blueprint for Affirmative Action for Special Education, a ten-year plan to enhance access to education and training for every student with a disability, and containing specific policy initiatives.

Special Education Policy was formulated on the basis of an inter-ministerial inquiry.

The University of the South Pacific is based in Suva, with centres for extension studies located in the twelve member countries. USP also provides distance learning modules and in particular, has a Disability Studies Certificate.

Since 1993 there has been a compulsory unit of Special Education in the regular teacher training course for all teachers at the Lautoka Teachers College.

There has been a Centre for early Intervention in Suva since 1989.

There is a project for early identification of disabilities amongst primary school children, who can then be referred for specialist treatment.

Specialist Rehabilitation services are provided in the 3 main urban based hospitals, and Community based Rehabilitation Assistants work in rural areas.

### **Training and Employment**

Fiji has ratified the ILO Convention 159 in 2004.

A draft Industrial Relations Bill will be discussed by Fiji Parliament in 2005 which includes provisions on equal employment opportunities for persons with disabilities such as the 2 per cent quota system.

An ILO survey in 2002 identified persons with disabilities as having lower levels of education, under represented in the economy and disproportionately represented in the unemployed category.

In 2003, Fiji participated in an ILO Technical Consultation on Vocational Training and Employment of People with Disabilities in Asia and the Pacific.

There is a Fiji Vocational Training Centre for Disabled Persons in Suva, accredited by the Ministry of Education as the National Vocational Training Centre for persons with disabilities.

The Youth Employment Policy Framework refers to the need for training for young persons with a disability.

Fiji has a statutory scheme of compensation for employees injured at work. It includes coverage for occupational disease or death.

The 1996 Health and Safety at Work Act creates a duty on employers to maintain plant and systems that are safe and without risk to health, and workers have a duty to take reasonable care not to create risk and use equipment as instructed.

### **Access to Built Environments and Public Transport**

The Public Health Regulations deal with requirements for buildings, but make no provision for access for persons with a disability. There is a proposal for implementation of the National Building Code, and some progress has been made towards accessibility in cities.

### **Access to Information and Communications**

The PDF network list server is based in Fiji.

### **Poverty Alleviation**

The Fiji Strategic Development Plan 2003-2005 makes recommendations about Persons with disabilities, particularly to provide relief for those in poverty and caregivers. The

Department's own Strategic Plan promotes research and policies to benefit persons with disabilities.

### **Criminal Law**

Criminal Codes: There is a presumption of sanity until proved otherwise. A person is not responsible for criminal acts or omissions if by reason of any disease affecting his mind, he is incapable of understanding what he is doing or of knowing that he ought not to do the act or omission.

There is an offence of having unlawful carnal knowledge of any female person suffering from severe subnormality.

Fiji has a 1996 Legal Aid Act. The Legal Aid Commission is required (subject to the resources available) to provide legal assistance to impoverished persons. Private practitioners, Commission employees or duty solicitors can deliver the service. The service may be free, or a contribution may be required.

### **Other Law**

Estates and Inheritance: Applicants for further and better provision out of an estate include, parent, son or daughter "who by reason of some mental or physical disability is incapable of maintaining himself." The Court may order that reasonable provision for maintenance be made.

Marriage: There is no impediment to marriage for a person with disability.

Property: The Public Trustee may be appointed to have the management and care of the property of every person of unsound mind.

## **KIRIBATI**

### **Constitution**

Kiribati became independent in 1979, and adopted its own Constitution at that time.

The Constitution provides that no law shall make any provision that is discriminatory of itself or in its effect.

### **Human Rights**

Under the Constitution, there is a section on the Fundamental Rights and Freedoms of Individuals. Every individual is entitled to life, liberty security of the person, and the protection of the law. There are rights to freedom of conscience, of expression, and of assembly and association.

No person may be treated in a discriminatory manner under law or by any public official. There is a definition of discrimination, but it does not specifically refer to disability.

### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1999

**Disability Specific Legislation**

None

**Focal Point on Disability within Government**

Social welfare is delivered through the Ministry of the Environment and Social Development

**National Coordination Committee or National Disability Council**

Not yet formed

**National Disability Policy**

Nil

**National Disability Action-Plan**

Nil

**Disability Statistics and Data Collection**

Public Health census of activity includes disability on the outer islands

In 1999, the Kiribati Red Cross identified just over 1000 persons with a disability, whereas in 2002, WHO estimated that the figure was closer to 2700. A survey by Inclusion International, similar to that carried out in other islands is in the final course of preparation. The Kiribati National Disability Survey Identification Committee has been set up to conduct this survey, and a coordinator appointed.

**Self-Help Organisations**

Te Toa Matoa, the Kiribati Association for Youth and Adults with a Disability was established in 1998. The Association members support each other, participate in community education and outreach, and are assisting with the survey mentioned above. They specialise in performances, drama singing and traditional dance to demonstrate and promote the abilities of persons with a disability. A promotional video has been prepared for distribution, and visits to outer island are planned. Members have been to a seminar in Nadi, and also to a leadership course in Nepal. A request for land to build premises is before the Government.

They have run disability awareness workshops for community groups.

**Women with Disabilities**

A member of Te Toa Matoa has attended 2 workshops for WWD in Fiji in 2003 and 2004. An organization of WWD in Kiribati has been formed.

**Early Detection, Early Intervention and Education**

Kiribati has a high level of preventable disability arising from diabetes, cardiovascular disease, visual and hearing impairment, accidents and violence. There is a scarcity of any type of assistive devices, nor are there any rehabilitative specialists. Recently there have been improvements in facilities for those with mental illness, and links to services in New

Zealand. Training of birth attendants and monitoring of high risk mothers has led to a decrease in disabled infants.

There is a cross-disability Special School for the Disabled run by the Red Cross, established in 1993. It caters for pre-school, school age and young adults, from 4-21 years. All four teachers have been to New Zealand for experience of working with children with disabilities. It is hoped that a principal can be appointed with assistance from NZ VSA. Improvements in both physical and educational environments have subsequently occurred, assisted particularly by an active Parents Support Group. As yet there is no inclusive education, but it is hoped that discussions can be held with the Ministry of Education.

### **Training and Employment**

There are no vocational training initiatives.

Some disabled people earn income as musicians and play at weddings and public functions.

### **Access to Built Environments and Public Transport**

Accessibility is because buildings are on ground level. No action has been taken by government.

### **Access to Information and Communications**

No information available.

### **Poverty Alleviation**

Social Welfare is delivered via the Ministry of Environment and Social Development.

### **Criminal Law**

An office of the Peoples Lawyer was established in 1982.

## **NAURU**

### **Constitution**

Nauru was a German colony from 1888, and after 1919, was administered by the United Kingdom for the League of Nations and subsequently for the United Nations. In 1965 administration was transferred to Australia and Nauru became independent in 1967. The Constitution dates from 1968.

### **Human Rights**

The Constitution declares Nauru to be an independent Republic. It declares that every person in Nauru is entitled to fundamental rights, including respect for his private and family life. There is no specific prohibition against discrimination on the grounds of disability.

The Electoral Ordinance of 1965 states that persons of unsound mind are not entitled to vote.

**Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Not signed

**Focal Point on Disability within Government**

None

**Disability Specific Legislation**

None

**National Coordination Committee or National Disability Council**

None and nor is there a National Disability Policy or a National Disability Action-Plan. Information on disability statistics and data collection was not available.

**Self-Help Organisations**

A representative from Nauru attended the workshop for women with disabilities in Nadi in July 2004. She planned to try and establish an organization of persons with disabilities.

**Women with Disabilities**

Nauru has not as yet ratified CEDAW. It ratified CRC in 1994.

**Early Detection, Early Intervention and Education**

Education: There is a Compulsory Education Ordinance, requiring compulsory education for all Nauruan children between the ages of 6 to 16 (or 6-15 if they have European parents). There are no specific provisions for education of children with disabilities. Nauru requested assistance from AusAID to establish a programme for children with disabilities in 2003 but it was not funded.

Health: There are no specific health provisions relating to persons with disabilities

**Training and Employment**

Nauru has a statutory scheme for compensation for employees injured at work. Compensation is payable in respect of physical or mental injury or disease arising out of employment.

**Access to Built Environments and Public Transport**

The Public Health statute does not deal with access to buildings for persons with disabilities.

**Access to Information and Communications**

No information is available.

**Poverty Alleviation**

Nauru has Social Services Ordinances, which provide for an Invalids Pension the qualification for which is an 85% incapacity for work, or blindness. There are means and income tests. There is also a widow's benefit, a sickness benefit for those temporarily incapacitated by sickness or accident, and a Child Endowment scheme for children who are ill or infirm.

**Criminal Law**

Criminal Codes: There is a presumption of sanity unless proved otherwise. A person cannot be tried if "he is in a state of mental disease or natural mental infirmity as to deprive him of the capacity to understand what he is doing, or the capacity to control his actions, or the capacity to know that he ought not to do the act, or make the omission."

There is an offence of having unlawful carnal knowledge of a woman or girl, knowing her to be an idiot or imbecile.

There is a duty to provide the necessaries of life.

Nauru has a system of "pleaders", set up by the Legal Practitioners Act. These are trained lay persons, not fully qualified lawyers, who are available to assist.

**Other Law**

Estates and Inheritance: Under the Succession, Probate and Administration Act 1976, if intestacy occurs, there is equal division between children. There is a power to appoint a Curator to administer intestate estates. There is no provision for making a claim for further provision out of an estate in this statute.

Marriage: There is no impediment to marriage for persons with a disability.

The 1963 Mentally Disordered Persons Ordinance applies to a person, who, owing to his mental condition is incapable of managing himself and requires oversight, care or control for his own good or in the public interest. A Court, with the assistance of two medical practitioners may commit a person or a person found not guilty of an offence by reason of unsoundness of mind. The Court may order administration of the property of a person of unsound mind.

**NIUE****Constitution**

Constitution date 1974. Niue became a self-governing parliamentary democracy in free association with New Zealand, which retains responsibility for external affairs.

The principal legislation for Niue is the Niue Constitution Act 1974 made by the New Zealand Parliament.

In 1990, Victoria University, Wellington, completed the first full consolidation of the laws of Niue. The last material available at USP was dated 1997. The main legislation remains the NZ Niue Act.

### **Human Rights**

After consultation with Niue, NZ ratified the UN Convention on Elimination of all Forms of Discrimination against Women (1981) in 1985, and therefore Niue adopts the Convention.

### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1997

### **Focal Point on Disability within Government**

### **Disability Specific Legislation**

### **National Coordination Committee or National Disability Council**

### **National Disability Policy**

### **National Disability Action-Plan**

### **Disability Statistics and Data Collection**

### **Self-Help Organisations**

### **Women with Disabilities**

CEDAW has been adopted.

### **Early Detection, Early Intervention and Education.**

S 23 A. (1) Duty of Director of Health to provide such medical and surgical services as maybe reasonably required and reasonably practicable

(2) Niueans are eligible for free medical and surgical treatment, aid and assistance provided by any medical officer employed by Public Service.

Section 61 requires the Cabinet to make provision for health welfare and other social services. This section also requires the Cabinet to establish and maintain public schools, and make other provisions to provide educational opportunities.

There are no specific mentions of persons with an intellectual disability in any provisions searched.

### **Training and Employment**

### **Access to Built Environments and Public Transport**

No specific information known.

## **Access to Information and Communications**

No specific information known

## **Poverty Alleviation**

Section 61 requires provision of health and education services. It also requires the Cabinet to establish and maintain such other institutions and services and to make other provision as it considers necessary to provide a reasonable standard of living for Niue and to secure their economic social and cultural welfare.

The Pensions and Benefits Act provides for benefits for those over 60. It also allows Niueans who are destitute or infirm to apply for a benefit.

The Child Allowance Act 1995 creates an allowance for children up to 18 if remaining at school or to the same age for a disabled or disadvantaged child not at school.

## **Criminal Law**

Criminal Codes: Section 238 Common Law defences to Criminal Charges." All rules and principles of the common law which render any circumstances a justification or excuse for any action, or defence to any charge remain in force..."

Part XXVI Persons of Unsound Mind: Section 600: A "Medical Officer" may make application to the High Court for an order committing any person to medical custody on the grounds that the person is of unsound mind. Requires certificates of Director of Health or 2 Medical Officers that the person is of unsound mind and that Detention is necessary in his own interests or for the safety of other persons. An order may be made for a maximum of 6 months, but may be renewed with further certificates.

Section 616: Any person charged with an offence in the High Court found to be of unsound mind so that he cannot understand the nature of proceedings shall not be tried but maybe detained at the Governor Generals pleasure. See also Section 620, a finding of natural imbecility or disease of the mind rendering incapable of understanding nature or quality of act may lead to acquittal on grounds of insanity. An order for medical custody can be made.

A person who has charge of another who is unable to provide himself with the necessaries of life and care for himself by reason of age, sickness, insanity or any other cause is required to provide necessaries of life, and may be charged with omitting to perform duty without lawful excuse. Parent/s or persons in place of parents have duty to provide necessaries for children under 16.

It is an offence to have sexual relations with any woman or girl who is an idiot or imbecile.

Niue appointed a Public Defender from 1976.

**Other Law**

Estates and Inheritance: Intestate Succession determined by custom or under New Zealand Administration Act.

Marriage: There is no impediment to marriage for a person with a disability.

Property law applies to any Niuean who is entitled to any interest in "any property, (other than an interest in Niuean land)". The jurisdiction is invested in the Land Court. It applies to any person under disability", being a minor, or of unsound mind, subject to any physical or mental infirmity, (or is in prison), who in the opinion of the Land Court is unfit to have the management of his property. The subject person or any other person may apply to the Land Court for a trustee order appointing any person/s to be trustee/s of the property.

If an order is made, it must state the nature of the disability or minority. The Court may define or limit the powers of the trustee/s, and the property must remain in trust.

**PALAU****Constitution**

Following WWII, Palau was part of the UN Trust Territory in the Pacific, administered by the USA. In 1978, it decided not to join the Federated States of Micronesia. In 1986 a Compact of Free Association with the USA was approved, ratified in 1993, and it came into force in 1994, when Palau became independent.

Palau is a republic with a Constitutional Government, and its legal system is based on the former Trust Territory laws, acts of legislation, municipal, common and customary laws. It has a 9 member Senate, and a 16 member House of Delegates elected every 4 years. The population is slightly under 20,000.

**Human Rights**

There is the 1993 Equal Employment Opportunities Act to prevent discrimination on the grounds of disability in the employment market.

**Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1997

**Focal Point on Disability within Government**

Not specified

**Disability Specific Legislation**

1993 - Equal Employment Opportunities Act

1997 - Passage of Accessibility Act

Stipend Law to provide minimal financial allowance to families with children under the age of 21 who require 24 hour care.

**National Coordination Committee or National Disability Council**

Establishment of Interagency Collaboration Committee to coordinate and provide services to persons with disabilities from birth to adulthood in the areas of:

Early childhood education, special education/ transition to employment, healthcare, vocational rehabilitation and job training and placement.

A Convention on Disability was held, bringing together families, supporters and others with an interest in disability issues

**National Disability Policy /National Disability Action-Plan** – no information

**Disability Statistics and Data Collection**

There is an interagency database working in tandem with the Ministry of Health information system to provide information about persons with a disability. Agencies outside the Ministry of Health will be able to access client information, with their permission.

**Self-Help Organisations**

Omekesang Association of people with disabilities formed in 1997.

Palau Parents Network is an association of parents with children with disabilities, active in special education issues.

**Women with Disabilities**

No information known.

**Early Detection, Early Intervention and Education**

Establishment of a data base that registers children with disabilities and their movement between services.

Improved education transition services from Head Start to to early childhood services in Special Education to primary and secondary schools. Since 1997 many children with special needs have received certificates and or diplomas of completion of 12 years of school. In 2002 the first child with special needs went to College in Hawaii.

The Ministry of Education has implemented curriculum change that allows inclusive education in primary and secondary schools.

School-based health clinics and counselling services are now available in several primary and secondary schools.

Special Education have established policies for presentation of grievances.

Special Education works with the Parents Network to continue educating parents of children with disabilities of their rights, and how those rights can be exercised.

**Training and Employment**

There is an Equal Employment Opportunities Act to remove discrimination against employment of persons with a disability.

There are two work training and placement programmes which have included children with special needs. They work with Special Education and Vocational Services to facilitate job placements. It has been reported that a number of placements have been made, most in private industry.

#### **Access to Built Environments and Public Transport**

In 1997, Palau passed a Passage of Accessibility Act, providing for the removal of physical barriers and permitting access by Persons with a disability to Government buildings.

Physical access to government buildings and some private sector buildings is improving.

#### **Access to Information and Communications**

#### **Poverty Alleviation**

A Stipend Law has been introduced to provide minimal financial allowances for families with children who require full time care.

### **PAPUA NEW GUINEA**

#### **Constitution**

Papua New Guinea became independent in September 1975.

#### **Human Rights**

In 1995, the National Board drafted a Disability Act in conjunction with the National Department for Community Development (formerly the Social Welfare Department). The draft legislation has yet to be considered by Parliament.

Parliament has however recently passed comprehensive legislation in relation to HIV/Aids, and this legislation contains anti-discrimination provisions. This legislation is being considered as a model by at least one other Pacific country, particularly in relation to its anti-discrimination provisions.

#### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 2003

#### **Focal Point on Disability within Government**

#### **Disability Specific Legislation**

The Draft Disability Act was rejected by Parliament. It needs to be amended and resubmitted.

Legislation for barrier-free environments has been passed but is not enforced.

No information was available on national coordination committee or national disability council; national disability policy; national disability action-plan; disability statistics and data collection

### **Self-Help Organisations**

There is the Papua New Guinea National Board for Disabled Persons, which has 17 affiliated agencies. The agencies operate on the Community Based Rehabilitation model. A national disabled persons association was formed in 2002. It is the National Assembly of People with Disabilities – Papua New Guinea (NAPD-PNG).

### **Women with Disabilities**

A woman from PNG has attended training for women with disabilities in Bangkok in 2002 and in Nadi in 2004. She has formed an association and developed a project to strengthen WWD in her province of PNG

### **Early Detection, Early Intervention and Education**

An integrated education system has been adopted.

In 1993 a Special Education Plan was developed, for implementation from 1994. A National Special Education Committee made Recommendations for Directions and Emphases for 2002-2. Special Education teachers have been trained.

### **Training and Employment**

Papua New Guinea has a Workers Compensation scheme for employees injured at work. Chapter 179.

Laws and regulations are not enforced and PWD have extreme difficulty being trained and employed.

### **Access to Built Environments and Public Transport**

Building Codes exist but are not fully implemented.

### **Access to Information and Communications**

#### **Poverty Alleviation**

The Child Welfare Act Chapter 276: Sections 13, 14, 15, provides for an allowance for widow, wife, deserted wife, divorcee, single woman or father incapacitated through mental or bodily infirmity, to care for destitute children up to 16.

Section 21 et seq provides for establishment of homes for mentally defective children "whose cases call for segregation and special treatment". Mental deficiency is defined as a condition of arrested or incomplete development or degeneration of mind from whatsoever causes arising".

#### **Criminal Law**

Criminal Code There is a presumption of soundness of mind. There cannot be criminal responsibility if at the time of the offence, the person was in such a state of mental disease or natural mental infirmity as to deprive him of the capacity to understand what

he is doing or control his actions or to know that he ought not to do the act or make the omission.”

There is an offence if a person, knowing a woman or girl to be an idiot or imbecile has or attempts to have unlawful carnal knowledge of her.

There is a duty to provide the necessaries of life to a person who is unable by reason of age sickness, or unsoundness of mind to provide for themselves.

The Office of the Public Solicitor was established in 1975.

## **REPUBLIC OF THE MARSHALL ISLANDS**

### **Constitution**

The Marshall Islands became a German protectorate in 1886, and was occupied by Japan for the League of Nations after 1918. It was occupied by the USA in 1943, and administered as a trust territory under the UN, and became an independent Republic with its own Constitution in 1979.

The law of the constituent territories of the Marshall Islands was developed into a Code in 1975, and that Code was last revised to 1988. (Laws after 1990 not held at USP)

### **Human Rights**

The Constitution (Section 12) provides for equal protection and freedom from discrimination. It does not refer directly to persons with a disability.

Under Section 15 of the Constitution, the Government recognises the right of the people to health care, education and legal services and the obligation to take every step reasonable and necessary to provide these services.

No permit or visa for immigration is available for a person of unsound mind or who is mentally defective or irresponsible or an incompetent or a chronic alcoholic.

### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1997

### **Focal Point on Disability within Government**

### **Disability Specific Legislation**

### **National Coordination Committee or National Disability Council**

An inter-agency council was formed as part of a research project carried out from 1996 to 1998. Marshall Islands Inter-Agency Committee (MIAC). The Committee maintained its role after the project ended.

### **National Disability Policy and Action-Plan**

At the 19th Constitutional regular Session in 1998 Resolution 79 called for a local and regional comprehensive plan of services for persons with disabilities.

The National Plan is based on the principles of the value of disabled persons to society and acknowledges the barriers they face in accessing services, and there is a need to protect their rights by legislation.

Action Plan:

Review all legislation

Conduct a census of persons with disabilities

Develop a comprehensive service development plan.

2001 A planning document was submitted to the President

### **Disability Statistics and Data Collection**

A registry was established under the Rehabilitation and Training Center for the Pacific

The 1999 national Census included persons with disabilities.

### **Self-Help Organisations**

No specific information available.

### **Women with Disabilities**

The Marshall Islands have not as yet ratified CEDAW. They ratified CRC in 1993.

### **Early Detection, Early Intervention and Education**

RMI Head Start programme recruits and screens children 4-5 years of age.

It provides pre-school, health clinics and nutritional programmes

The Special Education programme recruits and screens children 6-15 years of age.

It provides instructional services and public awareness activities.

Development of a data-based tracking system for children with disabilities to identify the link between disability and malnutrition.

Development of A Counsellor Certification program

### **Training and Employment**

No specific information known.

### **Access to Built Environments and Public Transport**

The Planning and Zoning requirements do not specifically refer to access for persons with a disability.

### **Access to Information and Communications**

No specific information known.

### **Poverty Alleviation**

The Social Security provisions require compulsory contributions to a fund by both employers and employees. Persons who are insured are entitled to a disability insurance benefit. If an insured person dies, the surviving spouse and children are entitled to a benefit.

Concern for the link between disability and poverty leading to policy development to take preventive measures.

### **Criminal Law**

Criminal Codes: There is a potential finding of insanity if a person was unable to know the quality and nature of his action.

There is a Legal Aid Office, whose duties are to furnish, to the extent of its ability legal services to any citizen who it finds unable to afford legal services, and to represent persons accused of crime before the Court if so ordered by the Court.

### **Other Law**

Estates and Inheritance: There is no prohibition to any person with a disability from inheriting an equal share of property.

Marriage: There is no impediment to marriage for any person with a disability.

Property: A provision for the appointment of a guardian for persons unable to manage their property or welfare exists under Title 25 of the Code.

## **SAMOA**

### **Constitution**

Samoa became independent in 1962, and its Constitution dates from that year.

### **Human Rights**

The Constitution declares Samoa to be a free and sovereign independent state. Section 15 provides:

“(1) All persons are equal before the law and entitled to equal protection under the law.”

There can be no laws to subject disability or restriction on anyone, but a disability as such is not a ground of discrimination. (S 15(2)).

“(3) Nothing shall: - ....

(b) prevent the making of any provision for the protection or advancement of women or children or of any socially or educationally retarded class of persons.

The Constitution does not restrict qualification as to composition of Parliament, except that members must have matai status.

The Immigration Act 1966 previously specified classes of prohibited immigrants, not subject to discretionary entry, but the prohibition against entry for Persons with a disability has been repealed.

Samoa has its Komesina o Sulufaiga (Ombudsman) Act 1988. Actions or inaction of governmental bodies are subject to review at discretion of Ombudsman who may make

recommendations for corrective action. Jurisdiction includes review of improperly discriminatory conduct. There is no enforcement power.

**Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1998

**Focal Point on Disability within Government**

National focal points for different disabilities established and strengthened

**Disability Specific Legislation**

2001 Occupational Health and Safety Education

**National Coordination Committee or National Disability Council**

A national council has been formed

**National Disability Policy and Action-Plan**

A national policy is under consideration.

**Disability Statistics and Data Collection**

2000 - Special Needs education survey conducted. It will be used by many Ministries for planning.

2002 - A survey of all adults with disabilities conducted.

**Self-Help Organisations**

There is active collaboration amongst organizations of persons with disabilities and government in programmes that promote the participation of persons with disabilities.

The national organization of persons with disabilities has become a member of DPI.

Samoa has a strong self-help advocacy group, which has assisted in surveys, and has just opened its own premises. Through advocacy from this group, contact has been established within the Government. Samoa has been represented at the Biwako Framework Conference, other international events, with representation being from both Government and disability sectors.

There are programmes to strengthen the role of families in caring for their children with disabilities.

**Women with Disabilities**

Samoa has a Ministry of Women's Affairs Act 1990, which encourages promotion and co-ordination of women's affairs, particularly with reference to primary health care, village and district sanitation, childcare, and training for women with promotion of home economics.

Women with disabilities have attended 2 workshops for WWD held in Fiji in 2003 and 2004.

**Early Detection, Early Intervention and Education**

The Education Act 1992 required education for all, including persons with disabilities. A survey conducted in 2000 identified all children with disabilities under the age of 14, and in 2002, a further survey identified those over the age of 15.

A Special Education Needs Council has been formed.

The Ministry of Education has assumed enhanced responsibility for the education of children with disabilities.

Government adopted a policy of Special Needs education and it is being actively implemented.

A programme to include children with disabilities in regular education has started with training of teachers with appropriate qualifications.

Children with disabilities have been included in the national EFA Plan of Action.

Strengthened curricula and support services such as Special Units within regular schools

There is compulsory education for all children from age 5 to age 14.

The Mental Health Ordinance 1961 makes provision for persons who are mentally defective without any distinction between mental disorder and intellectual disability. However, the definition is wide: - "Mentally defective person means a person who, owing to his mental condition, requires oversight, care or control of himself or his property for his own good or in the public interest."

For such persons, a Court may order medical custody on application accompanied by 2 medical reports. The duration may be up to 6 months "in his own interests, or for safety of other persons." An order is renewable.

Under Part III of this Ordinance, the Registrar of the Court must advise the Public Trustee of the making of an order. Thereafter, the Public Trustee or a committee appointed has the custody and administration of the patient's estate.

Under section 25, the Court can, on the petition of the Public Trustee or anyone else "order an inquisition to be held as to whether any person alleged to be mentally defective is mentally defective and incapable of managing his affairs" If so, a committee or the Public Trustee can be appointed.

### **Training and Employment**

Vocational training opportunities provided to youth with disabilities.

Scholarships awarded to persons with disabilities to study at tertiary level.

There is a United Nations Volunteer programme to integrate disabilities into regular vocational training programmes

The Labour and Employment Act 1972 requires safety provisions in workplaces for electricity and machinery.

There is an Accident Compensation Act 1989. The Board appointed under this Act have a duty to promote safety and to prevent motor vehicle, work related and other accidents, personal injury by accident and occupational diseases. The Act provides for compensation for economic loss for the period of incapacity following a work accident or occupational disease, and lump sum compensation for permanent injury or impairment. If

death occurs, there is compensation for dependents for up to four years. Compensation is available for non-workers for transport accidents or death by accident. Both the Labour and Employment Act 1972 and the Accident Compensation Act 1989 promote health and safety standards in the workplace and generally.

### **Access to Built Environments and Public Transport**

A policy on the construction works of public buildings with provisions for the disabled has been implemented.

Facilities for persons with disabilities are considered in public buildings.

The Health Ordinance 1959 sets out requirements for buildings, both residential and commercial, to allow them to be occupied. The main concerns are availability of water and sanitation. There is no provision to ensure access for persons with a disability.

There is a Housing Corporation Act 1990, which sets out functions to provide mortgage funding for residential housing. It does not contain any provision for persons with a disability or for financial assistance for aids such as ramps, fencing etc.

### **Access to Information and Communications**

Sign language in English and Samoan is well developed

Access to computers and other visual media for persons with disabilities is improving.

### **Poverty Alleviation**

There are no social security provisions.

There is an Accident Compensation Act 1989. The Board appointed under this Act has a duty to promote safety and to prevent motor vehicle, work related and other accidents, personal injury by accident and occupational diseases. The Act provides for compensation for economic loss for the period of incapacity following a work accident or occupational disease, and lump sum compensation for permanent injury or impairment. If death occurs, there is compensation for dependents for up to four years. Compensation is available for non-workers for transport accidents or death by accident.

### **Criminal Law**

Criminal Ordinance 1961: Matters of justification in relation to any offence. The provision follows the UK McNaghten Rules.

Section 13 Insanity: There is a presumption of sanity until the contrary is proved. There can be no conviction for an act or omission committed by anyone "while labouring under natural imbecility or disease of the mind to such an extent as to render him incapable of understanding the nature and quality of the act or omission or knowing that the act or omission was morally wrong."

There is also a provision in the Mental Health Ordinance 1961, section 11, which says that an insane person is not to be tried, if a person is of unsound mind so that he cannot understand the nature of proceedings. Such a person may be detained at pleasure in a prison or a place of security. The same provision applies to any person acquitted on the grounds of insanity.

It is an offence to have sexual intercourse with a woman or a girl who is an idiot or an imbecile if it is known or there is good reason to believe that the victim is an idiot or imbecile.

Section 77 of the Criminal Ordinance imposes a duty to provide the necessities of life on a person who has charge of another who "is unable by reason of age, sickness, insanity or any other cause" to care for themselves.

There is no scheme of free legal aid for anyone recorded up to 1997.

#### **Other Law**

**Estates and Inheritance:** Under the Administration Act 1975 Part IV, an application for further and better provision can be made by widow/er, parent, child or grandchild where "insufficient provision" for them has been made.

**Marriage:** There is no impediment to marriage for persons with a disability.

**Property:** There is provision for statutory management of property for persons who are "mentally defective".

Civil liability for accidents is also retained for negligence or breach of statutory duty, or other fault. A claim may be made under the Act or civilly or both provided civil damages refund statutory compensation.

## **SOLOMON ISLANDS**

### **Constitution**

The Solomon Islands were constituted as a sovereign democratic state in 1978.

### **Human Rights**

The Constitution provides for the protection of fundamental rights and freedoms but does not specifically mention disability.

The Constitution states that no law shall make any provision that is discriminatory, either of itself or in its effect. Discrimination is defined to mean "affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions colour, creed or sex, and suffers a disability because of these factors." There is no direct ground of discrimination relating to physical, mental or intellectual disability, but there is a qualification that a law that may appear discriminatory will not be considered as such if it is for "the advancement of the more disadvantaged members of the community".

It is said that draft legislation is in the process of being prepared to afford greater protection of rights and to create a greater awareness of needs of persons with a disability.

The Immigration Act contains a prohibition against a person entering the country if a Government Medical Officer certifies that the person is suffering from a mental disorder, or is a mental defective and that his presence in the Solomon Islands would be a danger to the community.

A person can be naturalised as a citizen if he "is of full age and capacity".

The Solomon Islands have provision for an Ombudsman in its Constitution, Chapter IX. The actions or inaction of governmental bodies may be reviewed at the discretion of the Ombudsman who may make recommendations for corrective action. The jurisdiction includes reviews of actions which are manifestly unreasonable. Further operative provisions exist.

### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1994

### **Focal Point on Disability within Government**

To be determined

### **Disability Specific Legislation**

### **National Coordination Committee or National Disability Council**

This will be formed when the draft national policy is finalised

### **National Disability Policy and Action-Plan**

Draft national policy has been prepared by the Ministry of Health through the CBR program, in consultation with persons with disabilities and with technical assistance provided by EPOC, Vanuatu office.

### **Disability Statistics and Data Collection**

The 1999 census identified 11,107 persons with disabilities, 80 per cent of whom live in rural areas. More recent data indicate that 85% of the population lives in rural areas in over 5000 villages, and 90% of persons with a disability live in the provinces and rural villages.

### **Self-Help Organisations**

There are two registered self-help organizations of persons with disabilities.

There is a Disabled Persons Association, active in preparation of draft national policy on disability. The Disabled Persons Rehabilitation Association (DPRA) was formed in 1993, was a member of DPI and was active for an extended period before dissolving. It is currently being regenerated under the dynamic leadership of a disabled woman leader, and with support from the CBR programme of the Ministry of Health. FDPA of Fiji has assisted in the process of regeneration and has provided technical assistance for this purpose.

The Red Cross provides significant assistance, particularly in the area of education.

The CBR (Community Based Rehabilitation) under the Ministry of Health receives an annual grant to meet salary costs for workers.

### **Women with Disabilities**

A woman from DPRA attended two workshops held for WWD in Fiji in 2003 and 2004. She has since become the President of DPRA.

The Solomon Islands signed the CRC in 1995 and CEDAW in 2002. A Child Policy and National Plan of Action was formulated in 1994, followed by a National Youth policy in 2000.

### **Early Detection, Early Intervention and Education**

The Red Cross run a Special School for children with disabilities in Honiara. This programme has also had an Early Intervention programme. But it has very limited capacity and resources and government support is very small. There are no educational provisions for children in rural areas.

The Education Act establishes an Education Board, and system for registration of schools. The age of entry into schools is 6 up to 9, but there is not a provision making education compulsory. There is nothing in the education law about provision for pupils with a disability, or establishment of special schools or services for pupils with a disability.

An Education Strategic Plan 2002-2004 was completed, with the objectives of basic education for all school-aged children in an equitable and non-discriminatory basis. The plan also required studies of the educational needs of persons with a disability and resources required to provide education.

The Ministry of Health is charged with providing primary health care services, and the Minister must provide hospitals for persons attending for treatment for illness. Illness is defined to include psychiatric illness, or mental retardation or injury or disability requiring services or treatment. Psychiatric illness is separately defined to be in relation to a person suffering from a mental disorder.

The Ministry of Health and Medical Services has a Community Based Rehabilitation programme, intended to operate throughout the Solomon Islands. A study by the Save the Children Fund in 1991 estimated that most of the prevalent disabilities were preventable. More recent evidence shows that the incidence of disability as a result of diabetes and heart disease is increasing, particularly in the over 40 sector of the population. Limited rehabilitation services are delivered at the Central hospital in Honiara

The Mental Treatment Act 1970 makes provision for persons suffering from mental disorder or mental defect. This act makes provision for voluntary patients, temporary treatment, or reception on Court order.

### **Training and Employment**

There are some income-generating activities in rural communities through the CBR programme.

Employment law includes provision for maternity leave.

There is a Safety at Work Act, where an employer has a duty "to ensure as far as it is reasonably practicable, the health and safety at work of all his employees".

The Solomon Islands have a statutory scheme for compensation for employees injured at work, whereby an employer must pay compensation for personal injury by accident in the course of employment, or earnings related compensation for total or partial incapacity, or compensation upon death. These provisions include provision for compensation following occupational diseases.

The Solomon Islands have a statutory scheme for compensation for employees injured at work, and to provide for health and safety at work.

### **Access to Built Environments and Public Transport**

The Environmental Health Act contains a Part relating to building and housing, but it does not refer to access for persons with a disability.

### **Access to Information and Communications**

#### **Poverty Alleviation**

There is no social security system or Act. An Asian Development Bank report from 2001 indicates that the Solomon Islands have the second highest rate of poverty in the Pacific states.

#### **Criminal Law**

**Criminal Codes:** Under the Criminal Procedure Code, the Court may make an enquiry if it appears an accused is of unsound mind so as is incapable of making his defence. There is a presumption of sanity until proved otherwise. It is a defence if a person under a disease of the mind is labouring under a defect of reason, or is incapable of understanding his act or omission. There is an offence to have sexual intercourse with "any female idiot or imbecile woman or girl..."

There is a duty to provide necessaries of life to a person unable to care for themselves by reason of age, sickness, unsoundness of mind..."

The Solomon Islands have an Office of the Public Solicitor. The duties include provision of legal aid to persons in need, or at the direction of the High Court, or subject to means testing.

**Other Law**

Estates and Administration: The Wills, Probate and Administration Act provides that where a person leaves a Will "without making therein adequate provision for the proper maintenance and support of his spouse or children, the Court may in its discretion order that such provision as the Court thinks just shall be made out of the estate of the testator for the spouse or children." On intestacy, distribution is to spouse and issue equally.

Property: Under the Mental Treatment Act, the High Court may make orders for the guardianship and management of the estate of persons of an unsound mind or in a mental hospital.

(Much of the information in this section was taken from a report prepared in 2002 by Alistair Wilkinson on behalf of UNESCAP, and is acknowledged accordingly.)

**TONGA****Constitution**

Tonga is an independent Monarchy with a written Constitution dating from 1875. Up to 1970, Great Britain took responsibility for defence and foreign relations under Treaties of Friendship.

**Human Rights**

The Constitution of 1875 provides: -

“There shall be but one law for Tonga, for chiefs and commoners, for non-Tongans and Tongans. No laws shall be enacted for one class and not another class but the law shall be the same for all the people of the land”.

There is almost universal suffrage but persons who are insane or an imbecile are not entitled to vote.

**Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1999

**Focal Point on Disability within Government****Disability Specific Legislation****National Coordination Committee or National Disability Council**

The NGO forum on disability has encouraged the government to form a Coordinating Committee.

## **National Disability Policy and Action-Plan**

### **Disability Statistics and Data Collection**

A survey of persons with a disability was planned for 2004.

### **Self-Help Organisations**

In 2003, a Disability Action Group was formed to ensure collaboration between NGOs and key service providers working for persons with a disability. Tasks included further advocacy, and in particular, for liaison with the Ministry of Education in implementation of a programme to ensure children with a disability have access to education.

There have been recent initiatives to establish a self-advocacy group

### **Women with Disabilities**

Tonga has not yet ratified CEDAW, but ratified CRC in 1995.

The Tonga Development Trust reports the existence of women's network groups in villages, although these do not as yet have any disability focus.

Tonga did not attend the workshops for WWD held in Fiji in 2003 and 2004.

### **Early Detection, Early Intervention and Education**

Tonga has NGO run Special Schools and Centres for all children and youth with disabilities and a Centre for disabled adults, run under Royal patronage. Many staff at the NGO Centres has done the Certificate courses offered by external study, on disability studies.

In 1995 and 1998 training courses have been run for teachers and workers at the various centres for children and adults. These were funded by AusAID.

In 2000 there was an improvement in teaching, Early Intervention, support to families and improved curricula.

The Education Act (Cap 86), under Section 52 requires compulsory education between the ages of 6 and 13 inclusive for everyone living within 2 miles of a school unless other arrangements are made or the child is prevented from attending school by sickness or any other avoidable cause. There is nothing in the Act about education for children with disabilities, although the possibility of classifying schools for pupils and types of education does exist.

The Ministry of Education, Youth, Sport and Culture has completed a review of the education sector, and has highlighted the need for the development of services for Persons with disabilities and has produced an options paper. Among the matters to be addressed is the further training of Special Education teachers, with the training curriculum to be reviewed. The possibility of adapting an equivalent Samoan course has been raised.

It is to be noted that Tonga held its inaugural National Para Olympic Games in 2003.

Tonga has a Medical Services Act (CAP 76). Section 9 provides "the primary object of the public medical service and of every hospital and dispensary is to provide accommodation and medical and surgical aid for all Tongan subjects without individual payment".

Tonga has a Mental Health Act 1992 (which replaced the Lunatics Detention Act). This Act has two definitions which appear to recognise a distinction between mental disorder and intellectual disability. Mental disorder "means any mental illness, arrested or incomplete development of the mind, psychopathic disorder and any other disorder or disability of the mind". Mental handicap " means a state of arrested or incomplete development of the mind which can render a person incapable of independent living." The Medical Advisory Committee includes a representative of the Red Cross with special concern for mentally handicapped persons and a senior teacher with experience in the education of mentally handicapped pupils.

### **Training and Employment**

Vocational training was promoted for adults with disabilities at the residential centre in 2000 and 2001 and work has continued in this area.

### **Access to Built Environments and Public Transport**

Tonga has a Public Health Act (CAP 74) but there is no specific mention of access or other matters in relation to persons with a disability. There are Building regulations but these too have no mention of access for persons with a disability.

### **Poverty Alleviation**

There are no specific social security laws. Government employees may pay into a scheme and under the Retirement Fund Act 1992 there are benefits for total and permanent disability.

### **Criminal Law**

Criminal codes: Under the Supreme Court Rules, there is a right to a person of unsound mind, or who is incapable of managing his own affairs to sue or defend through a person entrusted to manage his property.

There is an exemption from criminal responsibility for acts or omissions if a person was insane in that he was suffering from such a state of mental disease as to deprive him of capacity to understand the physical quality and nature of the act or omission or the capacity to understand it was wrong. There are provisions for hearings as to sanity before and during trial. This is a slightly different definition, and does not clearly include anyone with an intellectual disability.

The definition of rape includes a definition that the offender was aware that the victim was "feeble minded, insane, or was an idiot or an imbecile as to be incapable of giving or refusing consent". Note that this offence is defined as rape, whereas in all other Pacific jurisdictions, the equivalent is a separate and lesser offence.

**Other Law**

Estates and Inheritance: Tonga retains a system of succession to hereditary estates and titles, through the line from eldest male, but persons of unsound mind may not succeed. There is a system of inheritance on intestacy.

Marriage: There is no impediment to marriage for persons with a disability, except possibly in relation to marriage to a person in line of succession to the monarchy.

Property: Tonga has a Land Act, under which, in theory, all males are entitled to two allotments of land, and all are hereditary.

The Immigration Act (CAP 62) has prohibited classes of immigrants including any person who is certified to be suffering from mental disorder or is a mental defective, and that his presence in the Kingdom would be a danger to the community.

Some traditional land laws requires inheritance along hereditary lines, eg all to the eldest son, subject to life interest to widow.

**TUVALU****Constitution**

Constitution date 1978. In addition to the main Parliament, there are island Councils, so that in terms of DPO/Governmental relationships, these bodies will require to be taken into account.

**Human Rights**

The Constitution guarantees freedom from discrimination. Disability is not specifically mentioned as a ground for discrimination.

There is a need for public awareness promotion about disability, its effects, and particularly, causative factors of preventable or remedial disability.

The Office of the Peoples Lawyer was established in 1985.

The Constitution gives a right to apply to the High Court to enforce the Bill of Rights.

**Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Has not signed.

**Focal Point on Disability within Government****Disability Specific Legislation****National Coordination Committee or National Disability Council**

## **National Disability Policy and Action-Plan**

### **Disability Statistics and Data Collection**

#### **Self-Help Organisations**

There is the Tuvalu Association of Non Governmental Organisations, TANGO, which in conjunction with the Tuvalu Red Cross has gathered some data in relation to persons with a disability in 2002. It reported there was little Government or community support for persons with a disability.

A disabled person from Tuvalu attended the inaugural meeting of the Pacific Disability Forum in July 2004. It was his intention to try and form an organization of people with disabilities on his return home

#### **Women with Disabilities**

Tuvalu ratified CEDAW in 1997 and CRC in 1995.

#### **Early Detection, Early Intervention and Education**

The Red Cross has run a programme for children with disabilities since the 1990s. Teachers were sent to Fiji to the Early Intervention Centre in Suva for training.

Local Councils have a function to provide compulsory education for children between the ages of 5 and 15. From 1988 to 1998 there was a separate school for disabled children, run with charitable assistance, and now some children with disabilities attend primary school. The Needs Assessment Report indicates that the proportion of children with disabilities in schools is relatively high, but teacher training has not kept pace with need.

In keeping with many Pacific countries, the incidence of diabetes and nutrition related disability is increasing, and the health system is not equipped to facilitate early detection, intervention or preventative tasks, although all islands have health clinics. Expansion of immunisation programmes is suggested in the Needs Assessment.

#### **Training and Employment**

There is a need for workplace safety training in infrastructure facilities and transport to prevent permanent or temporary disability by injury.

#### **Access to Built Environments and Public Transport**

Local Councils have authority over the erection of buildings, but there is no specific mention of access for persons with a disability

#### **Access to Information and Communications**

No specific information held.

#### **Poverty Alleviation**

No specific information held.

### **Criminal Law**

Criminal Codes: There is a presumption of sanity unless proved otherwise. There is no criminal responsibility for act or omission for any person if he is through any disease affecting his mind incapable of understanding what he is doing or knowing that he ought not to do the act or omission.

It is an offence to have sexual intercourse with any female idiot or imbecile woman or girl.

There is a duty to provide the necessaries of life.

## **VANUATU**

### **Constitution**

With effect from the 30 July 1980, Vanuatu became a sovereign democratic state with its own Constitution.

In 2002, Government appointed a Constitutional Review Committee (CRC) and began receiving submissions from individuals and groups across the nation for amendments to the Constitution. In September 2002, the Disability Promotion and Advocacy Association (DPA) made a submission to the CRC to include disability as a ground for non-discrimination as follows:

The Republic of Vanuatu recognises, that, subject to any restrictions imposed by law on non-citizens, all persons are entitled to the following fundamental rights and freedoms of the individual without discrimination on the grounds of race, place or origin, religious or traditional beliefs, political opinions, language, sex *or disability* but subject to respect for the rights and freedoms of others and to the legitimate public interest in defence, safety, public order, welfare and health:

- (a) life;
- (b) liberty;
- (c) security of the law;
- (d) protection of the law;
- (e) freedom and inhuman treatment and forced labour;
- (f) freedom of expression;
- (h) freedom of assembly and association;
- (i) freedom of movement;
- (j) protection for the privacy of the home and other property and from unjust deprivation of property;
- (k) equal treatment under the law or administrative action, except that no law shall be inconsistent with this sub-paragraph insofar as it makes provision for the special benefit, welfare, protection or advancement of females, children and young persons, members of underprivileged groups or inhabitants of less developed area.

In its submission, DPA also included the suggestion for an Act to provide for the establishment of the National Disability Council, its functions, structure, funding and related matters. Without having much knowledge to work from, DPA looked at and adopted the format of the Fiji Act of 1994 as its basis. The then Minister of Foreign Affairs, Hon Clement Leo had supported the establishment of the Act in 1999 after he signed the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region adopted on 5 December 1992 at the Meeting to Launch the Asian and Pacific Decade of Disabled Persons, 1993-2002. Work toward the Act was attempted by DPA at its Annual General Meeting in February 2002. Due to insufficient knowledge and capacity by members of DPA, little progress has been made. It should be noted that liaison with the State Law Office who wanted to draft the Disability Legislation has been requested by DPA to be put on hold until members have been included in the discussion of the Act. This follows the motto “Nothing about us without us”. It is hoped that now with the Government’s adoption of the national disability policy in April 2004 of which policy area No. 1 on National Coordination & Legislation as follows will provide the basis for work on the Act:

The report of the Constitutional Review Committee of 2002 is yet to be tabled in Parliament.

### **Human Rights**

The Constitution created Vanuatu as a sovereign democratic state. It establishes basic human rights without specific reference to persons with a disability.

Vanuatu has encountered some conflicts between provisions in its Constitution, particularly in relation to customary land rights. In one case, the Court decided that, although Article 5 guaranteed equal rights for women, customary land must prevail to determine ownership of land, but customary rights were to be disregarded if their effect was discriminatory. However, in the case in question the outcome was that the right to income from land was granted, rather than ownership of land.

Vanuatu has an Ombudsman established under its Constitution, Chapter 9 Part 2. Actions or inaction of Governmental bodies may be reviewed at the discretion of the Ombudsman, who may make recommendations for corrective action. The jurisdiction includes improperly discriminatory conduct.

### **Signatory to the UNESCAP Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region**

Signed in 1999

### **Focal Point on Disability within Government**

Continuing dialogue between advocates and the government has lead to the establishment of a Disability Desk within the Prime Ministers Department, and it is hoped that a strategic plan for the next five years will be evolved, including an emphasis on implementation of the BMF.

Currently disability is being handled by the Department of Strategic Management under the Office of the Prime Minister.

In March 2004 representatives of the Asia Pacific Disability Centre visited Vanuatu. One outcome of this visit was the agreement between APDC and DPA that DPA as an NGO become the Focal Point for the implementation of the BMF. While this was readily agreed by DPA, there is no provision from the APDC as to how a self-help organization like DPA is to move with this.

DPA has held discussions with both ESCAP and UN Division of the Department of Foreign Affairs on a feasibility study on how the government can implement the BMF. DPA will be submitting a proposal to the Department of Foreign Affairs sometime early January requesting ESCAP to carry out this study.

### **Disability Specific Legislation**

#### *Education*

Legislation prohibiting discrimination in education is contained in the Education Act No. 21 of 2000 (assented on 30 December 2001 and commenced on 25 February 2002) under s8(1) and states that a child is not to be refused admission to any school on account of his or her gender, religion, nationality, race, language or disability. Section 8(2) provides that a child is not to be admitted to year 1 unless he or she is at least 6 years old and a child is not to be admitted to year 7 if he or she is over 15 years old. Otherwise, a child is not to be discriminated against on account of his or her age. Non-discrimination on the grounds of age was included in the Act following the findings of the Ombudsman that the Ministry discriminated against a 15 year child by not allowing that child to continue to secondary school because the child was considered to be too old.

### **National Coordination Committee or National Disability Council**

There is none at present. It is hoped that the submission made by DPA to the Constitutional Review Committee in September 2002 will be seriously considered. As the Focal Point for the implementation of the BMF, DPA will be looking at pursuing this in 2005.

### **National Disability Policy and Action-Plan**

There is none as yet. It is hoped that if ESCAP can conduct this feasibility study, a plan of action will eventuate that will assist all stakeholders. DPA of course will have its own plan of action, some of which are the direct result of the outcomes of the recommendations from the 1<sup>st</sup> Awareness and Consultation Meeting of Caregivers held in Santo from 6-7 December 2004 plus the Tanoa Statement. One of the things that the Women with Disabilities Sub-Committee of DPA are pursuing as a result of the Tanoa Statement is a paper on Gender and Disability.

### **Disability Statistics and Data Collection**

Statistics on disability have been collected by the National Statistics Office (NSO) for a while under the “Economically Active”/”Economically Inactive” category. The criteria has been whether the person enumerated was ‘economically inactive’ due to a disability.

In the lead up to the 1999 national census, a preliminary survey was conducted and for the first time, the National Statistics Office enumerated the number of persons with disabilities on each island throughout the country. This information is contained in the NSO under the category “National Listing” and was obtained just prior to the 1<sup>st</sup> DPI Oceania Leadership Training Seminar held here in Port Vila in August 2001. However, results of the census itself which was conducted at the end of 1999, do not report on disability, which is one concern that DPA has raised with the national statistics office.

In 2000, DPA attempted to get UNESCO through the Ministry of Education to conduct a national disability survey. The document was ‘lost’ in the Ministry. In 2002/2003, DPA submitted a proposal to the European Union to conduct a national disability survey. The European Union was then able to support a survey undertaken by the Vanuatu Society for Disabled People with the support of Inclusion International. A preliminary survey was conducted on the island of Tanna and now the European Union is funding VSDP to conduct a survey to have all the islands of TAFEA Province – with the support of Inclusion International. Results of these surveys are not available right now.

The Ministry of Education began collecting data on children with disabilities in 2003.

### **Self-Help Organisations**

Vanuatu has an active NGO, the Vanuatu Society for Disabled Persons, a service delivery organisation, based mainly in Port Vila, but with the objective of providing services throughout the country. In 2004 VSDP placed its first Fieldworker on Tanna, a process that has taken some 8 years to fulfil. In 2005, VSDP will be looking at placing more of its Fieldworkers in the Province of SANMA and MALAMPA

There is an active DPO, the Disability Promotion and Advocacy Association, advocating directly for persons with a disability. There is a sports organisation vandisports, promoting sporting activities for persons with a disability. In 2001, DPA hosted and conducted a Leadership Training Seminar in conjunction with DPI Oceania. Representatives from eight Pacific states took part. From this meeting, one of the key outcomes was a recommendation that disability issues be placed on the Agenda of the Forum Meetings. Advocates from Vanuatu pursued this goal with their own Government who “flagged” the issue in the 2002 Forum meeting in Suva, and as a direct result, disability issues are now on the Forum agenda. In 2003 DPA lobbied the Government of Vanuatu to have the Forum Heads of Government adopt the BMF. One of the results of that has been the talk about having the Disability Desk and of most importance, the adoption of the disability policy areas in April 2004. A representative from a DPO attended the recent Leadership Training course in Nepal.

### **Women with Disabilities**

According to the figures from the national listing of 1999, 41 percent of persons with disabilities are women.

Women with disabilities have attended the two WWD workshops held in Fiji in 2003 and 2004. A Women with Disabilities Committee has just been established.

The Initial, First and Second Report on CEDAW was presented to the Hon. Prime Minister Ham Lini on 22 December 2004. It is expected that this document will be processed to the UN early 2005. Of note in the CEDAW report is the inclusion of women and children with disabilities in the various Articles.

Vanuatu ratified CEDAW in 1995 and CRC in 1993. A project on implementation of CEDAW has just been completed, and a Women with Disabilities Committee formed.

### **Early Detection, Early Intervention and Education**

A Centre for children with disabilities was closed in the early 1990s when the CBR programme for persons with disabilities was established to reach people in all rural and outer island areas.

In 1994 a programme on Children with Disabilities was developed; unfortunately due to limited knowledge on how to pursue these plans, this programme has ceased.

In 1999 the World Bank assisted the Ministry of Education do what is called the Education Master Plan. Within this plan there are provisions for the establishment of two schools for children with disabilities. At the 1<sup>st</sup> Leadership Training Seminar in August 2001, DPA identified this as one of the reasons why we should have a national disability survey:

Vanuatu does not have any psychiatric hospitals. If someone was to be confined under the Mental Hospital Act, they would be confined at the Port Vila Central Hospital. The Mental Health Act needs revision.

### **Training and Employment**

The Ministry of Health has recognized the importance of the principle of equality in the workplace. Its commitment to non-discrimination is based on Article 1 of CEDAW and states that the Ministry is committed to:

*“Eliminating all forms of discrimination in the workplace based on age, sex, race, place of origin, geographic location – urban/rural, culture, language, physical, intellectual or physiological disability, industrial activity, political beliefs or activities, religious beliefs or activities, sexual preference, pregnancy, status as parent or care/family responsibilities or by personal association with anyone who has any of these characteristics”.*

By including non-discrimination based on disability, sexual preferences, pregnancy, and status as parents and caregivers or anyone associated with persons with these characteristics, the Ministry of Health has produced the most comprehensive non-discriminatory policy statement yet in the country. It is currently reviewing all legislation pertaining to health, and this review should be completed by 2006.

### **Access to Built Environments and Public Transport**

There are no statutes requiring access to buildings and public places for persons with a disability, but progress has been made in providing access in Port Vila. .

In March 2004 DPA presented a submission to the Minister for Public Utilities (who also happened to be the Deputy Prime Minister) to include universal access in any building code that is to be drafted. A letter was subsequently received from the Department that universal access will be included in the draft legislation.

### **Access to Information and Communications**

Since there is no training provided to teachers, nurses, police officers and others for the need to communicate with persons with disabilities, there is a big gap in this area. Currently kids who are blind and who are attending school must learn stuff by rote: there is no training for using Braille or sign language. Again this is one area in which DPA is looking into. Thus one of the reasons for setting up the Sign Language Training Project under the Caregivers Support Group is to bring this process of communication between children and parents/caregivers through sign language.

One of the problems with the criminal system is that there are no persons who can sign and there is no capacity for the individual who is disabled to be able to access justice if he or she cannot communicate.

### **Poverty Alleviation**

No specific post constitution social security laws were found.

### **Criminal Law**

Criminal Codes: There is a presumption of sanity unless proved otherwise. The Court may order a medical report to determine whether a person, by reason of insanity or other mental disorder is unfit to plead or stand trial. If so, the Court may place the person under guardianship.

Vanuatu has an Office of the Public Solicitor, established under Article 54 of the 1980 Constitution.

### **Other Law**

Estates and Inheritance: Probate or authority to administer estate cannot be issued until the Court is satisfied that adequate provision has been made for the maintenance of the spouse and children under 18. Wills Act Section 13(2).

Marriage: There is no impediment to marriage for persons with a disability.

The Immigration Act prohibits immigration for a person suffering from a mental disorder, and that his presence in Vanuatu would be a danger to the community.