



Disaster Law



CASE STUDY

Enhancing the protection of the most vulnerable in Pacific Island Countries through laws and policies for climate resilience

Greater coherence between climate change adaptation (CCA) and disaster risk reduction (DRR) activities can lead to greater protection of the most vulnerable against extreme climatological events. Today this is considered as part of the holistic approach to global governance to be accomplished within the framework of the UN Agenda 2030 and its centrepiece the [Sustainable Development Goals](#).

CCA and DRR have partially overlapping goals and their basic connections are at the core of any effort to enhance 'climate resilience' i.e. "the ability of a system, community or society exposed to climate-related hazards to resist, absorb, accommodate, adapt to, transform and recover from the effects of such hazards in a sustainable and efficient manner, including through the preservation and restoration of its essential basic structures and functions through disaster risk management". (adapted from UNDRR definition of 'Resilience. [UNDRR, Terminology - 2016](#)).

This case study aims to illustrate how the complex, multi-faceted and evolving concept of vulnerability against natural hazards is being addressed by Pacific Island Countries (PICs) laws and policies.

Broadly speaking, the protection of vulnerable groups through laws and policies for climate resilience is a two-fold topic. On the one side, it considers if and how representatives of vulnerable groups have been included in law- and policy-making processes; on the other, if – and in what manner – the substantive content of adopted instruments effectively addresses their needs through dedicated protection mechanisms. Hence, vulnerable groups are not to be considered as mere beneficiaries of additional normative safeguards and protection, as their effective inclusion as proactive stakeholders and contributors to the development, implementation and monitoring of new laws and policies is key for increasing climate resilience.

The appropriate consideration of specific needs in domestic law and policy is inevitably related to the adoption of systematised consultation processes with community leaders, individuals and or civil society organisations representing the rights and needs of vulnerable categories. This enhances the impact of adopted instruments, in light of their pertinence to localised needs and the acceptability of their substantial content by beneficiaries and local stakeholders.

IFRC Disaster Law support for the protection of the most vulnerable in Pacific Island Countries

Over the last few years, IFRC Disaster Law has received many requests from National Red Cross and Red Crescent Societies to aid them in providing technical assistance to their authorities to develop laws relating to climate and disaster risks. Bearing in mind the need to link research with the adoption of new and more effective normative frameworks, one of the main goals of IFRC Disaster Law is the identification of good practice and the development of recommendations for law and policymakers aimed at increasing climate resilience for the protection of the most vulnerable.

Previous recommendations provided in the [IFRC-UNDP Checklist on Law and DRR \(2015\)](#) and related [Handbook \(2014\)](#); as well as the [IFRC Checklist on Law and Disaster Preparedness and Response \(2019\)](#) and related [Multi-Country Synthesis Report \(2019\)](#) expressly address the issue of specific vulnerabilities. This is also in line with what was reiterated by the International Community at the 33rd International Conference of the Red Cross held from 9 to 12 December 2019 in Geneva. Indeed, the adopted resolution on [Disaster Laws and Policies That Leave No One Behind](#) recognized the “disproportionate impact on the most vulnerable and the unique challenges faced by small island developing States, among others;” and called on States “to ensure that they include a focus on the most vulnerable and promote their meaningful participation” (paras 6-7). On that occasion, States were also encouraged to consider whether laws, policies, strategies and plans on both DRR and CCA guarded against all forms of discrimination addressed the rights and specific needs of people who might be overlooked (para 8).

In 2021, a [Global Synthesis Report on Law and Policies for Climate Resilience](#) was published as a result of a research project held in partnership with the UCC University College Cork. Based on a collection of good practice from some of the most exposed countries in the world, the Report identifies eight recommendations illustrated in related thematic sections, and provide evidence on how these issues are currently addressed by domestic law in sample countries, as well as examples of good practice. Building on previous IFRC Disaster Law tools and guidance documents, the Global Report also includes a recommendation on specific vulnerabilities (see below).

Who belongs to vulnerable groups?

Any attempt to list vulnerable groups has serious limitations and cannot be automatically exhaustive, as any group that experiences pre-existing discrimination and marginalisation may be disproportionately affected by disasters, depending on the local context. Intersectional vulnerabilities, or the tendency for persons that have two or more vulnerabilities (e.g. older women with a disability; unaccompanied and separated children belonging to a cultural minority) are also another factor of complexity that needs to be considered.

Despite the common use of ‘vulnerable groups’, depending on the circumstances, it may be more accurate to describe identified groups as having ‘specific needs’, being ‘at risk’ or being ‘vulnerable’. Accordingly, the [IFRC Checklist on Law and Disaster Preparedness and Response](#) acknowledges a detailed list of categories that may be disproportionately impacted by disasters: “women and girls; children, particularly unaccompanied and separated children; adolescents and young adults; older persons; persons with disabilities; migrants, displaced persons and refugees and stateless persons; indigenous groups; ethnic and racial minorities; homeless persons; persons living in informal and unmapped settlements and sexual and gender minorities” (at 7).

Of note, the inclusion of women and girls in the list of vulnerable categories is discontinuous. The issue is occasionally framed as part of ‘gender mainstreaming’ approach and hence addressed in a separate provision ([UN Agenda 2030 para. 20](#); [Paris Agreement, Preamble](#)). Other documents acknowledge the fact that women and girls can be disproportionately affected by climate-related disasters ([Sendai para. 4](#); [IPCC Glossary 1–22](#); [CEDAW 2010, para. 25](#); [ILC 2016 art. 6 para 9](#)). However, it is important to note that Committee on the Elimination of Discrimination against Women stated that “[t]he categorization of women and girls as passive ‘vulnerable groups’ in need of protection from the impacts of disasters is a negative gender stereotype that fails to recognize the important contributions of women in the areas of disaster risk reduction, post-disaster management and climate change mitigation and adaptation strategies” ([CEDAW 2018, para 6–7](#)).



Address Specific Vulnerabilities, Gender Mainstreaming and Social Inclusivity

A comprehensive and in-depth understanding of connections between specific vulnerabilities and exposure to extreme climatological events should inform any risk governance system. Domestic authorities should consider how law and policy improvements for CCA and/or DRR can contribute to the reduction of ‘specific vulnerabilities’, i.e. those situations in which the potential impact of a hazard on the physical and psychological integrity of the affected people, as well as on their human rights, well-being and socio-economic status, are further aggravated by pre-existing individual conditions and/or factors.



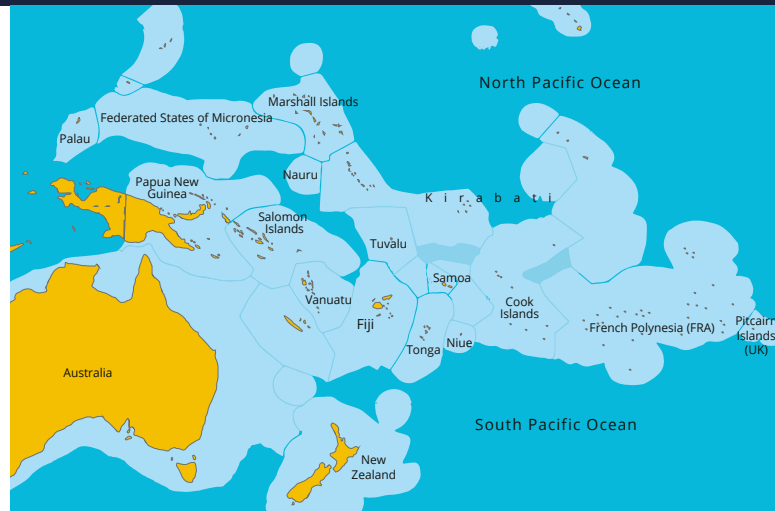
Examples of good normative practice in Pacific Island Countries

Based on a previous [IFRC Disaster Law study on Law And Policies That Protect The Most Vulnerable Against Climate-Related Disaster Risks \(2020\)](#), collecting findings and lessons learned from Pacific Island Countries, some interesting examples of good normative practice can be identified:

The consultation of stakeholders in the formulation, implementation, and monitoring of the National Adaptation Plan process in **Fiji** also involved actors “representing low-income and otherwise disadvantaged groups (including people with disabilities, the elderly, women, children, and the LGBTQ community)”. Moreover, the whole document is aimed at operationalising a gender and human rights-based approach to climate change adaptation planning, thereby considering differentiated impacts and degrees of vulnerability across societal groups but also enhancing their role as “active agents of change”. Resources for awareness training to national and sub-national government representatives (e.g. on gender and disabilities), the production of sex- and age-disaggregated data, as well as participatory and gender-responsive budgeting, are among the tools enumerated in the document in this regard. See [Republic of Fiji, National Adaptation Plan - A pathway towards climate resilience \(2018\)](#).

In **Kiribati's** [Disaster Risk Management and Climate Change Act \(2019\)](#) it is stated that “[t]o ensure local ownership and that no one is left behind, priority should be given to community engagement, participation and empowerment which is inclusive of vulnerable groups and all people” (art. 6 h). Accordingly, its article 22 on ‘Community engagement and inclusion’ lists several actions on concerns and priorities of diverse groups of people including, among others, pregnant and breastfeeding mothers, older people and people with disabilities. The Act also mandates a specific role on these issues for the Ministry responsible for women, youth and social affairs (art. 13 k) as well as a balanced representation in local councils with CCA-DRR responsibilities, including gender, age, disability and other diversity (art. 14.2 d). Moreover, in the [Kiribati Joint Implementation Plan for Climate Change and Disaster Risk Management \(2019-2028\)](#), considerations regarding gender, youth and children, the elderly, people with disabilities and “other vulnerable groups” are contained in several of its actions and sub-actions, often associated with dedicated performance indicators.

A similar approach was adopted by **Tonga** in 2018, with the adoption of the country's [Joint National Action Plan 2 on Climate Change and Disaster Risk Management 2018-2028](#). The document includes a focus on the way in which specific categories are particularly affected, and on how to share benefits, information and support with “marginal and disadvantaged groups”. A call for the integration of the National Policy on Gender and Development is made, in view of its mainstreaming in all disaster risk management and climate change adaptation approaches.



Pacific Island Countries

Pacific Island Countries are small island states spread across a unique and diverse region made up of hundreds of islands over an area equivalent to 15 per cent of the globe's surface. They are characterised by least-developed or developing economies; heavy dependence on a few external and remote markets; low population numbers; narrow resource and export base; poor infrastructure; remote locations and high costs in telecommunications and transportation.

The islands include Fiji, Kiribati, Marshall Islands, the Federated States of Micronesia, Nauru, Palau, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. Papua New Guinea can also be included but it is generally considered separately in light of its cultural, demographic and structural differences. The independent states of the Cook Islands and Niue are a particular case, being countries that are self governing in free association with New Zealand, which manages their foreign policy and guarantees their international representation.

The category can be extended to that of Pacific Island Countries and Territories in order to include non-independent territories, such as French Polynesia or the Pitcairn Islands (UK). Despite their great diversity, Pacific Islands share similar opportunities but also similar challenges.

Among them, the vulnerability to external shocks and the effects of climate change and natural hazards is one of the most compelling and serious.

Also, in order to ensure fully coordinated and streamlined resilience planning approaches implemented across all government ministries, priority sectors resilient plans “integrating gender, youth, and people with disabilities and other vulnerabilities” are to be developed in line with the targets for a *Resilient Tonga* (action 1.3.2).

Recommendations to law and policy-makers

Individual and collective vulnerabilities are context-specific and constantly mutate according to several circumstantial, structural, and overlapping factors. For this reason, legislative reform processes should ensure:

- A clear definition of vulnerable groups and identify a wide-ranging list of categories to include therein. This should be in line with relevant international frameworks, national circumstances and ensure coherence with other sources;
- An adequately disaggregated data analysis (based on key factors such as gender, age, disability, ethnicity and socio-economic status) to determine the more vulnerable categories of persons within a specific climate-related risk context;
- The systematic involvement of civil society organisations, including National Red Cross and Red Crescent Societies in their role as auxiliary to the public authorities in the humanitarian field, associations and other entities representing vulnerable groups in consultations and drafting processes, e.g. through their invitation to all relevant events, meetings, working groups, and technical evaluations concerning CCA and/or DRR.
- The identification of institutions, governance mechanisms and procedures at all levels that are specifically entrusted with the consideration of the rights and needs of vulnerable groups and that effectively involve representatives from associations and other entities representing vulnerable groups;
- That gender-specific needs or considerations are taken into account through the implementation of gender-sensitive policies and plans with relevance for climate-related hazards and risk assessments.
- Specific provisions and stipulate minimum standards for the prevention of any form of discrimination in climate and disaster risk governance strategies, planning and implementing activities, also building on the protection of human rights and on the humanitarian principles as stated by international law;
- Thematic training for government actors and civil servants to sensitise them to the specific needs and vulnerabilities of different groups, thereby promoting a cultural shift towards an inclusive approach to climate and disaster risk governance.



Conclusion

A comprehensive and in-depth understanding of connections between specific vulnerabilities and exposure to extreme climatological events should inform any risk governance system. In light of the above, it is important to consider how law and policy improvements for CCA and or DRR can contribute to the reduction of 'specific vulnerabilities', meaning those situations in which the potential impact of a hazard on the physical and psychological integrity of the affected people, are further aggravated by preexisting individual conditions and/or factors. Similarly, laws and policies addressing gender inequality and social inclusivity, comprising the consideration of indigenous people and hard-to-reach communities, are instrumental for more comprehensive climate resilience.

PICs legislative systems often include 'assertive' or 'aspirational' statements on these points, but in most cases, they still lack clear, effective and duly funded operative provisions. Moreover, a lack of clear institutional mandates at the different administrative levels can be observed. IFRC Disaster Law is putting its resources, tools and expertise at the service of National Societies that want to support their governments in improving on these aspects. The recent establishment of a [Technical Working Group on Risk Governance for Resilient Development under the Pacific Resilience Partnership \(PRP\)](#) with a focus on climate-smart DRM legislation is an example of its concrete commitment in the region towards the collection and sharing of good practices and of guidance for national policy and legislation development processes.

About IFRC Disaster Law



Disaster Law

IFRC Disaster Law works with National Red Cross and Red Crescent Societies and governments to strengthen disaster risk governance, through the development and implementation of climate, disaster and emergency-related legislation, policies and procedures. With 20 years of experience supporting the development and implementation of disaster law and policy around the world, we are the global leader in disaster law technical advice to governments.